

CHARTER OF THE CITY OF BOYNE CITY
PREAMBLE

We, the people of the City of Boyne City, mindful of the ideals of liberty for our community, and desirous of a more perfect form of government, for the preservation and continued progress of our community, and fully aware of the long history of our city, built by far-sighted co-operation, ideals and perseverance, under the divine of guidance of God, by our fore-fathers, and duly aware of our obligation to continue our liberty in a democratic and fee nation and state, do hereby ordain and establish this charter.

CHAPTER 1

BOUNDARIES AND SUBDIVISIONS OF THE CITY

Name:

Section 1.1. The city shall be a body corporate under the name, ACity of Boyne City.@

Boundaries:

Section 1.2. The city shall embrace the territory constituting the City of Boyne city, 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 annexations or detachment of territory, the same shall be deemed thereby to be changed without amendment of this section. The Clerk shall maintain and keep available in his office for public inspection and distribution an official description of the current boundaries of the city.

Wards:

Section 1.3. The City shall consist of one ward.

Election Precincts:

Section 1.4. The election precincts of the city shall remain as established on the date that this charter becomes law. The Commission shall, by ordinance, when it deems necessary or when required by law, later the boundaries of the election precincts of the city.

CHAPTER 2 MUNICIPAL POWERS

Continuation of Powers of Former Charter:

Section 2.1. All powers, privileges, and immunities, not inconsistent with the provisions of this charter, possessed by the City of Boyne City by virtue of its incorporation as such and enumerated in Act 215 of the Public Acts of 1895, the former charter of the City which is hereby superseded, are hereby expressly retained by the city and shall constitute a part of the powers of the city even though not expressly enumerated herein.

General Powers:

Section 2.2. Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or 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 statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be permitted to provide in their charter by Public Act 279 of 1909, as amended, as fully and completely as though those powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in administration of the municipal government, whether such powers be expressly enumerated herein or not; to do any act to advance the interests of the City, the good government and prosperity of the municipality and its inhabitants, and through its regular constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the Constitution and the provisions of this charter.

Further Definition of Powers:

Section 2.3. In addition to the powers possessed by the City under the Constitution and statutes, and those set forth throughout this charter, the city shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide for the following, subject to any specific limitation placed thereon by this charter:

- (a) The acquisition by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Charlevoix and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;
- (b) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by statute or this charter;
- (c) The refunding of money advanced or paid on special assessments;
- (d) The installation and connection of conduits for the service of municipally owned and operated electric lighting plants;
- (e) The purchase or condemnation of the franchises and of the property used in the operation of companies, or individuals engaged in the cemetery, hospital, almshouse, electric light, gas, water, heat, and power business;

- (f) The establishment and vacating of streets, alleys, public ways and other public places, and the use, regulations, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them;
- (g) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;
- (h) A plan of streets and alleys within and for a distance of not more than three miles beyond the municipal limits;
- (I) The use, control and regulation of streams, waters and water courses within its boundaries, subject to any limitations imposed by statute;
- (j) The securing by condemnation, by agreement or purchase, or by any other means, of an easement in property abutting or adjacent to any navigable body of water for the purpose of securing the privileges and right to construct, own and maintain along or adjacent to any navigable body of water an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purpose;
- (k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefore;
- (l) The acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of water craft, hydroplanes and seaplanes, within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes, to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;
- (m) Regulating and restricting the location of oil and gasoline stations;
- (n) The establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;
- (o) The regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for the prohibiting of such trades, occupations, and amusements as are detrimental to the health, morals, or welfare of its inhabitants;
- (p) Licensing, regulating, restricting and limiting the number and locations of advertising signs or displays and billboards within the city;
- (q) The preventing of injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive or unhealthful, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;
- (r) The prescribing of the terms and conditions upon which licenses may e granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, and otherwise conditioning such licenses as the Commission may prescribe;
- (s) The regulating of all airports located within, or adjoining, its boundaries and all city airports for the purpose of promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the city by aircraft of all types;
- (t) The prohibiting of regulating of the use, occupancy, sanitation and parking of house trailers within the city; and the right of the city to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

- (u) The requiring of an owner of real property within the City to construct and maintain sidewalks abutting upon such property, if the Commission shall determine that such sidewalks are necessary for the protection of the public safety, health and welfare, and if the owner fails to comply with such requirements or if the owner is unknown, to construction and maintain such sidewalks and assess the cost thereof against the abutting property in accordance with Section 13.9;
- (v) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a reasonable time after the Commission notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property in accordance with Section 13.9;
- (w) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and assess the cost thereof against the abutting property in accordance with Section 13.9;
- (x) The control over all trees, shrubs and plants in the public streets, highways, parks or other public places in the city, all dead and diseased trees on private property and trees on private property overhanging the street, sidewalk or public places including the removal thereof and assessing the cost thereof against the abutting property according to Section 13.9.

Exercise of Power:

Section 2.4. Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the City or its officers, the procedure set forth for the exercise of such power in any statute of the State of Michigan, including statutes passed for the government of any public body, shall govern. If alternative procedures are to be found in different statutes, the Commission shall select that procedure which it deems to be most expedient and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city or its officers is set forth, either in this charter or in any statute of the State of Michigan, the Commission shall prescribe a reasonable procedure for the exercise thereof by ordinance.

Inter-Governmental Contracts:

Section 2.5. 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 upon each such governmental unit or agency.

CHAPTER 3 INTERPRETIVE AND LIMITING PROVISIONS

City Liability:

Section 3.1. The city shall not be liable for damages sustained by any person either to his person or property by reason of negligence of the City, its officers or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow, or other encumbrances upon such highway, street, bridge, sidewalk, crosswalk or culvert, situated in the City, unless such person shall serve or cause to be served upon the Clerk within sixty days after such damages shall have occurred, a notice in writing 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 set forth substantially the time and place of the damages, the manner in which they occurred, the extent of such damages as far as the same has become known, and the names and addresses of the witnesses known at the time by the claimant. No person shall bring any action against the City for any damages to person or property arising out of any of the reasons or circumstances aforesaid unless he shall have first presented to the Clerk his claim in writing and under oath setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the Commission by the Clerk and the commission given opportunity to act thereon either by allowing or refusing to allow such claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city under this section that the notice of damages and the verified proof of the claim as in this section required were not presented and filed within the time and in the manner as herein provided.

No Estoppel:

Section 3.2. No estoppel may be created against the city.

Processes Against City:

Section 3.3. All processes against the city shall run against the city in the corporate name thereof.

Vested Rights Continued:

Section 3.4. After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the City.

No right or liability, either in favor of or against the city, existing at the time this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city shall be the debts and liabilities of the city and all fines and penalties imposed at the time of such change shall be collected.

Trusts:

Section 3.5. All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Commission may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

Vacancies in Appointive Boards and Commissions:

Section 3.6. Except as otherwise provided in this charter, if a vacancy occurs in the membership of any appointive board or commission, the authority responsible for the appointment of the person whose position has become vacant shall fill such vacancy by appointment of a qualified person for the unexpired term of such person.

Quorum:

Section 3.7. Except as provided otherwise in this charter, a quorum of any board or commission created by or pursuant to this charter, shall be a majority of the members of such board or commission in office at the time, but not less than two members.

Records to be Public:

Section 3.8. All records of the city shall be public, shall be kept in city offices except when required for official reasons or for purposes of safe keeping to be elsewhere and shall be available for inspection at all reasonable times.

Definition of Publication, Mailing of Notices:

Section 3.9. The requirement contained in this charter for the publishing or publication of notices, ordinances of proceedings shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city for at least two years immediately preceding the time that it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that said notice was mailed shall be prima facie evidence of such mailing.

Sundays and Holidays:

Section 3.10. Whenever the date fixed by this charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed in the next succeeding day which is not a Sunday or legal holiday.

Chapter and Section Headings:

Section 3.11. The chapter, section and sub-section headings used in this charter are for convenience only and shall not be considered as part of the charter.

Interpretations:

Section 3.12. Except as otherwise specifically provided or indicated by the context:

- (a) All words used in this charter 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 the happening of any event or requirement for which provision is made herein.
- (b) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.
- (c) The word *person* may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.
- (d) The words *printed* and *printing* shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.

- (e) Except in reference to signatures, the words **Written** and **In writing** shall include printing and typewriting.
- (f) The word **Officer** shall include the Mayor and other members of the commission, the administrative officers, members of city boards and commissions created by or pursuant to this charter, and the Justices of the Peace.
- (g) The word **Freeholders** shall be defined to include any person and his spouse who is purchasing property on land contract among its meanings.
- (h) The word **Default** shall be defined to include being delinquent in taxes among its meanings.
- (I) The word **Statute** shall denote the Public Acts of the State of Michigan in effect at the time the provisions of the charter containing the work **Statute** is to be applied.
- (j) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.
- (k) The words **Law** or **General laws of the state** shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provisions of the charter containing the words **Law** or **General laws of the State** is to be applied, and applicable common law.
- (l) All references to section numbers shall refer to section numbers of this charter.

