

# **CHARTER**

of the

## **CITY OF ESSEXVILLE**

Bay County

Michigan

**2022**

TABLE OF CONTENTS

**ARTICLE I: NAME AND BOUNDARIES..... 1**

SECTION 1.1 NAME..... 1

SECTION 1.2 BOUNDARIES ..... 1

**ARTICLE II: DEFINITIONS AND INTERPRETATIONS ..... 2**

SECTION 2.1 "ASSESSOR" ..... 2

SECTION 2.2 "ATTORNEY" ..... 2

SECTION 2.3 "CHARTER" ..... 2

SECTION 2.4 "CITY" ..... 2

SECTION 2.5 "CLERK"..... 2

SECTION 2.6 "COUNCIL"..... 2

SECTION 2.7 "ELECTOR" ..... 2

SECTION 2.8 "EMPLOYEE" ..... 2

SECTION 2.9 "LAW" ..... 2

SECTION 2.10 "MANAGER" ..... 2

SECTION 2.11 "MAYOR" ..... 2

SECTION 2.12 "NEWSPAPER" ..... 2

SECTION 2.13 "OFFICER" ..... 2

SECTION 2.14 "OFFICIAL" ..... 2

SECTION 2.15 "PERSON" ..... 2

SECTION 2.16 "SINGULAR AND PLURAL" ..... 3

SECTION 2.17 "STATE" ..... 3

SECTION 2.18 "STATUTES" ..... 3

SECTION 2.19 "TAX DAY" ..... 3

SECTION 2.20 "TREASURER" ..... 3

**ARTICLE III: GENERAL PROVISIONS..... 4**

SECTION 3.1 ARTICLE AND SECTION HEADING ..... 4

SECTION 3.2 FORM OF GOVERNMENT..... 4

SECTION 3.3 COUNTING DAYS ..... 4

SECTION 3.4 BUSINESS DAYS..... 4

SECTION 3.5 TRUSTS ..... 4

SECTION 3.6 ESTOPPEL..... 4

SECTION 3.7 PROCESS AGAINST THE CITY..... 4

SECTION 3.8 SEVERABILITY OF CHARTER PROVISIONS..... 4

SECTION 3.9 NON DISCRIMINATION AND CIVIL RIGHTS ..... 5

SECTION 3.10 NEPOTISM ..... 5

SECTION 3.11 VIOLATION OF CHARTER ..... 5

SECTION 3.12 PERSON IN DEFAULT TO THE CITY..... 5

SECTION 3.13 INCOMPATIBLE POSITIONS..... 5

SECTION 3.14 PUBLIC STREETS AND OTHER PUBLIC PLACES ..... 5

SECTION 3.15 PROVIDING FOR THE PUBLIC PEACE, HEALTH AND SAFETY..... 6

SECTION 3.16 CONDEMNATION OF PRIVATE PROPERTY FOR PUBLIC PURPOSE ..... 6

SECTION 3.17 PUBLICATIONS..... 6

SECTION 3.18 OPEN PUBLIC MEETINGS ..... 6

SECTION 3.19 FREEDOM OF INFORMATION ..... 7

SECTION 3.20 OATH OF OFFICE..... 7

SECTION 3.21 CHARTER REVISION..... 7

<b>ARTICLE IV: POWERS OF THE CITY</b> .....	<b>8</b>
SECTION 4.1 GENERAL POWERS.....	8
SECTION 4.2 EXERCISE OF POWER .....	8
<b>ARTICLE V: ELECTIONS</b> .....	<b>9</b>
SECTION 5.1 STATE LAW TO APPLY .....	9
SECTION 5.2 ELECTION COMMISSIONERS AND CANVASSERS.....	9
SECTION 5.3 REGULAR CITY ELECTIONS .....	9
SECTION 5.4 WARDS .....	9
SECTION 5.5 TERMS OF OFFICE .....	9
SECTION 5.6 TERM LIMITATIONS .....	10
SECTION 5.7 QUALIFICATIONS TO HOLD OFFICE.....	10
SECTION 5.8 NOMINATING PETITIONS .....	10
SECTION 5.9 PRIMARY ELECTIONS .....	10
SECTION 5.10 SPECIAL ELECTIONS .....	10
<b>ARTICLE VI: ELECTIVE OFFICIALS</b> .....	<b>11</b>
SECTION 6.1 TERM COMMENCES .....	11
SECTION 6.2 MAYOR .....	11
SECTION 6.3 CITY COUNCIL .....	11
SECTION 6.4 VESTED POWERS OF COUNCIL .....	12
SECTION 6.5 OFFICER AND STAFF OVERSIGHT .....	12
SECTION 6.6 MAYOR PRO TEM .....	12
SECTION 6.7 COMPENSATION.....	12
SECTION 6.8 RECALL.....	12
SECTION 6.9 VACANCY .....	13
SECTION 6.10 FILLING VACANCIES .....	13
SECTION 6.11 VACANCIES, MEMBERS FEWER THAN QUORUM .....	13
<b>ARTICLE VII: ADMINISTRATIVE SERVICE</b> .....	<b>14</b>
SECTION 7.1 ADMINISTRATIVE OFFICERS AND EMPLOYEES .....	14
SECTION 7.2 DEPARTMENTS .....	14
SECTION 7.3 MANAGER QUALIFICATIONS .....	14
SECTION 7.4 INTERIM MANAGER.....	14
SECTION 7.5 REQUIRED BONDS .....	14
<b>ARTICLE VIII: CITY OFFICERS, BOARDS AND COMMISSIONS</b> .....	<b>16</b>
SECTION 8.1 CITY ATTORNEY .....	16
SECTION 8.2 CITY CLERK.....	16
SECTION 8.3 DEPUTY CITY CLERK .....	16
SECTION 8.4 TREASURER.....	17
SECTION 8.5 DEPUTY TREASURER .....	17
SECTION 8.6 CITY ASSESSOR .....	17
<b>ARTICLE IX: POWERS AND DUTIES OF CITY MANAGER</b> .....	<b>18</b>
SECTION 9.1 CITY MANAGER .....	18