Penalties for Violation of Charter:

Section 3.13. Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 6.2.

Amendments:

Section 3.14. This charter may be amended at any time in the manner provided by statute. Should two or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Severability of Charter Provision:

Section 3.15. If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable and to this end this charter is declared to be severable.

CHAPTER 4 ELECTIONS

Qualifications of Electors:

Section 4.1. The residents of the City having the qualifications of electors in the State of Michigan shall be electors of the City.

Election Procedure:

Section 4.2. The election of all elective city officers shall be on a nonpartisan basis. The general election statutes shall apply to and control as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure and except as otherwise provided in this charter.

The Clerk shall give public notice of the time and place of holding each city election and of the officers to be elected and the questions to be voted upon in the same manner as is required by statute for the giving of public notice of general election in the state.

The polls at all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at state elections, subject to the statutory right of the Commission to adjust these hours to local time.

Regular City Elections:

Section 4.3. A regular city election shall be held on the first Monday in April of 1960 and of each year thereafter, but if some other date in the months of March, April or May is fixed by law for the holding of the state biennial spring election, then the regular city election shall be held on the date so fixed.

Special Elections:

Section 4.4. Special city elections shall be held when called by resolution of the Commission at least forty days in advance of such election, or when required by this charter or by statute. Any resolution calling a special election shall set forth the purpose of such election. No more special elections shall be called in any one year than permitted by statute.

Elective Officers and Terms of Office:

Section 4.5. All Commissioners shall serve for a period of three years.

The Justice of Peace and the Associate Justice of Peace shall be elected for four years.

Nominations:

Section 4.6. The method of nominating of all candidates for the city elections shall be by petition. Such petition for each candidate shall be signed by not less than twenty nor more than forty registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular city election. Where the signature of any individual appears on more petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of the respective dates and hour of filing the petitions containing such signatures.

Nomination petitions shall be filed with the Clerk between the thirty-fifth day preceding such election and 5:00 p.m. on the twentieth day preceding the regular city election or any special election for the filling of vacancies in office.

The Clerk shall, prior to every city election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be nominated or elected to each office at least one week and not more than three weeks before such day.

Form of Petition:

Section 4.7. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

Approval of Petition:

Section 4.8. The Clerk shall accept only nomination petitions which conform with the form provided and maintained by him, and which contain the required number of valid signatures for candidate having the qualifications required for elective city offices by this charter. All petitions shall be accompanied by the affidavit of qualifications provided for in Section 6.1. 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.

The Clerk shall, forthwith after filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall not prevent a final determination that the petition does not meet such requirements. Within three days after last day for filing petitions, the Clerk shall make his final determination as to the validity and sufficiency of each nomination petition and write his determination thereof on the face of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in Section 6.1 shall be filed with such petition.

The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations.

Public Inspection of Petitions:

Section 4.9. All nomination petitions shall be open to public inspection in the office of the Clerk, except the three days after the last day for filing the petitions.

Election Commission:

Section 4.10. An Election Commission is hereby created, consisting of the Clerk and two other members as appointed by the Commission who shall not be a candidate for elective office at the election for which he serves as a member of the Election Commission, such members to be appointed by the Commission not less than thirty days before such election. The members shall serve without compensation.

The Clerk shall be chairman. The Election Commission shall appoint the Board of Election Inspectors and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the Commission. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed, subject to state election laws.

Form of Ballot:

Section 4.11. The form printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

If two or more candidates or nominees for the same office have the same or similar surnames, the Election Commission shall print the occupation and residence address under the respective names of each of such candidates or nominees on the ballots (or on labels or slips to be placed on voting machines when used), provided that for any of such candidates who is an incumbent of such office, the occupation shall be designated as **Incumbent@**

Except as provided in this section, there shall be no supplementary identification of candidates or nominees on the ballot.

Canvass of Votes:

Section 4.12. The Clerk and the members of the City Commission shall be the board of canvassers to canvass the votes at all city elections, except that if any of such persons are candidates for office at the election to be canvassed such persons shall not serve as a canvasser at such election. The board of canvassers shall convene on the third day following each city election at the usual time and place of meeting of the Commission and determine the results of the city election upon each question and proposition voted upon and what persons are duly elected to the several offices respectively at said election, and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the city, duplicate certificates of the determination of the board and shall file one certificate with the County Clerk and the other in his own office.

Tie Vote:

Section 4.13. If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Commission shall name a date for the appearance of such persons for the purpose of determining the election of such candidate by lot as provided by statute.

Recount:

Section 4.14. A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute (a) the petition for a recount of the votes cast at any city election shall be filed with the Clerk by 5:00 p.m. on the second full day on which the Clerk's office is open for business after the board of canvassers has made its official report of the result of the election at which such votes were cast, (b) any counter petition shall be filed by 5:00 p.m. on the next full day thereafter on which the Clerk's office is open for business and (c) no officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

Recall:

Section 4.15. Any elected official may be recalled from office by the electors of the city in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this charter and by statute.

CHAPTER 5
ORGANIZATION OF GOVERNMENT

Commission-Manager Government:

Section 5.1. The City shall have the Commission-Manager form of government.

The City Commission:

Section 5.2. There shall be a Commission of five members, consisting of the elected Commissioners, one of who shall serve as Mayor. The Commission shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word *Commission* is used in this charter, the same shall be synonymous with the word *Council* or any other term used in any statute or federal law in referring to municipal legislative or governing bodies.

Compensation of Mayor Commissioners:

Section 5.3. Each Commissioner and the Mayor shall receive as compensation, twenty dollars for each regular meeting and ten dollars for each special meeting of the Commission which he attends, but the compensation so paid shall not exceed three hundred dollars in any fiscal year. The Mayor shall, in addition, receive the sum of fifty dollars per year.

Such compensation shall be paid one-half thereof on November 1 and one-half thereof on May 1 following in such fiscal year, and except as otherwise provided in this charter shall constitute the only compensation which may be paid the Mayor and Commissioners for the discharge of any official duty for or on behalf of the city during their tenure in office. However, the Mayor and Commissioners may, upon order of the Commission, be paid such necessary bona fide expenses incurred in service in behalf of the City as are authorized and itemized.

Election of Mayor, Mayor Pro Tem:

Section 5.4. At 7:30 p.m. of the then prevailing local time on the first Monday following the regular municipal election, the Commission shall meet at the City Hall for the purpose of organization and elect one of its members to serve as Mayor and for the purpose of electing one of its members to serve as Mayor Pro Tem, both for a term expiring at the first Commission meeting following the next regular city election. No person shall be eligible for election as Mayor unless said person has had at least one year previous experience on Boyne City Commission, except the first year of its existence.

In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Commission may designate another of its members to serve as Acting Mayor during such absence or disability.

Duties of Mayor:

Section 5.5.

- (a) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice and vote in all proceedings of the Commission equal with that of other members of the Commission but shall have no veto power. He shall be the presiding officer of the Commission.
- (b) The Mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinance of the city to suppress riot and disorder.

- (c) The Mayor shall execute or authenticate by his signature, such instruments as the Commission, this charter or any statute or laws of the United States shall require.
- (d) Except as may be required by statute, the Mayor shall exercise only such powers as this charter or this Commission shall specifically confer upon him.
- (e) In the absence or disability of the Mayor, the Mayor Pro Tem shall perform the duties of Mayor. In the absence or disability of both, the designated Acting Mayor shall perform such duties.

Administrative Service:

Section 5.6. The administrative officers of the city shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance. The Commission may by ordinance create additional administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

The City Manager and Attorney shall be appointed by the Commission for an indefinite period, shall be responsible to and serve at the pleasure of the Commission and shall have their compensation fixed by the Commission.

All administrative officers of the city, except the City Manager and Attorney, shall be appointed by the City Manager for an indefinite period, subject to confirmation by the Commission. Such officers shall be responsible to the City Manager and shall have their compensation fixed by him in accordance with budget appropriations and subject to approval of the Commission. Such officers may be discharged by the City Manager without confirmation by the Commission.

Except as may be otherwise required by statute or this charter, the Commission 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 which are not inconsistent with this charter or with any ordinance or resolution.

All personnel employed by the city who are not elected officers of the city or administrative officers by, 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, suspend or discharge the employees of his department with confirmation by the City Manager.

Any administrative officer or employee who had been discharged may within ten days thereafter petition the Commission to hear the facts regarding such discharge, and in such case the Commission may, in its sole discretion hold a hearing and inquire into such facts and may make such decision in the matter as it considers proper.

Relationship of Commission to Administrative Service:

Section 5.7. Neither the Commission nor any of its members or committees shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other city officer to prevent him from exercising his judgement in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Commission and its members shall deal with the administrative service solely through the City Manager, and neither the Commission nor any member thereof shall give orders to any of the subordinates of the City Manager.

City Manager: Appointment and Qualifications:

Section 5.8. The Commission 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 Commission, but he shall not be removed from office during a period of sixty days following any regular city election except

by the affirmative vote of four members of the Commission. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience.

Acting City Manager:

Section 5.9. The Commission 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. Such Acting City Manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Manager.

City Manager: Functions and Duties:

Section 5.10. 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 Commission for the efficient administration of all administrative departments of the city government except the department under the direction of the Attorney;
- (b) To see that all laws and ordinances are enforced;
- (c) To appoint, with the consent of the Commission, the heads of several city departments whose appointment is not specified in this charter, and to direct and supervise such department heads;
- (d) To give to the proper department of officials ample notice of the expiration or termination of any franchises, contracts or agreements;
- (e) 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;
- (f) To recommend an annual budget to the Commission and to administer the budget as finally adopted under policies formulated by the Commission, and to keep the Commission fully advised at all times as to the financial condition and needs of the city;
- (g) If required by the Commission, by resolution or ordinance, the City Manager shall submit to the Commission, simultaneously with his recommended budget, a schedule showing all recommended capital outlay expenditures during the following five fiscal years. The City Manager shall prepare this schedule after consultation with the City Planning Commission, if any. This schedule shall list separately each proposed acquisition of capital equipment or facility and each proposed capital expenditure program with estimates of cost, as accurate as may be made without detailed plans and specifications. This schedule shall be for the guidance of the Commission in adoption of the regular annual budget and the Commission may delete items or make such revisions as it deems appropriate and may arrange items in the order of priority for acquisition or construction. After making any desired corrections or addition, the Commission shall adopt the capital outlay program at the same meeting as it adopts the regular annual budget, but such adoption shall be only for the purpose of setting up a guide for future capital expenditures and in no way shall obligate the city to carry out the programs listed nor to include any of the items in future budgets nor to appropriate funds for any of the items or programs. In the preparation of the annual budget, neither the City Manager nor the Commission shall include or appropriate funds for any capital expenditure unless the item was included in the capital outlay program adopted the previous year or is included in the capital outlay program submitted with the budget;
- (h) To recommend to the Commission for adoption such measures as he may deem necessary or expedient, and to attend Commission meetings with the right to take part in discussions but not to vote;
- (I) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;

- (j) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Commission and to generally accepted principles and procedure of governmental accounting. He shall submit financial statements to the Commission quarterly, or more often as the Commission directs;
- (k) To act as Purchasing Agent for the City and in such capacity shall purchase all supplies and equipment and dispose of the same in accordance with procedures established by the Commission;
- (l) To perform such other duties as may be prescribed by this charter or required of him by ordinance or by direction of the Commission.

Clerk: Functions and Duties:

Section 5.11.

- (a) The Clerk shall be the Clerk of the Commission and shall attend all meetings of the Commission and shall keep a permanent journal of its proceedings in the English language.
- (b) The Clerk 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, bonds, and records pertaining to the city, the custody of which is not otherwise provided for;
- (c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Commission;
- (d) The Clerk 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;
- (e) The Clerk shall have power to administer oaths of office;
- (f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

Treasurer: Functions and Duties:

Section 5.12.

- (a) The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk, and all evidences of indebtedness belonging to the City or held in trust by the city;
- (b) The Treasurer shall collect all moneys of the city, the collection of which is not provided for elsewhere by charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All moneys shall be turned over to the Treasurer after collection or receipt, and he shall in all cases give a receipt therefor.
- (c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Commission may determine and shall report the same in detail to the City Manager;
- (d) The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the Commission;
- (e) The Treasurer shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real land personal property;
- (f) The Treasurer shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

Assessor: Functions and Duties:

Section 5.13. The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Commission or by the City Manager.

Attorney: Functions and Duties:

Section 5.14.

- (a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Commission and the City and shall be responsible solely to the Commission. 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;
- (b) The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the Commission may request. He shall file with the Clerk copies of such records and files relating thereto as the Commission may direct;
- (c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Commission and shall promptly give his opinion as to the legality thereof;
- (d) The Attorney shall call to the attention of the Commission all matters of law, and changes or developments therein, affecting the city;
- (e) The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Commission;
- (f) Upon the recommendation of the Attorney, or upon its own initiative, the Commission may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the Attorney therein.

Compensation of Attorney and Special Counsel:

Section 5.15. The compensation of the Attorney shall be set by the Commission. No compensation to special legal counsel shall be paid except in accordance with an agreement between the Commission and the Attorney or special counsel made before the service for which such compensation is to be paid has been rendered.

Deputy Administrative Officers:

Section 5.16. The Clerk, Treasurer and Assessor may appoint their own deputies subject to the written confirmation of the City Manager, and may terminate the status of their deputies at their pleasure, upon written notice to the City Manager. Such deputies shall, in each case possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superiors or by the City Manager.

Planning and Zoning:

Section 5.17. The Commission may maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the city planning commission.

Independent Boards and Commission:

Section 5.18. The City Commission may not create any board or commission, other than those provided for in this charter, to administer any activity, department or agency of the city government except (a) a municipal hospital, or (b) any activity which by statute is required to be so administered. The City Commission may however, establish (a) quasijudicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

CHAPTER 6

GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Eligibility for Office and Employment in City:

Section 6.1. No person shall hold any elective office of the City unless he has been a resident of the City for at least one year immediately prior to the last day for filling original petitions for such office, or prior to the time of his appointment to fill a vacancy, nor shall any person be eligible to hold an elective office of the City if he shall have been convicted of a felony. No person shall hold any elective office unless he is a qualified and registered elector of the City on such last day for filling or at such time of appointment and throughout his tenure of office.

No person shall be eligible for any elective or appointive city office who is in default to the city. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof by the Commission or unless such person shall in good faith be contesting the liability for such default.

Each member of a city board or commission shall have been a resident of the city for at least one year prior to the date of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

Vacancies in Elective Offices:

Section 6.2. Any elective city office shall be declared vacant by the Commission before the expiration of the term of such office:

- (a) For any reason specified by statute or by this Charter as creating a vacancy in office;
- (b) If no person is elected to, or qualified for, the office at the election at which such office is to be filled;
- (c) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;
- (d) In the case of any member of the commission, if such officer shall miss four consecutive regular meetings of the Commission or twenty-five per cent of such meetings in any fiscal year of the city, unless such absence be excused by the Commission and the reason therefor entered in its proceedings at the time of each absence;
- (e) If the Officer is removed from office by the Commission in accordance with provisions of Section 6.4.

Vacancies in Boards and Commissions:

Section 6.3. The office of any member of any board or commission created by, or pursuant to, this Charter shall be declared vacant by the Commission before the expiration of the term of such office:

- (a) For any reason specified by statute or by this Charter as creating a vacancy in office;
- (b) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;
- (c) If such officer shall miss four consecutive regular meetings of such board or commission or twenty-five per cent of such meetings in any fiscal year of the city, unless such absence shall be excused by such board or commission and the reason therefor entered in the proceedings at the time of each absence;
- (d) If the officer is removed from office by the Commission in accordance with the provisions of Section 6.4.

Removals from Office:

Section 6.4. Removals by the Commission of elective officers or of members of boards or commissions shall be made for either of the following reasons: (a) for any reason specified by statute for removal of city officers by the Governor, (b) for any act declared by this charter to constitute misconduct in office. Such removals by the Commission shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Commission in office at the time, exclusive of any members whose removal may be being considered, shall be required for any such removal. Resignations:

Resignations:

Section 6.5. Resignations of elective officers shall be made in writing and filed with the Clerk and shall be acted upon by the Commission at its next regular meeting following receipt thereof by the Clerk. Resignations of officers appointed by the commission shall be made in writing to the Commission. All resignations shall be immediately acted upon.

Filling Vacancies in Elective Offices:

Section 6.6. (a) Any vacancy which occurs in the Commission more than sixty days before the next regular city election shall be filled within thirty days by a majority vote of the remaining members of the Commission, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled for any balance of the unexpired original term.

Any vacancy which occurs in the Commission sixty days or less before the next regular city election shall not be filled.

- (b) If any vacancy in the office of the Commissioners which the Commission is authorized to fill is not so filled within thirty days after such vacancy occurs, or if three or more vacancies exist simultaneously in the office of Commissioner such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office; candidates shall be nominated by petitions in a manner identical to that provided in Chapter 4; the names of all qualified candidates who file sufficient valid nominating petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this Charter, not inconsistent with this Section 6.6 shall govern;
- (c) The provisions of this Section 6.6 shall not apply to the filling of vacancies resulting from recall.

Filling Vacancies in Appointive Offices:

Section 6.7. Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

Filling Vacancies in Appointive Offices:

Section 6.8.