<b>ARTICLE X: STANDARDS OF CONDUCT AND PROHIBITIONS .....</b>	<b>19\</b>
SECTION 10.1 LIMITATION ON EMPLOYMENT OR APPOINTMENT .....	19
SECTION 10.2 APPOINTMENTS AND REMOVALS .....	19
SECTION 10.3 ADDITIONAL PROHIBITIONS .....	19
SECTION 10.4 CONFLICT OF INTEREST .....	19
<b>ARTICLE XI: LEGISLATION .....</b>	<b>20</b>
SECTION 11.1 CITY LEGISLATION PRESERVED .....	20
SECTION 11.2 ORDINANCES .....	20
SECTION 11.3 PENALTIES .....	21
<b>ARTICLE XII: INITIATIVE AND REFERENDUM .....</b>	<b>22</b>
SECTION 12.1 POWERS RESERVED TO ELECTORS .....	22
SECTION 12.2 INITIATIVE.....	22
SECTION 12.3 REFERENDUM.....	22
SECTION 12.4 RESTRICTIONS ON POWERS .....	22
SECTION 12.5 PETITIONS.....	22
SECTION 12.6 COUNCIL PROCEDURE .....	23
SECTION 12.7 SUBMISSION TO ELECTORS .....	23
SECTION 12.8 STATUS OF ORDINANCE ADOPTED.....	23
SECTION 12.9 ORDINANCE SUSPENDED .....	24
SECTION 12.10 MULTIPLE ORDINANCES.....	24
<b>ARTICLE XIII: CONTRACTS, PURCHASING AND LEASING .....</b>	<b>25</b>
SECTION 13.1 POWER TO CONTRACT .....	25
SECTION 13.2 AUTHORITY TO SIGN CONTRACTS .....	25
SECTION 13.3 CONSTRUCTION CONTRACTS .....	25
SECTION 13.4 BIDDING.....	25
SECTION 13.5 WAVIER OF BIDS.....	2
6	
SECTION 13.6 PERSON IN DEFAULT TO CITY .....	25
SECTION 13.7 CERTIFICATION OF APPROPRIATION .....	25
SECTION 13.8 ATTORNEY'S APPROVAL .....	25
SECTION 13.9 CONTRACT AMENDMENT.....	26
SECTION 13.10 CONTRACTS WHEN CHARTER IS ADOPTED .....	26
SECTION 13.11 PURCHASING AGENT .....	26
SECTION 13.12 EMERGENCY PURCHASES .....	26
SECTION 13.13 PURCHASING GUIDELINES .....	26
SECTION 13.14 LEASING CITY OWNED REAL ESTATE .....	27
SECTION 13.15 SALE OF CITY OWNED REAL ESTATE AND PROPERTY .....	27
SECTION 13.16 SEALED BIDS .....	27
<b>ARTICLE XIV: GENERAL FINANCE .....</b>	<b>28</b>
SECTION 14.1 FISCAL YEAR.....	28
SECTION 14.2 BUDGET SUBMISSION .....	28
SECTION 14.3 BUDGET MESSAGE .....	28
SECTION 14.4 BUDGET .....	28
SECTION 14.5 BUDGET CONTROL .....	28

SECTION 14.6 INDEPENDENT AUDIT .....	30
SECTION 14.7 DEPOSITORIES .....	30
<b>ARTICLE XV: TAXATION .....</b>	<b>31</b>
SECTION 15.1 ASSESSMENT .....	31
SECTION 15.2 PROCEDURE.....	31
SECTION 15.3 BOARD OF REVIEW .....	31
SECTION 15.4 MEETING OF THE BOARD OF REVIEW .....	31
SECTION 15.5 ORGANIZATION AND POWERS OF THE BOARD OF REVIEW .....	31
SECTION 15.6 NOTICE OF RECORDS OF MEETINGS OF THE BOARD OF REVIEW .....	31
SECTION 15.7 CERTIFICATION OF TAX LEVY .....	32
SECTION 15.8 TAX LIMIT .....	32
SECTION 15.9 COLLECTION BY TREASURER.....	32
SECTION 15.10 TAX DUE DATE .....	32
SECTION 15.11 PARTIAL PAYMENT OF TAXES.....	33
SECTION 15.12 RETURN TO COUNTY TREASURER .....	33
SECTION 15.13 NON-CITY TAXES.....	33
SECTION 15.14 FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX .....	33
SECTION 15.15 PROTECTION OF CITY LIEN .....	34
<b>ARTICLE XVI: SPECIAL ASSESSMENTS .....</b>	<b>35</b>
SECTION 16.1 SPECIAL ASSESSMENTS.....	35
SECTION 16.2 PROCEDURE ORDINANCE .....	35
<b>ARTICLE XVII: BORROWING POWER .....</b>	<b>36</b>
SECTION 17.1 BORROWING AND BONDS.....	36
SECTION 17.2 LIMITATION ON INDEBTEDNESS .....	36
SECTION 17.3 PREPARATION AND RECORD .....	36
SECTION 17.4 UNISSUED BONDS:.....	37
SECTION 17.5 LOAN OF CREDIT.....	37
<b>ARTICLE XVIII: PUBLIC UTILITIES AND FRANCHISES .....</b>	<b>38</b>
SECTION 18.1 POWERS RESERVED BY CITY .....	38
SECTION 18.2 FURNISHING UTILITIES OUTSIDE CORPORATE LIMITS.....	38
SECTION 18.3 ACQUISITION OF PUBLIC UTILITIES.....	38
SECTION 18.4 UTILITY RATES.....	38
SECTION 18.5 UTILITY CHARGES COLLECTION .....	38
SECTION 18.6 DISPOSAL OF UTILITY PLANTS AND PROPERTY.....	39
SECTION 18.7 UTILITY ACCOUNTS.....	39
SECTION 18.8 DEFINITION OF PUBLIC UTILITY FRANCHISE .....	39
SECTION 18.9 GRANTING PUBLIC UTILITY FRANCHISES & OTHER FRANCHISES .....	39
SECTION 18.10 CONDITIONS OF PUBLIC UTILITY FRANCHISES .....	40
SECTION 18.11 SALE OR ASSIGNMENT OF FRANCHISES .....	41
SECTION 18.11 SALE OR ASSIGNMENT OF FRANCHISES .....	41
<b>ARTICLE XIX: NOTICE TO CITY OF CLAIMS FOR INJURIES.....</b>	<b>42</b>
SECTION 19.1 NOTICE TO CITY OF CLAIMS FOR INJURIES.....	42

**ARTICLE XX: CHARTER ADOPTION, TRANSITION ..... 43**

SECTION 20.1 CHARTER ADOPTION .....43

SECTION 20.2 BALLOT PROPOSITION .....43

SECTION 20.3 CHARTER EFFECTIVE DATE .....43

SECTION 20.4 TERMS OF APPOINTIVE OFFICERS, CITY EMPLOYEES .....43

SECTION 20.5 BOARDS, COMMISSIONS, AUTHORITIES AND OTHER AGENCIES .....43

SECTION 20.6 EXISTING MILLAGE .....44

SECTION 20.7 TRANSITION ORDINANCES .....44

SECTION 20.8 PENDING MATTERS .....44

SECTION 20.9 PUBLICATION OF THIS CHARTER .....44

## **CHARTER COMMISSIONERS**

Craig Goulet, Chair

Zach Brunett, Vice-chair

David House, Clerk/Secretary

Tammy Blehm

Robert Blehm

Marla Henika

Terry Henika

## **ATTORNEY AND CONSULTANT**

Peter A. Letzmann, Grand Rapids

## **Preamble**

We, the people of the City of Essexville, County of Bay, State of Michigan, pursuant to the authority granted in the Constitution and Public Act 279 of 1909 of the State of Michigan, as amended, do hereby ordain and establish this Home Rule Charter for the City of Essexville.



**ARTICLE I  
NAME AND BOUNDARIES**

**SECTION 1.1 NAME**

The municipal corporation known as the City of Essexville, Michigan continues to be a municipal corporation and body politic under the same name.

**SECTION 1.2 BOUNDARIES**

The corporate boundaries of the City of Essexville shall be those as established on the date this Charter takes effect, together with such territory as may from time to time be attached thereto, and, less such territory as may from time to time be detached therefrom, in accordance with law. The City Clerk shall maintain complete records of the existing boundaries on the date of this Charter takes effect and each change thereafter.

**ARTICLE II  
DEFINITIONS AND INTERPRETATIONS**

Except as otherwise specifically provided or indicated by the context:

**SECTION 2.1** "Assessor" means the City Assessor.

**SECTION 2.2** "Attorney" means the City Attorney.

**SECTION 2.3** "Charter" means the Charter of the City of Essexville.

**SECTION 2.4** "City" means the City of Essexville.

**SECTION 2.5** "Clerk" means the Clerk of the City.

**SECTION 2.6** "Council" means the City Council.

**SECTION 2.7** "Elector" means a resident of the City having the qualifications of an elector in the State of Michigan, and who has resided in the City at least 30 days or otherwise provided by Law.

**SECTION 2.8** "Employee" means an individual employed by the City other than an official, appointee, volunteer, independent contractor, or employee of an independent contractor.

**SECTION 2.9** "Law" means the U.S. Constitution, applicable Federal Statutes, the Michigan Constitution and statutes, this *Charter and the Ordinances of the City*, and applicable common law in effect at the time the provision of the Charter containing the word "law" is to be applied.

**SECTION 2.10** "Manager" means the City Manager.

**SECTION 2.11** "Mayor" means the Mayor of the City.

**SECTION 2.12** "Newspaper" means a newspaper in the English language in general circulation within the City.

**SECTION 2.13** "Officer" means an individual appointed to an office of the City.

**SECTION 2.14** "Official" means an individual elected to an office of the City.

**SECTION 2.15** "Person" means an individual, a partnership, corporation, association, other legal entity, or a combination of them.

**SECTION 2.16** "Singular and Plural" The singular includes the plural and the plural includes the singular, unless the context indicates otherwise.

**SECTION 2.17** "State" means the State of Michigan.

**SECTION 2.18** "Statutes" All references to statutes of the State of Michigan shall include statutes as amended.

**SECTION 2.19** "Tax Day" means December 31 of each year, unless changed by law.

**SECTION 2.20** "Treasurer" means the Treasurer of the City.

**ARTICLE III  
GENERAL PROVISIONS**

**SECTION 3.1 ARTICLE AND SECTION HEADING**

The article, section and other headings in this Charter are for convenience only and are not part of the text of the Charter.

**SECTION 3.2 FORM OF GOVERNMENT**

The form of municipal government provided in this Charter is that of Council/Manager.

**SECTION 3.3 COUNTING DAYS**

In all places in this Charter referred to a number of days, it shall be presumed that consecutive calendar days are intended, unless the context clearly indicates otherwise.

**SECTION 3.4 BUSINESS DAYS**

Whenever the date fixed by Law or ordinance for the doing or completion of an act falls on a Saturday, Sunday, State or federal legal holiday or other non-business day of the City, the act shall be done or completed on the next day of the City that is not Saturday, Sunday, State or federal legal holiday or other non-business day.

**SECTION 3.5 TRUSTS**

The City, by action of the Council, shall have discretion to receive, hold, and use any property in trust for municipal purposes. All trusts established for municipal purposes and accepted by the City shall be used and continued in accordance with their terms.

**SECTION 3.6 ESTOPPEL**

The assertion of Estoppel as defined by law shall not have legal effect against the City.