- (a) Vacancies in the office of Justice of the Peace occurring 120 days or more before any regular city election, shall be filled by appointment by a majority vote of the members of the Commission then in office for a term expiring on the Monday following the next regular city election. At such

election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4 and the Justice so elected shall take office on the Monday following such election.

- (b) Vacancies in the office of Justice of the Peace occurring less than 120 days before any regular city election shall be filled at that election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4, and the Justices so elected shall take office on the Monday following such election.
- (c) The provisions of this Section 6.8 shall not apply to the filling of vacancies resulting from recall.

Change in Term of Office or Compensation:

Section 6.9. Except by procedures provided in this Charter, the terms of office of the elective officers and of members of boards and commissions appointed for a definite term shall not be shortened. The terms of elective officers 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 or appointed and has qualified.

The Commission shall not grant or authorize extra compensation to any officer or employee after his service has been rendered. The salary of any elective officer shall not be increased or decreased from the day he is elected until the end of the term of office for which he was elected.

Oath of Office and Bond:

Section 6.10. Every officer, elective or appointee, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by statute, this charter or by the Commission. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Commission shall by resolution extend the time in which such officer may qualify.

Surety Bonds:

Section 6.11. Except as otherwise provided in this Charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Commission shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the Commission shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the Commission shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the City, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

All official bonds shall be corporate surety bonds and the premium thereon shall be paid by the City. The Clerk shall be custodian of all the bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk.

Delivery of Office:

Section 6.12. 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. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, jr both, in the discretion of the court.

Compensation of Employees and Officers:

Section 6.13.

- (a) The compensation of all employees and officers 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 Commission.
- (b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services. Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers and employees, and be paid into the city treasury and a statement thereof 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 Charlevoix to any officer or employee serving as a city representative on the Board of Supervisors.
- (c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the city.

Employee Welfare Benefits:

Section 6.14. The Commission shall have the power to make available to the administrative officers and employees of the City and its departments and boards any recognized standard plan of group life, hospital, health, or accident insurance either independently of, or as a supplement to, any retirement plan provided for said officers and employees.

Merit System:

Section 6.15. The Commission may provide for a merit system for city employees.

CHAPTER 7 CITY LEGISLATION

Regular Meetings:

Section 7.1. The Commission shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month.

Special Meetings:

Section 7.2. Special meetings shall be called by the Clerk on written request of the Mayor or any two members of the Commission at least six hours written notice to each member of the Commission served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Commission are present or have waived notice in writing.

Business at Special Meetings:

Business at Special Meetings:

Section 7.3. No business shall be transacted at any special meeting of the Commission 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 Commission present consent thereto and all the members absent file their written consent.

Meetings to be Public:

Meetings to be Public:

Section 7.4. All regular and special meetings of the Commission shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Commission may prescribe.

Quorum: Adjournment of Meeting:

Section 7.5. A majority of the members of the Commission in office at the time shall be a quorum for the transaction of business at all Commission meetings but In the absence of a quorum a less number may adjourn any meeting to a later time or date, and in the absence of all members, the Clerk may adjourn any meeting to not longer than one week.

Section 7.6. Any two or more members of the Commission may by vote either request or compel the attendance of its members and other officers of the city at any meeting, Any members of the Commission or other officer, who, when notified of such request for his attendance, fails to attend such meeting for reason other than those approved by the Commission shall be deemed guilty of misconduct in office unless excused by the Commission. The presiding officer shall enforce orderly conduct at meetings and any member of the Commission or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

All meetings of the Commission shall be conducted according to Robert's Rules of Order; Provided, however, nothing herein shall contravene the provision of the statutes or this charter. The following procedure shall be adopted:

1. Call meeting to order.
2. Roll Call.
3. Reading of previous minutes.

4. Hearing citizens present.
5. Reading of correspondence.
6. City Manger's Report.
7. Committee reports.
8. Special orders.
9. Unfinished business and general orders.
10. New business.

This procedure may be suspended in accordance with parliamentary procedure.

Any police officers designated by the presiding officer of the meeting shall serve as the Sergeant-at-Arms of the Commission in the enforcement of the provisions of this section.

Organization and Rules of the Commission:

Section 7.7. The Commission shall determine its own organization, rules and order of business subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.
- (b) A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except where the vote is unanimous it shall only be necessary to so state.
- (c) No member of the Commission shall vote on any question in which he has a financial interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining member-. present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office. In all roll call votes, the names of the members of the Commission 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.
- (d) The proceedings of the Commission, or a brief summary thereof, shall be published within fifteen days following each meeting. Any such summary shall be prepared by the Clerk and approved by the Mayor and shall show the substance of each separate proceeding of the Commission.
- (e) There shall be no standing committees of the Commission.

Investigations:

Section 7.8. The Commission, 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 and to make investigations as to any municipal affairs. The Commission for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this charter and such person when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court.

It is provided further, that in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the Commission may invoke the aid of the proper judicial tribunal in requiring obedience of such summons or production of such books, papers and other evidence.

Providing for Public Health and Safety:

Section 7.9. The Commission shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the Commission 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.

Prior City Legislation:

Prior City Legislation:

Section 7.10. All valid by-laws, ordinances, resolutions, rules and regulations of the city 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 repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or members of any board or commission by the Mayor, such officers or members of any board or commission shall after the effective date of this Charter, be appointed by the City Commission.

Those provisions of any effective valid by-law, ordinance, resolution rule or regulation which are inconsistent with this charter, are hereby repealed.

Form of Ordinances:

Section 7.11. All legislation of the City of Boyne City shall be by ordinance or by resolution. The word "resolution" as used in this charter shall be the official action of the Commission in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this charter or by state or federal law and to matters pertaining to the internal affairs or concerns of the city government. All other acts of the Commission, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Commission shall be "The City of Boyne City Ordains."

Enactment, Amendment, and Repeal of Ordinances:

Section 7.12. Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than three Commissions subject to the limitations of Section 7.13. Unless by the affirmative vote of four Commissioners no office shall be created or abolished; no special tax assessment be imposed; no street, alley, or public ground be vacated; no real estate or any interest therein be sold or disposed of; no private property be taken for public use; nor any vote of the Commission be reconsidered or rescinded at a special meeting; nor any money appropriated except as otherwise provided by this charter.

Compulsory Attendance and Conduct at Meetings:

Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Commission until one month after the meeting at which it is introduced. A brief description of the subject and contents of the ordinance as introduced shall be published in a newspaper of general circulation in the city at least one week before final passage, either separately or as part of the published proceedings of the Commission.

No ordinance shall be revised, altered, or amended by reference to the title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length in a newspaper of local circulation in the city. However, an ordinance may be repealed by reference to its number and title only. This requirement shall not apply to Sections which list one-way streets, stop streets, and street intersections and of parking limitations which are contained in any traffic ordinances.

Publication and Recording of Ordinances:

Section 7.13. Each ordinance shall be published within ten days after its enactment by publishing the full text thereof in a newspaper as defined in Section 7.18 either separately or as part of the published Commission proceedings; Provided, nothing shall contravene the provisions of 7.12.

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 such ordinance shall not invalidate It or suspend its operation.

Effective Date of Ordinances:

Section 7.14. The effective date of all ordinances shall be prescribed therein but the effective date shall not be less than fifteen days after enactment nor before publication thereof.

Penalties for Violations of Ordinances:

Section 7.15. The Commission may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court.

Enactment of Technical Codes by Reference:

Section 7.16. The Commission may adopt in whole or in part any provision of state law or any detailed technical regulations as a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly Identified in the ordinance adopting the same as an ordinance of the city. Where any code, or amendment thereto Is so adopted, all requirements for Its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinance citing such code In manner provided for the publication of other ordinances and (2) by making available to the public, copies of the code cited therein In book or booklet form at a reasonable charge.

Severability of Ordinances:

Section 7.17. 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 affect the remaining portion or application of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperative, and to this end ordinances are declared to be severable.

Compilation or Codification of Ordinances:

Section 7.18. Within five years after the effective date of this charter, the Commission shall direct the compilation or codification and printing in looseleaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter in current form; if a compilation is completed a recompilation shall be completed at least once in every five years thereafter. Any codification may include provisions not previously contained in ordinances of the city.

All requirements for publication of such compilation on codification, and of the ordinances contained therein, other provisions of this charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public at a reasonable charge and by publishing notice of the printing and availability thereof before the effective date thereof.

The copies of the ordinances and of any compilation, code or codes referred to in the charter may be certified by the Clerk and when so certified shall be competent evidence in all courts and legally established tribunals as to the matter contained therein.

Initiative and Referendum:

Section 7.19. An ordinance may be initiated by petition, or referendum on an ordinance enacted by the Commission may be had by petition, as hereinafter provided.