**SECTION 3.7 PROCESS AGAINST THE CITY**

All processes against the City shall be in the corporate name of the City and served with a true copy upon the Clerk, or the Manager.

**SECTION 3.8 SEVERABILITY OF CHARTER PROVISIONS**

If any portion of this Charter is found to be invalid, the determination shall not invalidate the remainder of the Charter.

### **SECTION 3.9 NON-DISCRIMINATION AND CIVIL RIGHTS**

In the exercise of their powers or in the performance of their duties, all officials, officers, appointees and employees of the City shall not discriminate against any person in a manner prohibited by Law.

### **SECTION 3.10 NEPOTISM**

A person shall not be eligible to serve as an official, officer or employee of the City who is related in any of the following ways to a person then holding a position as an official or officer of the City, unless the Council shall approve eligibility by a majority vote of the full Council, and shall determine it to be in the best interests of the City. The relationships are: parent, spouse, child (either natural born or adopted) grandparent, grandchild, brother, sister, half-brother, half-sister, or the spouses of any of them. This provision shall not prevent a person from seeking an elective position through the electoral process.

### **SECTION 3.11 VIOLATION OF CHARTER**

An intentional violation of this Charter is declared to be a misdemeanor and is punishable by the same maximum fine and imprisonment as provided by statute for ordinance violations. The Council may provide by ordinance that a violation of a Charter provision is a civil infraction, and is punishable as a municipal civil infraction, as provided by statute.

### **SECTION 3.12 PERSON IN DEFAULT TO THE CITY**

The City shall not contract with, or give a position to, one who is in default to the City. Such positions shall include all elective officials, appointive officers, department heads, and members of boards and commissions of the City. The word "default" as used in this Charter includes being delinquent in taxes or other monies due to the city for more than thirty days, unless the default is being tested in a court or tribunal.

### **SECTION 3.13 INCOMPATIBLE POSITIONS**

A person shall not hold incompatible offices of the City at the same time. Incompatible offices are those public offices where one is subordinate to another, or where one office is subject to the supervision of another, or where holding one office causes a breach of duty of another public office, or as otherwise provided by law.

This Charter shall not preclude the Council from combining more than one administrative office into a single office.

### **SECTION 3.14 PUBLIC STREETS AND OTHER PUBLIC PLACES**

The right to use, control and regulate use of its rights of way, streets, walks, paths, parks, buildings, bridges, and other public places, and the space above and beneath them, is reserved to the City.

### **Section 3.15 PROVIDING FOR THE PUBLIC PEACE, HEALTH AND SAFETY**

The City shall provide for the public peace and health and for the safety of persons and property in the City.<sup>1</sup>

The Public Safety Department will not be eliminated without a vote of the electorate.

### **SECTION 3.16 CONDEMNATION OF PROPERTY FOR PUBLIC PURPOSE**

The City may acquire property as provided by condemnation for any public use or purpose within the scope of its powers, provided that just compensation is made.

### **SECTION 3.17 PUBLICATION AND MAILING OF NOTICES, ORDINANCES AND PROCEEDINGS**

**3.17.1** Unless as otherwise required by law, the requirement contained in this Charter for the publishing or publication of notices, ordinances or proceedings of City Council or other City boards, commissions or authorities, shall be met by publishing:

- a. at least once in a newspaper published in the English language for news of general character, with general circulation at regular intervals in the City for at least one year immediately prior to the publication,
- b. by posting in at least three conspicuous places within the City,
- c. by posting on the City's website, cable site and/or the internet, or
- d. in any other manner established by ordinance.

**3.17.2** *Prima facie* evidence of such publication shall be in the form of an affidavit of the printer or publisher of the newspaper, or their foreman or principal clerk attached to a copy of the notice.

**3.17.3** In the case in which this Charter requires the mailing or posting of notices around the City or on the internet, the affidavit of the officer or employee responsible for such mailing or posting, that such notice was mailed or posted shall be *prima facie* evidence of such mailing or posting.

### **SECTION 3.18 OPEN PUBLIC MEETINGS**

The business of the City Council shall be conducted at a public meeting held in compliance with the Open Meetings Act, Act No. 267 of the Michigan Public Acts of 1976 as amended, or a future such act. All public meetings shall be accessible to the public. Citizens shall have reasonable opportunity to be heard at all open meetings.

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<sup>1</sup> MCL 117.3(j)

### **SECTION 3.19 FREEDOM OF INFORMATION**

Records of the City shall be made available to the public in compliance with the Freedom of Information Act, Act No. 442 of the Michigan Public Acts of 1976, as amended, or a future such act.

### **SECTION 3.20 OATH OF OFFICE**

Each elective official, appointive officer and deputy shall take an oath of office, as provided by Law, before assuming office. Violation of the oath of office shall constitute a violation of this Charter and shall be subject to penalties prescribed by this Charter or by ordinance.

### **SECTION 3.21 CHARTER REVISION**

The question of general Charter revision shall be submitted to the electors every tenth regular even year November City election after the effective date of this Charter. The question of general Charter revision may be submitted to the electors earlier, upon the vote of a simple majority of the Council.

**ARTICLE IV  
POWERS OF THE CITY**

**SECTION 4.1 GENERAL POWERS:**

- 4.1.1** 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 Charters by The Home Rule City Act, Act 279 of the Public Acts of 1909 of the State of Michigan, as amended, as fully and completely as though these 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 held to be exclusive.
- 4.1.2** The City and its officers shall have the power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated 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 regularly constituted authority, to pass ordinances and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the Constitution and laws of the State and the provisions of this Charter.

**SECTION 4.2**

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan, which was passed for the government of cities or in any other law. Where no procedure for the exercise of any power of the City is set forth, either in this Charter or in, any statute of the State of Michigan, the Council may prescribe by ordinance a reasonable procedure for exercise thereof. The City may join any municipal corporation or with any other unit of government, or with any number or combination thereof, by contract or otherwise, as may be permitted by law in the ownership operation or performance, jointly, or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

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



## **ARTICLE V ELECTIONS**

### **SECTION 5.1 STATE LAW TO APPLY**

Except as otherwise provided by this Charter or ordinance, state law applies to scheduling and conducting elections, the procedures for registration of voters, the filing for office by candidates and canvass of City elections.

### **SECTION 5.2 ELECTION COMMISSIONERS AND CANVASSERS**

**5.2.1** An election commission is hereby created, consisting of the clerk and two qualified and registered electors of the city who during their term of office shall not be city officers or employees or candidates or nominees for elective city office. These two members shall be appointed by the Clerk annually in January for a term of one year. The members shall serve without compensation. The clerk shall be chair. The election commission shall appoint the board of election inspectors for each precinct 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 council. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

**5.2.2** The Board of County Canvassers shall have all powers granted to it by law and shall perform all required duties for the City.

### **SECTION 5.3 REGULAR CITY ELECTIONS**

City Elections shall be non-partisan.

As provided in Section 20.4, elections shall be held in November 2023, 2024, and 2025, and commencing with the November 2026 election, Regular City Elections shall be held every two years coinciding with November general elections as provided by State Law.

### **SECTION 5.4 WARDS**

The City shall be composed of one (1) ward.

### **SECTION 5.5 TERMS OF OFFICE**

There shall be a City council composed of a mayor and six council members. Each shall be elected at large for four-year terms, except as provided in Section 20.4 of this Charter.

Commencing with the November 2032 election, the mayor and three councilmembers shall be elected at the November general election in the year coinciding with the Presidential election

and three councilmembers shall be elected at the November general election two years after the Presidential election.

#### **SECTION 5.6 TERM LIMITATIONS**

Term limits shall not be imposed upon any elected office of the city.

#### **SECTION 5.7 QUALIFICATIONS TO HOLD OFFICE**

Only registered electors of the City shall be eligible to hold elective office.

#### **SECTION 5.8 NOMINATING PETITIONS**

The method of nominations for all candidates for City elections shall be by petition. A petition for each candidate shall be signed by not less than ten registered electors of the City. Nominating petitions submitted by candidates for the office of Council member shall be signed by ten registered voters of the City. No person shall sign their name to a greater number of petitions for any one office than there are persons to be elected to said office at said election. When the signature of any one individual appears on more petitions than there are candidates to be elected to said office at said election, the signature of such individual on all such petitions shall be invalidated, except that the signature dated earliest shall be valid. The City Clerk shall publish notice of the last day, time, and place permitted for filing nomination petitions and filing fees at least one week and not more than three weeks before such day.

#### **SECTION 5.9 PRIMARY ELECTIONS**

A primary election for City elective offices shall be held on the date set by state election laws, only if there are more than twice the number of candidates for an elective office to be filled.

A candidate, for mayor, who receives more than fifty percent of the votes cast in the primary election, shall be deemed elected to the office.

#### **SECTION 5.10 SPECIAL ELECTIONS**

Special City elections shall be held when called by resolution of the Council, to be held on a date in accordance with the laws of the State.

**ARTICLE VI  
ELECTIVE OFFICIALS**

**SECTION 6.1 TERM COMMENCES**

The term of each elective official shall commence at 7:00 PM, on the second Monday following the date of the regular election at which the candidate was elected.

**SECTION 6.2 MAYOR**

- 6.2.1** The Mayor shall be the titular head and executive officer of the City and shall preside over and perform those duties customarily performed by a Mayor at public meetings and ceremonies.
- 6.2.2** The Mayor is a member of the Council and shall preside at all meetings of the Council. The Mayor shall appoint the members of all Council committees, except as otherwise provided herein, and shall be an *ex officio* member of each Committee without a vote. The Mayor shall not have the power to veto.
- 6.2.3** The Mayor shall authenticate by signature such instruments as the Council, this Charter, Federal or State Law shall require.
- 6.2.4** The Mayor shall exercise such powers as this Charter or Law shall confer or require.

**SECTION 6.3 CITY COUNCIL**

- 6.3.1** The Council shall establish rules and regulations for the conduct of its meetings and shall maintain a written or printed journal, in English, of its proceedings.
- 6.3.2** The Council shall establish by resolution the day and time of the regular meetings. The Council shall hold at least one regular meeting per month. Four members of the Council present in person shall be a quorum for meetings. The affirmative votes of four members shall be necessary to take action on any matter, including passage of ordinances and resolutions, unless a greater number is required by this Charter, by ordinance, by Council rule, or by law. Every Council member present shall vote on all questions, unless a member has a conflict of interest, in which case the member's conduct shall be governed by law.
- 6.3.3** Special Meetings shall be called by the Clerk on request of the Mayor or any two Council members. Written notice stating each matter to be considered at a special meeting shall be given each Council member. Only items stated in the written notice will be discussed at a special meeting.

**6.3.4** An organizational meeting of the Council shall be held by the third Monday, following each regular election.

**6.3.5** Any change in compensation shall be by ordinance and be approved by the affirmative vote of at least five members of the Council. Such change of compensation shall take effect at the next organizational meeting of the Council.

Except as otherwise provided in this Charter, compensation, as defined by this section, shall constitute the only compensation which may be received by the Mayor and Councilmembers for the discharge of any official duty for and on behalf of the City during their tenure of office.

**6.3.6** The Mayor and Council members may be reimbursed for any expense incurred in the service of the City. The expense must be pre-authorized by the Council and payment shall be made only with the approval of the Council.

**6.3.7** The Council shall evaluate the job performance of the Manager prior to March 15 each year.

#### **SECTION 6.4 VESTED POWERS OF COUNCIL**

All powers granted to the City, not herein reserved to its electors or specifically delegated to an elective official or appointive officer or employee of the City, shall be vested in the Council.