Initiatory and Referendum Petitions:

Section 7.20. An initiatory petition shall be signed by not less than twenty per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. A referendary petition shall be signed by not less than twenty-five per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. Any such petition, either initiatory or referendary, shall be addressed to the Commission, and may be the aggregate of two or more petition papers identical in contents. 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. A referendary petition shall identify the ordinance or code sections it proposes to have repealed.

Each signer of a petition shall sign his name, and shall place there-on after his name, the date and his place of residence by street and number or by other customary 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 a genuine signature of the person whose name it purports to be, and that it was made in the presence of the affliant. 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 signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filling of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Commission at its next regular meeting.

Commission Procedure on Initiatory and Referendary Petitions:

Section 7.21. Upon receiving an initiatory or referendary petition from the Clerk, the Commission shall either, within thirty days, unless otherwise provided by statute:

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

Submission of Initiatory and Referendary Ordinances to Electors:

Section 7.22. Should the Commission 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 Commission, at a

special election called for the specific purpose. In case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred and fifty days from the time the petition is presented to the Commission and the Commission does not adopt the ordinance, then the Commission shall call a special election within sixty days from such time for the submission of the initiatory proposal. The results shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

Ordinance Suspended:

Miscellaneous Provisions on Initiatory and Referendary Ordinance:

Section 7.23. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six months after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with provisions of this chapter or if submitted to the electorate by the Commission on its own motion.

If two or more 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 JUSTICE COURT

Establishment of Court:

Section 8.1. There is hereby established a Justice Court in the City to be presided over by the Justices of the Peace.

Justice of the Peace:

Section 8.2. The Justices of the Peace in office at the time of the adoption of this charter shall remain in office until the expiration of the terms for which they were elected, but shall have powers and duties prescribed in this charter for the Justices of the Peace to be elected in 1961 and 1963 and every fourth year thereafter.

Justice of the Peace Election:

Section 8.3. A Justice of the Peace shall be elected at the city election held In 1963 and every fourth year thereafter. The Justice of the Peace shall take office on July 4th following his election and shall serve for a term of four years.

The Associate Justice of the Peace shall be elected at the City election held in 1961 and every fourth year thereafter. The Associate Justice of the Peace shall take office on July 4th following his election and shall serve for a term of four years.

Justice of the Peace Qualifications:

Section 8.4. The Justices of the Peace shall possess the same qualifications as are prescribed in the charter for other elected officers.

Power and Jurisdiction-General:

Section 8.5. The Justices of the Peace In the City of Boyne City shall have the same powers, duties and jurisdiction as the Justices of the Peace in townships and shall be subject to the general laws with respect to such Justices except as otherwise provided in this charter.

Extended Jurisdiction:

Section 8.6. The Justices of the Peace shall also have:

- (a) Concurrent jurisdiction, to the amount of \$500.00 in all civil matters ex contracts and ex defacto with such exceptions as are provided by law.
- (b) The same power and authority as Circuit Courts possess to set aside the verdict or Judgement in any civil cause, and grant a new trial therein, upon legal cause shown therefor, whenever a motion, in writing, to made and filed with the Justice within five days after rendition of the verdict or Judgement in said case, which motion shall briefly and plainly set forth the reasons and grounds upon which it Is made and shall also set forth the facts relied upon. Notice of the hearing of such motion, with a copy of motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before hearing thereof and such motion shall be submitted and be heard within one week after the same shall have been filed, and such motion shall be determined within two days after the same shall have been heard and submitted; and the time for taking an appeal from Judgment in case such motion shall not - be granted, shall begin to run from the time when such motion shall be overruled; and in no case shall the pendency of such motion stay the Issuing and levy of an execution in such case, but in case of a levy under execution pending

such motion, no sale of the property so levied on, shall be advertised or made, until the final determination of such motion.

- (c) Such additional powers and authorities as may be conferred upon City Justices of the Peace by State Law, it being the intent of this charter that the Justices of the Peace of the City of Boyne City shall have and exercise all powers and authority which such Justices in cities may now or hereafter be permitted to exercise under the State law, under this charter or under the ordinances of the city.

Jurisdiction in Charter and Ordinance Cases:

Section 8.7. The Justices of the Peace shall have exclusive authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this Charter and the ordinances of the City, and to punish offenders for the violation of such Charter and ordinances as in such Charter or ordinances as prescribed and directed.

The Justices (if the Peace shall have exclusive jurisdiction within the limits prescribed by law, to hear, try and determine all actions and prosecutions for the recovery or enforcing of all fines, penalties and forfeitures; for violation of this Charter, or any ordinance of this City, and, also for encroachments upon and injuries to any of the streets, alleys and public grounds within the City.

Associate Justice of the Peace:

Section 8.8. In the City of Boyne City, one Justice shall be hereinafter referred to as the Justice of the Peace, and another shall be referred to as the Associate Justice of the Peace. The Justice of the Peace elected in the election of 1961, and each fourth year thereafter, shall be called the Associate Justice of the Peace and shall serve for a term of four years from and after the 4th day of July next following his election.

The Justice of the Peace elected in the election of 1963, and each fourth year thereafter, shall be termed the Justice of the Peace and shall hold office for a term of four years from and after the 4th day of July next following the City election. The Associate Justice of the Peace shall devote such part of his time to his official duties as the work of the Justice Court shall require or as may be required by law or ordinance. The Associate Justice of the Peace shall normally act only in the case of the absence, disability or disqualification of the Justice of the Peace. The Justice of the Peace and his business partners and employees shall have no part in any case before the Justice Court in which such Justice of the Peace is sitting, or otherwise serving officially. The Associate Justice of the Peace and his business partners and employees shall have no part in any case before the Justice Court in which such Associate Justice of the Peace is sitting or otherwise serving officially.

Compensation of the Justice of the Peace and Associate Justice of the Peace:

Section 8.9. The Justice of the Peace shall receive such annual compensation as shall be fixed by ordinance. The Associate Justice of the Peace shall receive such per them compensation as shall be fixed by the ordinance.

The ordinance fixing the salaries of the Justices may not be amended less than thirty days before the last day of filing nominating petitions for the election at which such Justices are to be elected nor may the compensation of any Justice be changed during the term of office for which he was elected or appointed. In the event that no ordinance is passed amending the salary of the Justice of the Peace as set out in this paragraph, the salary of the Justice of the Peace shall remain the same for the ensuing term as it was for the previous term.

The salary of the Justice of the Peace shall be in lieu of all fees, both in civil and criminal cases, to which said Justice might be entitled, but for the provisions of this section, except those for the performance of marriage ceremonies, for administering oaths in matters not connected with situs and proceedings In this court, and for acting as coroner.

The City may by ordinance, determine that the Justice of the Peace and the Associate Justice of the Peace shall receive no salary from the city and shall retain as full compensation for he; duties as Justice of the Peace and as Associate of the Peace, such fees as are or may be allowed to that office under the laws of the State of Michigan.

Place and Conduct of Court:

Section 8.10. The Commission may furnish necessary supplies and a suitable place for the conducting of court by the Justices. It may regulate the hours of court of said Justices and may make other necessary and proper rules and regulations for the conduct of the business of the court which are not inconsistent with this Charter or the statutes.

Transfer of Cases:

Section 8.11. In case of the absence, disability or disqualification of both Justice and the Associate Justice, any other Justice of the Peace or Municipal Judge in the County of Charlevoix shall be qualified to act in the place of and for the Justice in the performance of any of the duties imposed upon him by statute or this Charter.

The Commission shall by ordinance, fix the compensation to be paid any such Justice or Judge for such services and the procedure to be followed in calling upon him so to act. Unless the Commission shall so provide by ordinance, no such Justice shall act or be entitled to compensation therefor.

Accounting of Fines:

Section 8.12. If the Justice be paid an annual salary, all fees and fines, penalties, forfeitures, and moneys collected in city ordinance and charter cases, shall be credited to the general fund of the City. All costs and flues received for the violations of the penal laws of the state, when collected shall be paid into the office of the County Treasurer as provided by law. If the Justice is on the fee system of compensation, all fines, penalties, forfeitures and moneys collected or received by the Court In City ordinance and charter cases shall be paid over to the City Treasurer on or before the first day of the next month after the collection or receipt thereof and the Court shall take receipt thereof and file the same with the Clerk. Failure of the presiding officer to comply with the foregoing provisions shall constitute misconduct In office. The expenses of prosecution before the Justice for violations of penal laws of the State and In punishing the offenders shall be paid by the County of Charlevoix

Docket:

Section 8.13. The Justice of the Peace shall keep, at the place of holding court, a docket In the manner required by statute. Failure to comply with the requirements of this section shall constitute misconduct in office.

Violations Bureau.

Section 8.14. The Commission shall have power and authority to establish by ordinance, a Traffic Violations Bureau within the Court for the handling of violations of ordinances and regulations of the City restricting the parking of vehicles. The creation of such a bureau shall not operate so as to deprive any person of a full and Impartial hearing in court should such person so choose.