#### **SECTION 6.5 OFFICER AND STAFF OVERSIGHT**

The Council and its members shall deal with City Officers and employees who are subject to the direction and supervision of the City Manager, solely through the City Manager except for purposes of inquiries and investigations. Neither the Council nor its members shall give orders or instructions to any such Officer or employee either publicly or privately.

#### **SECTION 6.6 MAYOR PRO TEM**

At the first meeting in November, the council shall nominate and elect to a one-year term, one of its members to be mayor pro tem, who shall act in the absence or disability of the mayor, as determined by the Council.

#### **SECTION 6.7 COMPENSATION**

The Council shall fix the compensation of all administrative officers, department heads and of all City employees.

#### **SECTION 6.8 RECALL**

Any elective official may be removed from office by the electors of the City in the manner provided by the state law.

#### **SECTION 6.9 VACANCY**

The office of Council member or Mayor shall become vacant upon the official's death, resignation or removal from office in any manner authorized by law, or absence from more than thirty (30) percent of regular and special Council meetings, for the twelve (12) month period starting with the organizational meeting in November, through October of the following year.

#### **SECTION 6.10 FILLING VACANCIES**

The Council at its first regular meeting after a vacancy is created shall appoint a qualified elector of the City to fill the vacancy, until the vacancy can be filled by an election for the balance of the unexpired term. The Clerk shall schedule such an election as soon as permitted by Law.

#### **SECTION 6.11 VACANCIES, MEMBERS FEWER THAN QUORUM**

If the membership of the Council is reduced to less than four, then the vacancies shall be filled as provided in MCL 168.321(3).

**ARTICLE VII  
ADMINISTRATIVE SERVICE**

**SECTION 7.1 ADMINISTRATIVE OFFICERS AND EMPLOYEES**

- 7.1.1** The Council shall appoint the Manager and the Attorney who serve at the discretion of the Council. The Manager shall appoint the Clerk, Treasurer, Assessor and Department Heads, subject to confirmation by the Council.
- 7.1.2** The Administrative officers, other than the City Attorney, and Department Heads shall serve at the discretion of the Manager.
- 7.1.3** The Manager is authorized to hire all other City employees.

**SECTION 7.2 DEPARTMENTS**

The Council, by ordinance, may create additional, merge, or abolish existing departments, other than abolishing the Public Safety Department. By resolution, the Council may combine administrative offices, provided that the City shall have a clerk, treasurer and assessor. The Council shall not have the authority to abolish or change the office of Manager or limit its functions, duties or authority as set forth in this Charter.

**SECTION 7.3 MANAGER QUALIFICATIONS**

The Manager is the chief administrative officer of the City. The Council shall determine the desired experience and qualifications prior to selecting a Manager.

**SECTION 7.4 INTERIM MANAGER**

The Council shall appoint a Manager within one hundred eighty days after a vacancy occurs. The Council may appoint an interim Manager during the period of the vacancy who shall have all responsibilities, duties and powers of the Manager while in office. No member of the Council, at the time the vacancy occurs, shall be eligible for the position.

**SECTION 7.5 REQUIRED BONDS**

- 7.5.1** Except as otherwise provided in this Charter, the Council may require any officer or employee of the City to give a bond to be approved by the Council, conditioned upon the faithful and proper performance of the duties of the office or employment concerned, in such sums as the Council may determine.
- 7.5.2** All such officers or employees who receive, distribute, or are responsible for City funds or investments shall be bonded.

- 7.5.3** The resignation, removal, or discharge of any officer or employee, or appointment of another person to such office or employment, shall not exonerate such officer or employee or any surety of such office or employee from any liability incurred by such officer, employee or surety.
- 7.5.4** All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. Bonds required by this section shall not be renewed upon the expiration of the terms for which issued, but, in each case, a new bond shall be furnished. No official bond shall be issued for a term exceeding three years, unless the term of the officers concerned exceeds three years.
- 7.5.5** The bonds of all officers and employees shall be filed with the Clerk, except that the Clerk's bond (unless they're covered within the scope of a blanket surety bond) shall be filed with the Treasurer.
- 7.5.6** The requirements of this section may be satisfied by the purchase, by the City, of one or more blanket corporate surety bonds, covering all or any group or groups of officers and employees of the City.
- 7.5.7** Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office

**ARTICLE VIII  
CITY OFFICERS, BOARDS AND COMMISSIONS**

**SECTION 8.1 CITY ATTORNEY**

The Council shall appoint a City Attorney who shall hold office at the discretion of the Council. The City Attorney shall keep the manager appropriately informed. The City as represented by the Council remains the ultimate client of the City Attorney. The Attorney shall serve as chief legal advisor to the Council, Manager and all City departments, offices, boards and commissions. The Attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by federal and state law, this Charter, ordinance or resolution. The City Attorney shall be an attorney licensed to practice law in the State of Michigan and shall receive compensation established by the Council. The Council may retain special legal counsel to represent the City or to assist the City Attorney. The City Attorney shall file with the City Clerk a copy of all opinions written by the Attorney, except those subject to Attorney/client privilege or may otherwise be exempt from disclosure by Law.

**SECTION 8.2 CITY CLERK**

THE CLERK SHALL BE THE CLERK OF THE COUNCIL AND SHALL:

- a. Attend all meetings of the Council.
- b. Keep a permanent journal of its proceedings and sessions in the English language.
- c. Keep a public record of all proceedings of the Council and shall authenticate the same by signature.
- d. Certify by signature all ordinances and resolutions enacted or adopted by the Council.
- e. Be custodian of all papers, documents, bonds and records pertaining to the City, unless otherwise provided by law or this Charter, keeping them in an orderly and safe manner for the duration required by law or this Charter.
- f. Be custodian of the City seal and shall affix it to documents and attest the same.
- g. Give notice to the proper officials of the expiration or termination of each franchise and contract to which the City is a party.
- h. Give notice to City officers, personally of the expiration of the terms of their respective offices and of any official bonds required of them.
- i. Under authority of the Council, sign or countersign all contracts, deeds, licenses, or other public documents, on behalf of the City and shall keep a record thereof.
- j. Publish and post all notices, proceedings, and other matters required to be published or posted by law, this Charter, or ordinance.
- k. Be the chief election officer of the City.
- l. Have the power to administer oaths of office.
- m. Perform such other duties as may be required by law, this Charter, the Mayor and/or the ordinances and resolutions of the Council.

**SECTION 8.3 DEPUTY CITY CLERK**



The Manager shall appoint a Deputy Clerk who, in the absence of the Clerk shall have all the powers, duties and authority of the Clerk.

#### **SECTION 8.4 TREASURER**

The Treasurer shall:

- a. Have custody of all moneys, funds, and securities of the City, keep accounts thereof.
- b. Deposit same in the manner and in the places designated by the Council.
- c. Report, no less than monthly, the same, in detail to the Council.
- d. Maintain the system of accounts, here provided for, in a manner conforming to governmental accounting practices and to such uniform system as may be required by law.
- e. Except as otherwise provided by this Charter or by ordinance, collect all moneys of the City, including charges for water and sewer services.
- f. Receive from other officers and employees all moneys belonging to and receivable by the City that may be collected by them, and shall give receipts therefor, for the collection of taxes, shall have and shall exercise the powers and immunities which are granted and reserved by this Charter and by law.
- g. Perform such other duties as may be prescribed by law, this Charter, the Mayor and or ordinances or resolutions of the Council.

#### **SECTION 8.5 DEPUTY TREASURER**

The City Manager shall appoint a Deputy Treasurer who in the absence of the Treasurer shall have all the powers, duties and authority of the Treasurer.

#### **SECTION 8.6 CITY ASSESSOR**

The Assessor shall be certified and shall possess all qualifications for the position required by law. The Assessor shall have all power vested in and shall be charged with all duties imposed upon assessing officers by laws of the state. The Assessor shall prepare all regular and special assessment rolls in the manner prescribed by this Charter, by ordinance and by the laws of the state.

**ARTICLE IX  
POWERS AND DUTIES OF CITY MANAGER**

**SECTION 9.1 CITY MANAGER**

**SECTION 9.1** The City Manager shall be the chief administrative officer of the City, responsible to the Council for the administration of all matters placed in the City Manager's charge by the Council or by authority of this Charter.

**SECTION 9.2** The City Manager shall:

- a. Be responsible for supervision of enforcement of all laws and ordinances, this Charter and shall carry out the policies and resolutions of the Council.
- b. Except as otherwise provided by this Charter, direct and supervise the administration of all offices and departments of the City.
- c. Have the authority to hire, discipline, suspend or terminate all City employees. The Manager may authorize any officer or head of department to exercise any part of these powers with respect to subordinates in that department.
- d. Prepare and submit an annual budget and capital improvement program to the Council for its approval and, administer the budget adopted by the Council.
- e. Keep the Council advised of the financial condition, administrative activities, and future needs of the City. Make such other reports as the Council may require concerning the operation of the City.
- f. Attend all Council meetings. The Manager shall have the right to take part in discussions but shall not have a vote.
- g. Recommend to the Council such measures as deemed necessary or expedient.
- h. Manage and supervise all public works, buildings, roads, utilities, improvements and other undertakings of the City.
- i. Be responsible for the maintenance of a system of accounts of the City which conforms to uniform systems of accounts as required by law and by the Council, and to generally accepted principles and procedures of governmental accounting.
- j. Assemble and be responsible for the safe keeping of engineering data for all City owned or operated public utilities and installations and such other public records required by the Council.
- k. Maintain an accurate inventory of all City owned property and equipment.
- l. Serve as purchasing agent of the City.
- m. Conduct performance evaluations of all administrative officers and department heads on at least an annual basis.

**ARTICLE X  
STANDARDS OF CONDUCT AND PROHIBITIONS**

**SECTION 10.1 LIMITATION OF EMPLOYMENT OR APPOINTMENT**

No former Mayor or Council member shall become a paid employee or appointed officer until one year after leaving their elected office.

**SECTION 10.2 APPOINTMENTS AND REMOVALS**

Neither the Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee the Manager is empowered to appoint.

**SECTION 10.3 ADDITIONAL PROHIBITIONS**

All members of the Council, all officers appointed by the Council, all City employees, and members of boards, commissions, committees, and other City agencies shall be prohibited from

- 10.3.1** Benefiting financially from confidential information which has been obtained by reason of their position or authority.
- 10.3.2** Divulging to any unauthorized person any confidential information acquired in the course of holding office or employment.
- 10.3.3** Use of City personnel, property, services or funds under the officers or employees official care and control for personal gain.
- 10.3.4** Using an official position of authority to profit from a business transaction.
- 10.3.5** Making any false or misleading statement, certificate, record or report with respect to any matter in the course of applying for or holding City office or employment.

**SECTION 10.4 CONFLICT OF INTEREST**

Subject to the requirements of MCL 15.328, any official, officer, employee or appointee who has, or is perceived to have a conflict between a personal interest and the public interest as defined by law, shall fully disclose the facts and nature of the conflict. The disclosure must be made when the person becomes aware of the conflict or an apparent conflict. If the person is a member of a decision-making or advisory body, that person must make disclosure to the chairperson and other members of the body on the official record.

The City Council shall adopt a comprehensive ethics ordinance within the next year after the adoption of the Charter.

## ARTICLE XI LEGISLATION

### SECTION 11.1 CITY LEGISLATION PRESERVED

All ordinances, resolutions, rules and regulations of the City, which are consistent with the provisions of this Charter, in force and effect at the time this Charter is adopted, shall continue in force and effect until amended or repealed.