Constables:

Section 8.15. The City Manager may appoint one or more persons of the City as constables. Such constables shall have like powers and authorities in matters of civil and criminal nature and in relation to the service of processes, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all processes issued for breaches of ordinances of the city. The bond of constables shall be that required of constables in townships. The compensation of the constables shall be determined by the Commission.

CHAPTER 9 SUPERVISORS

Numbers of Supervisors:

Section 9.1. The City shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by statute.

Designation of Supervisors:

Section 9.2. The Assessor of the City shall be one of the representatives of the City on the Board of Supervisors. In case he shall be unable to perform the duties of his office for any reason, the Commission may appoint such other person or officer as may be permitted by statute to serve in his stead, either temporarily or permanently.

The additional representative or representatives to which the City may be entitled on the County Board shall be appointed by the City Commission and shall serve at the pleasure of the Commission. Such representatives shall be qualified electors of the city, shall have been residents of the city for at least two years immediately prior to their appointment, and may be elective or appointive officials of the City. If any representative of the City shall be unable to attend any meeting of the Board because of absence or disability, the Commission shall appoint some other qualified person to discharge the duties of such office during such absence or disability.

Compensation of Supervisors:

Section 9.3. All representatives of the City on the County Board of Supervisors shall be entitled to retain any compensation paid to them as members of such board.

CHAPTER 10
GENERAL FINANCE C BUDGET, AUDIT

Fiscal Year:

Section 10.1. The fiscal year of the City and of all Its agencies shall begin on the first day of May of each year and end on the thirtieth day of April the following year.

Budget Procedure:

Section 10.2. The City Manager shall prepare and submit to the Commission at its first meeting following the regular city election in April of each year, a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimate with supporting explanations of all proposed expenditures for each department, office, and agency of the City, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year In full, and for the current fiscal year to March first and estimated expenditures of the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the City, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the conditions of sinking funds, if any;
- (c) Detailed estimates of all 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 March first, and estimated revenues for the balance of the current fiscal year;
- (d) A statement of the estimated 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 Commission may request.

Budget Hearing:

Section 10.3. A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Commission shall direct. Notice Of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Clerk shau be published at least one week in advance of the hearing.

The complete proposed budget shall be on file for public Inspection during office hours at such office for a period of not less than one week prior to such hearing.

Adoption of Budget:

Section 10.4. Not later than the third week in May of each year, the Commission shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the City and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal pro.perty for municipal purposes subject to the limitations contained in Section 11.1.

Clerk to Certify Tax Levy: Budget Control:

Section 10.5. Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city except in accordance With an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Commission by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund, or agency to another.

The Commission may make additional appropriations during the fiscal year for unanticipated expenditures required by the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure then charged to such account.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the City Manager shall submit to the Commission data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Commission may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund.

Depository:

Section 10.6. The Commission -shall designate depositories for City funds and shall provide for the regular deposit of all City moneys. The Commission shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

Independent Audit: Annual Report:

Section 10.7. An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the Commission. Such audit shall be made by Certified FlubHc Accountants experienced in municipal accounting selected by the Commission.

The city manager shall prepare an annual report of the affairs of the city Including a financw report. Copies of such audit and annual report shall be made available for public inspection at the office of the city manager within thirty days after receipt of the audit.

CHAPTER 11 TAXATION

Power to Tax: Tax Limit.

Section 11.1. The City shall have the power to assess taxes and -levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed two percent of the assessed value of all real and personal property subject to taxation in the City.

Subject of Taxation:

Section 11.2. The subjects of ad valorem taxation for municipal purposes shall be the same 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 statute.

Exemptions:

Section 11.3. No exemption from taxation shall be allowed except as expressly required or permitted by statute.

Tax Day:

Section 11.4. Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be the same as for state, county, and school purposes under the general law.

Preparation of the Assessment Roll:

Section 11.5. 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 subject to taxation. Such roll shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

On or before the first Monday in March the Assessor shall give by first class mail, a notice of any increase over the previous year 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 notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Board of Review:

Section 11.6. The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in Section 6.1 and who during their term of office shall not be city employees. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. Three members of the Board shall be appointed by the Commission in January, 1961, one of said members to serve for one year, another to serve for two years and another to serve for three years, and In each January thereafter one person shall be appointed to the -Board of Review to fill the vacancy of the member whose term expires that year. The Commission shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year, and the Assessor shall be Clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

Meetings of the Board of Review:

Section 11.7. The Board of Review shall convene in its first session on the Wednesday following the first Monday in March of each year at such time of day and place as shall be designated by the Commission and shall remain in session for at least eight hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on Wednesday following the 3rd Monday in March of each year at such time of day and place as shall be designated by the Commission and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. At the second session, the Board may not increase any assessment or add any property to the rolls except in those cases which the Board resolved at its first session to consider such increase or addition at its second session.

Notice of Meetings:

Section 11.8. Notice of the time and place of the holding of the sessions of the Board of Review shall be published by the Clerk at least ten days prior to each session of the board.

Duties and Functions of Board of Review:

Section 11.9. 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 by statute conferred 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 the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions.

Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

Endorsement of Roll:

Section 11.10. After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April the majority of 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.

Clerk to Certify Levy:

Section 11.11. Within three days after the Commission has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Commission determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessment and all other amounts which the Commission requires to be assessed, reassessed or charged upon any property or against any person.

City Tax Roll:

Section 11.12. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of assessment roll to be known as the "City Tax Roll", and upon receiving the certification of the several amounts to be raised, as provided in Section 11.11, the Assessor shall spread upon said tax roll the several amounts determined by the Commission to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general ad valorem city tax and school tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

Tax Roll Certified for Collection:

Section 11.13. After spreading the taxes, the Assessor shall certify the tax roll and the Mayor shall annex his warrant thereto directing and requiring the Treasurer to collect prior to March 1st of the following year from the several persons named on said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him for the purpose of collecting the tax assessments and charges on said roll such powers and Immunities necessary to collect same. On or before June 15 the roll shall be delivered to the Treasurer for collection.

Tax Lien on Property:

Section 11.14. 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 Hen upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a 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 statute and shall continue until such taxes, interest and charges are paid.

Taxes Due: Notification Thereof:

Section 11.15. City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the per-sons named in the city tax roll, nor to make personal demand for the payments 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 ga-me, and (b) mail a bill to each person named in said roll, but in case 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 non-payment of the same.

Interest on Late Payment of Taxes:

Section 11.16. All taxes paid on or before the fifteenth day of September shall be collected by the Treasurer without additional charge. On September sixteenth he shall add to all taxes paid thereafter four percent of the amount of said taxes and on the sixteenth day of October and of each succeeding month he shall add an additional one-half of one percent of said taxes that remain unpaid. Such interest shall not exceed six per cent and shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectable in the same manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the Treasurer, as provided in Section 11.13

is delayed for any reason by more than thirty days after June fifteenth, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

Failure or Refusal to Pay Personal Property Tax:

Section 11.17. If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them by October sixteenth the Treasurer shall collect the same by seizing the personal property of such persons, firm or corporation to an amount sufficient to pay for 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, in accordance with statute, the person, firm or corporation to whom it is assessed.

Delinquent Tax Roll to County Treasurer:

Section 11.18. All city taxes on real property remaining uncollected by the Treasurer on the first day of March following the date for returns by township treasurers of township, school and county Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and County taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Charlevoix, is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

State, County and School Taxes:

Section 11.19. 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 statute 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 township treasurers under statute; Provided that nothing in this section shall deter the City Commission's power to determine the Treasurer's salary.

CHAPTER 12 BORROWING POWER

Grant of Authority to Borrow:

Section 12.1. Subject to the applicable provisions of law and this Charter, the Commission 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 and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations;
- (b) Notes issued in anticipation of the collection of the taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by Section 10.5;
- (c) In case of fire, flood or other calamity, emergency loans due. in not more than live 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 assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be both an obligation of the special assessment district or districts and a general obligation of the City;
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving or operating of any public utility which the city is authorized by this Charter to acquire or operate; provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchase may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. A sinking fund shall be created in the event of the issuance of such bonds by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required;
- (f) Bonds issued at a rate of interest not to exceed six percent per annum to refund money advanced or paid on special assessments imposed for water main extensions;
- (g) Bonds for the refunding of the funded Indebtedness of the city;
- (h) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

Authorization of Electors Required:

Section 12.2.

- (a) Except as provided in Section 12.2 (b), no bonds pledging the full faith and credit of the city shall be issued without the approval of three-fifths of the electors voting thereon at any general or special election;
- (b) The restrictions of Section 12.2 (a) shall not apply to general obligation bonds issued to pay for the city's portion of public improvements the remainder of which are to be financed by special assessments, tax anticipation notes issued under Section 12.1 (b), emergency bonds issued under Section 12.2 (d), refunding bonds issued under Section 12.1 (g) or to bonds 'he issuance of which cannot, by statute, be so restricted by this Charter;

- (c) Only those persons who have property assessed for taxes in the city and their husbands and wives shall be entitled to vote on the approval of any issue of bonds which constitute a general obligation of the City, but no person may so vote unless he is a registered elector.

Applicable of Other Statutory Restrictions:

Section 12.3. The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issues, holding of such referendum and other applicable procedural requirements.

Limits of Borrowing Powers:

Section 12.4. The net bonded indebtedness incurred for all public purposes shall not at any time exceed that percentage of the assessed value as allowed by statute of all the real and personal property in the City provided that in computing such net bonded Indebtedness there shall be excluded money borrowed under the following sections of this Charter: 12.1(b) (tax anticipation notes), 12.1(c) (emergency loans), 12.1(d) (special assessment bonds even though they are also a general obligation of the city), 12.1(h) (revenue bonds), and other bonds which do not constitute a general obligation of the City.

The amount of emergency loans which the Commission may make under the provisions of Section 12.1(c) of this Charter may not exceed that percentage allowed by statute of the assessed value of all the real and personal property in the City.

The total amount of special assessment bonds pledging the full faith and credit of the City shall at no time exceed that percentage as allowed by statute of the assessed value of all the real and personal property in the City nor shall such bonds be issued in any consecutive period of twelve months in excess of that amount as allowed by statute of the assessed value unless authorized by a majority vote of the electors voting thereon at any general or special election.

Preparation and Record of Bonds:

Section 12.5. 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 evidence 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 the payment of any bond or other evidence of indebtedness, the same shall be marked "Canceled."

Unissued Bonds:

Section 12.6. 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, and if any such bonds are not sold within five, years after authorization, such authorization shall, as to such bonds, be null and void, and such bonds shall be canceled.

Deferred Payment Contracts:

Section 12.7. The City may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years nor shall the total

amounts of principal payable under all such contracts exceed a sum equal to one-half of one percent of the total assessed valuation of the City in any one fiscal year of the City.

All such deferred payments shall be included In the budget for the year in which the installment is payable.

CHAPTER 13
SPECIAL ASSESSMENTS

General Power Relative to Special Assessments:

Section 13.1. The Commission shall have the power to determine by resolution that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefitted in proportion to the benefits derived or to be derived.

Detailed Procedure to be Fixed by Ordinance:

Section 13.2. The Commission shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of district-4, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

- (a) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the City.
- (b) No special assessment roll shall be finally confirmed until after a meeting of the Commission has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the City.
- (c) No original special assessment roll shall be confirmed except by the affirmative vote of five members of the Commission if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty percent of the amount of such special assessment.
- (d) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.
- (e) No special assessment district or districts shall be created by the Commission for any one public improvement which includes property having an area in excess of twenty-five percent of the total area of the City. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

Special Assessment Powers:

Section 13.3. The Commission shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

- (a) For the construction of public parking facilities as a public improvement financed in whole or part by the special assessment method.
- (b) For installing a boulevard lighting system on any street as a public improvement to be financed in whole or part by special assessment upon the lands abutting thereupon, provided, that the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefor.
- (c) For the payment of special assessments in annual installments not to exceed ten in number. The first such installment to be due upon confirmation of the special assessment roll, and subsequent installments to be due on July first of succeeding years and to be placed upon the annual City tax

roll, If delinquent, and for an interest charge only until the due date of each such deferred installment not to exceed six percent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

Disposition of Excessive Special Assessments:

Section 13.4. The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the City if such excess is three percent or less of the assessment, but should the assessment prove larger than necessary by more than three percent, the entire excess shall be refunded on a pro rate basis to the owners of the property assessed as shown by the current assessment roll of the City. Such refund shall be made by credit against future unpaid Installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

Additional Assessments: Correction of Invalid Special Assessments:

Section 13.5. Additional pro rate assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, or to pay the principal and interest on bonds or other evidences of obligation Issued there for; provided that the additional pro rate assessment shall not exceed twenty-five percent of the assessment as originally confirmed unless a meeting of the Commission be held to review such additional assessment, for which meeting notices shall be published and mailed as provided In the ease of review of the original special assessment roll.

Whenever any special assessment shall, in the opinion of the Commission, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Commission shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment, refunds shall be made.

No judgement or decree nor any act of the Commission 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 regular mode of proceedings might have been lawfully assessed thereupon.

Contested Assessments:

Section 13.6. No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (a) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Commission of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

Collection of Special Assessments:

Section 13.7. Upon the confirmation of each special assessment roll the special assessments shall become a debt to the City from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessment and all interest and charges thereon. Such lien shall be of the same character and effect as created by this Charter for City taxes.

Special assessments or installments thereof, which become due on July first of any year shall be collected in all respects as are city taxes due on July 1 of the same year, and if uncollected on the following first day of March, shall be returned to the County Treasurer with unpaid taxes as provided in Section 11.18.

The initial special assessment installments which become due other than on July first shall, if unpaid for ninety days or more on May first of any year, be certified as delinquent to the Commission by the Treasurer and the Commission shall place such delinquent assessments on the tax roll for that year together with accrued interest to July first of such year. The total amount of such assessment and interest shall thereafter be collected in all respects as are City taxes due on July first of that year and shall be subject to the same fees and penalties as are City taxes due on that date and if uncollected on the following March first shall be returned to the County Treasurer with unpaid taxes as provided in Section 11.18.

Special Assessments Accounts:

Section 13.8. Except as otherwise provided in this Chapter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

Assessments for Renewal of Hazards, Etc.:

Section 13.9. The assessment for the cost of the construction of any sidewalk or the abatement of any hazard or nuisance to be made pursuant to Section 2.3 (u) or Section 2.3 (v), or for the cost of removing snow, ice or other obstructions from sidewalks or trimming and removal of hazardous trees to be made pursuant to Section 2.3 (w) or Section 2.3 (x), shall be made by resolution of the Commission. Notice of the time at which the Commission will act thereon shall, be given by first class mail to the owner of the property to be assessed as shown by the current tax. roll of the City, except that no notice shall be required in the case of assessments for the removal of weeds, snow or ice. For the purpose of collection of such assessments, the adoption of such resolution shall be equivalent to the confirmation of a special assessment roll The amount of any such assessment shall become a debt to the city upon adoption of such a resolution, be due at such time as the Commission shall prescribe and shall be subject to the collection fees and become a lien as provided in Section 13.7. Every such assessment shall also be subject to Section 13.4, 13.5. and 13.6.

Failure to Mail Notice:

Section 13.10. Failure to mail or receive any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

CHAPTER 14
PURCHASES - CONTRACTS - LEASES

Purchase and Sale of Property:

Section 14.1. The City Manager shall be responsible for the purchase and sale of all city property, subject to the restrictions of statutes and ordinances.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of five hundred dollars of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the city would result.

In all sales or purchases in excess of five hundred dollars, (a) the sale or purchase shall be approved by the Commission, (b) sealed bids shall be obtained, and (c) the requirements of Section 14.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Commission may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications unless the Commission 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.

All purchases and sales shall be evidenced by written contract or purchase order.

The city may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The city may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Commission.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

Contracts:

Section 14.2. The authority to contract on behalf of the City is vested in the Commission and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchase and sales may be made by the City Manager subject to the provisions of Section 14.1.

Any contract or agreement in an amount in excess of five hundred dollars made with form or terms other than the standard City purchase order shall before execution be submitted to the 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.

Before any contract, agreement or purchase order obligating the City to pay an amount in excess of five hundred dollars is executed, the accounting Officer of the City shall first have certified 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 or by special assessments or for some other 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 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 unless such purchase or construction is being financed by an installment contract under authority of Section 12.7. 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 thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Commission, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 14.1.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation in default to the city.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the city.

Restriction on Powers to Lease Property:

Section 14.3. The Commission may not rent or let public property for a period longer than three years unless such rental or lease agreement shall have been referred to the people at a regular or special election and shall have received the approval of a majority of the electors voting thereon at such election. No such lease shall be approved by the Commission for presentation to the electorate before thirty days after application therefore has been filed with the Commission nor until a public hearing has been held thereon. No such lease shall be submitted to the electors unless the party leasing or renting the property has filed with the Clerk his unconditional acceptance of all terms of such lease or rental agreement.

CHAPTER 15 MUNICIPALLY OWNED UTILITIES

General Powers Respecting Utilities:

Section 15.1. Subject to the provisions of the Constitution and statute, the City shall have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, a public utility for supplying water to the municipality and its inhabitants for domestic, commercial and municipal purposes, and may sell and deliver water without its corporate limits in an amount not to exceed the limitations set by the Constitution and statute. Subject to statutory provisions, the City shall also have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits including, but not by way of limitation, public utilities for supplying light, heat, power, gas, sewage treatment and garbage disposal facilities, and facilities for the storage and parking of vehicles within its corporate limits.

Management of Municipal Utilities:

Section 15.2. All municipally owned and operated utilities shall be administered as a regular department of the city government under the management and supervision of the City Manager.

Rate:

Section 15.3. The Commission 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. Higher rates may be charged for service outside the corporate limits of the City.

Utility Rates and Charges-Collections:

Section 15.4. The Commission shall provide by ordinance for the collection of all public utility rates and charges of the City. Such ordinance shall provide at least

- (a) That the City shall have as security for the collection of such utility rates and charges, those liens as authorized by statute upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in-such ordinance.
- (b) The terms and conditions under which utility services may be discontinued In cases of delinquency in paying such rates or charges.
- (c) 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 178 of the Public Acts of 1939, as amended.

Disposal of Utility Plants and Property:

Section 15.5. Unless approved by the affirmative vote of three-fifths of the electors voting thereon in a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privileges or asset 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 of 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 equip-

ment 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 vacating or abandonment of streets, as provided by statute.

Utility Finances:

Section 15.6. The rates and changes 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 for such utility, including depreciation.

Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded as 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 results of its operation, which report shall be available for inspection at the office of the Clerk.

CHAPTER 16 PUBLIC UTILITY FRANCHISES

Franchises Remain in Effect:

Section 16.1. All franchises to which the City of Boyne City is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

Granting the Public Utility Franchises:

Section 16.2. Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

No franchise ordinance which is not subject to revocation at the will of the Commission shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Commission for referral to the electorate before thirty days after application therefor has been filed with the Commission nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Commission, shall have first been paid to the Treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the Commission may be enacted by the Commission without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the Clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.

Conditions of Public Utility Franchises:

Section 16.3. All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance, or not, shall be subject to the following rights of the City, but this enumeration shall not be exclusive or impair the right of the Commission to insert in such franchise any provision within the power of the City to impose or require:

- (a) To repeal the same for misuse; non-use or 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 establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;
- (f) To impose such other regulations as may be determined by the Commission to be conducive to the safety, welfare and accommodation of the public.

Regulation of Rates:

Section 16.4. All public utility franchises shall make provision therein for fixing rates, fares and charges, and may provide for readjustments thereof at periodic intervals. The value of the property of the

utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, good will or prospective profits.

Use of Public Places by Utilities:

Section 16.5. Every public utility whether it has a franchise or not shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the City by the City and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Commission shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor. and the arbitration award shall be final.

CHAPTER 17
SCHEDULE

Election to Adopt Charter:

Section 1. This Charter shall be submitted to a vote of the qualified electors of the City of Boyne City in the election to be held on Monday, February 15, 1960. If this Charter is adopted at such election, it shall take effect and become the Charter of the City of Boyne City on Friday, April 15, 1960, at 12 o'clock noon.

Form of Ballot:

Section 2. The form of the ballot on submission of this charter shall be as follows:

Instructions C A cross (x) in the square after the word "Yes" is in favor of the adoption of the proposed Charter, and a cross (x) in the square after the word "No" is against the adoption of the proposed Charter.

Shall the proposed Charter of the City of Boyne City, drafted by the Charter Commission which was elected on April 6, 1959 be adopted?

YES G

NO G

Officers of the City Under Previous Charter:

Section 3. At the city election held in 1960 the following Commissioners shall be elected: Two (2) Commissioners at Large each for a three-year term; Two (2) Commissioners at Large each for a two-year term; and One (1) Commissioner at Large for a one-year term. The candidates for the above offices of Commissioners at Large shall file their nominating petitions as required under the Statutes of this State and under this Charter, designating the office that they are seeking to be that of Commissioner at Large. The Two (2) candidates obtaining the largest, and the second largest, number of votes shall be the Two (2) Commissioners at Large for the three year terms, the Two (2) candidates obtaining the 3rd and 4th largest number of votes shall be the Two (2) Commissioners at Large for the two year term; and the candidate receiving the 6th largest number of votes shall be the Commissioner at Large for the one year term.

At the city election held in April 1961, an Associate Justice of the Peace shall be elected for a four year term under the provisions of this Charter.

The Justice of the Peace, whose term expires in July of 1963, shall continue to hold office until the expiration of his term on the 4th day of July, 1963 at which time the office shall be filled by the person elected to that office at the April, 1963 regular City election.

The terms of office specified in this section are for the purpose of bringing the transitions from the scheduled terms of office in the former Charter of the City and those provided in this Charter.

Administrative and Other Officers:

Section 4. All administrative officers and employees of the City, both elected and appointed, and including the City Clerk, City Treasurer and City Assessor and the City Attorney, who held office in or were employed by the City at the time this Charter became law as the Charter of the City, shall continue in

the office of employment at that time held by them respectively for the balance of the terms of office or employment to which they were appointed or employed.

City Commission:

Section 5. The offices of Councilmen and Mayor of the City of Boyne City who held such offices at the time this Charter became law as the Charter of the City, shall cease to be and their duties are terminated.

Board of Review:

Section 6. The board of review as constituted on the effective date of this Charter shall continue to serve as the Board of Review until such time as their successors are appointed under the provisions of this Charter.

Status of Schedule Charter:

Section 7. The purpose of this schedule chapter is to inaugurate the government of the City of Boyne City under this Charter and it shall constitute a part of said Charter only to the extent and for the time required to accomplish that end.

Transition Provision:

Section 8. 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 chapter, the Commission shall supply necessary details and procedures and may adopt such rules, regulations and ordinances as may be required therefor.

RESOLUTION OF ADOPTION

At a regular meeting of the Charter Commission of the City of Boyne City held on Tuesday, January 12, 1960, the following resolution was offered by Commissioner Conkle:

RESOLVED, that the Charter Commission of the City of Boyne City does hereby adopt the foregoing proposed charter for the City of Boyne City and the Secretary of this Commission is directed (1) to transmit copies of this charter to the Governor of the State of Michigan for his approval in accordance with statute, (2) to file with the City Clerk a copy of this charter on January 1, 1960 and (3) to cause this proposed charter to be published in the Boyne Citizen on January 28, 1960.

The resolution was seconded by Commissioner Hale, and adopted by the following vote:

YEAS: Vought, Ruback, Hale, Conkle, Tompkins, Toton, Ruegsegger, Poineau, Nelson.
NAYS: None.
ABSENT: None.

The Chairman declared the foregoing resolution carried and requested the members of the Charter Commissioner to authenticate said resolution; and also that copies of the charter be presented to the Governor and filed with the City Clerk by attesting their names thereto in the following manner:

Wiley Vought
Harlan Ruback
Dudleigh Ruegsegger
Casimir Toton
Otis Hale
Guy C. Conkle, Jr.

Harry Tompkins
Arthur Poineau
Dorwin Nelson

All the Commissioners having attested as to said resolution and also having attested the copies to be signed by the Governor and filed with the City Clerk, the meeting adjourned subject to the call of the chairman.

STATE OF MICHIGAN

) SS.

COUNTY OF CHARLEVOIX)

Dorwin Nelson being first duly sworn, says that he is the Clerk of the Charter Commission of the City of Boyne City; that at an election duly called and held in the City of Boyne City on April 7, 1959 the following named persons were duly elected on the Charter Commission to frame a revised Charter for the City, namely: Wiley Vought, Harlan Ruback, Otis Hale, Guy C. Conkle, Jr., Atwood Sheaffer, Dudleigh Ruegsegger, Casimir Toton, Arthur Poineau, and Dorwin Nelson, and that the said Atwood Sheaffer did resign from said Commission on the 13th day of May, 1959, said resignation accepted at the regularly scheduled meeting held May 13, 1959, and that the said Commission did fill the vacancy created according to the statute provided in such cases, by electing Harry Tompkins to the Charter Study Commission, and that the said Harry Tompkins did qualify for the office so held, and that the annexed and foregoing charter was duly adopted by said Charter Commission by the foregoing resolution which is a true and correct copy thereof, and that the said Charter Commission directed that said charter be presented to the electors of the City of Boyne City in accordance with the requirements of this charter and the laws of the State of Michigan.

Dated: December 18, 1959

S/Dorwin Nelson
Clerk of the Charter Commission of the
City of Boyne City

Subscribed and sworn before me this 18th day of December, 1959.

S/Lois L. Brooks
Notary Public
Charlevoix County, Michigan

My commission expires September 22, 1963.

I, the undersigned, G. Mennen Williams, Governor of the State of Michigan, do hereby approve the above and foregoing Charter of the City of Boyne City.

Dated at Lansing, Michigan this 19th day of January, 1960.

S/G. Mennen Williams
Governor of the State of Michigan

CHARTER ADOPTED

I hereby certify that at the primary election held on February 15, 1960, the foregoing charter was adopted by the qualified electors of the City of Boyne by a vote of 233 in favor of its adoption and 98 against its adoption.

EMMA SUNDQUIST
City Clerk

Dated: February 19, 1960