### SECTION 11.2 ORDINANCES

- 11.2.1** To the fullest extent permitted by law, the Council has the power to adopt, revise, continue, amend and repeal any ordinance. Every ordinance shall have the date of adoption, effective date, signature of the Mayor and be attested to by the clerk.
- 11.2.2** This information shall remain as part of the ordinance as long as the ordinance is in effect. The language preceding the text of the adoption, revision, continuation, amendment and repeal of every City ordinance, shall be: "Ordinance no. \_\_\_\_ (year of action followed by numerical sequence such as 1997-1), The City of Essexville ordains....."
- 11.2.3** An ordinance shall embrace only one subject, which shall be stated in its title. Each ordinance adopted shall be set forth in full in the book designated "The Ordinance Book of the City of Essexville" and shall be authenticated by the signature of the Mayor and attested by the Clerk. The book shall be the official record of all ordinances of the City and be *prima facie* evidence before all courts and tribunals of their adoption. The Clerk shall cause the ordinances of the City to be codified or compile and organize the book of ordinances in a manner to allow convenient location of ordinances by subject matter.
- 11.2.4** No ordinance shall be adopted, amended, revised or repealed in whole or in part at the first meeting the proposal is considered by the Council, except as required by law or where a public emergency requires immediate action.
- 11.2.5** The unanimous vote of members of the Council present shall be required for adoption of an emergency ordinance.
- 11.2.6** The ordinance shall set forth clearly the circumstances and conditions, which create the emergency and shall declare that such an emergency does exist.
- 11.2.7** Emergency ordinances shall be conspicuously posted on the City's web site and in four (4) public locations within 24 hours after the action is taken.
- 11.2.8** An emergency ordinance may be given effect no sooner than the public posting.

**11.2.9** An emergency ordinance may be in effect for not more than sixty days and may be renewed for an additional sixty days upon affirmative vote of two-thirds of Council members present, with an affirmative vote of a minimum of three Council members.

**11.2.10** An emergency ordinance may not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; make or amend a grant; or other special privilege.

**11.2.11** Each new ordinance and each amendment to an existing ordinance shall be published in full or in summary form once within ten days after its adoption. Notice of the repeal of an ordinance or part of an ordinance shall be published also, except that the notice shall only state the title and number of the ordinance or part repealed. All new ordinances and amendments and all repeals of existing ordinances or part of ordinances shall take effect fifteen (15) days after the date of adoption unless a date is specified therein and after publication whichever comes later, or unless the action taken is an emergency ordinance.

**11.2.12** The Council shall make a periodic review of the City ordinances as it determines to be necessary.

### **SECTION 11.3 PENALTIES**

The Council shall provide by ordinance, as appropriate, the civil or criminal penalties for violations of this Charter and for any ordinance violations. No penalty shall exceed the maximum fine, or imprisonment, or both provided by statute.

**ARTICLE XII  
INITIATIVE AND REFERENDUM**

**SECTION 12.1 POWERS RESERVED TO ELECTORS**

The registered electors of the City reserve to themselves the powers of initiative and referendum.

**SECTION 12.2 INITIATIVE**

Initiative means the power to propose ordinances and to enact ordinances.

**SECTION 12.3 REFERENDUM**

Referendum means the power to reject ordinances adopted by the Council.

**SECTION 12.4 RESTRICTIONS ON POWERS**

The powers of initiative and referendum do not include the power to propose or reject ordinances of taxation or appropriation of City funds.

**SECTION 12.5 PETITIONS**

- 12.5.1** An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be by petition, as hereinafter provided.
- 12.5.2** An initiative petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance.
- 12.5.3** A referendum petition shall identify the ordinance or part thereof it proposes to have repealed.
- 12.5.4** Petitions for initiative or referendum shall be signed by a number of registered electors equal to not less than ten percent of the votes cast in the City for all candidates for governor at the last preceding general election at which a governor was elected.
- 12.5.5** A petition shall be signed within thirty days before the date of its filing with the Clerk.
- 12.5.6** All such petitions shall be approved as to form by the Clerk before being circulated for signatures.
- 12.5.7** No such petition need be on one page but may be the aggregate of two or more petition pages.

- 12.5.8** Each signer of a petition shall sign his or her name, the date of signature and place of residence within the City by number and street.
- 12.5.9** The circulator shall attach to each petition an affidavit stating the number of signers, that each signature is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the circulator.
- 12.5.10** The petition shall be filed with the Clerk, who shall within ten business days, canvass the signatures sworn to by the Clerk to determine their sufficiency.
- 12.5.11** If the Clerk finds the petition contains an insufficient number of signatures of registered electors of the City, or that they are improper as to form, or not in compliance with the provisions of this section, the Clerk shall promptly notify in writing the person filing the petition.
- 12.5.12** A period of ten business days after the notice shall be allowed for the filing of supplemental petition papers.
- 12.5.13** When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

#### **SECTION 12.6 COUNCIL PROCEDURE**

- 12.6.1** Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty calendar days, either:
- 12.6.2** If it be an initiatory petition, adopt the ordinance as proposed in the petition or determine to submit the proposal to the electors of the City.
- 12.6.3** If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

#### **SECTION 12.7 SUBMISSION TO ELECTORS**

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any purpose, or, at the discretion of the City Council, at a special election called for that specific purpose. The result shall be determined by a majority vote of the electors voting on the issue, except in cases where a different vote is required by law.

#### **SECTION 12.8 STATUS OF ORDINANCE ADOPTED**

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted.

#### **SECTION 12.9 ORDINANCE SUSPENDED**

The certification by the Clerk of the sufficiency of a referendary petition filed within thirty days after the passage of the ordinance to which such petition refers, shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors, as the case may be.

#### **SECTION 12.10 MULTIPLE ORDINANCES**

Should two or more ordinances, which have conflicting provisions, be adopted at the same election, the one receiving the greatest affirmative vote shall prevail.



**ARTICLE XIII  
CONTRACTS, PURCHASING, SALE AND LEASING**

**SECTION 13.1 POWER TO CONTRACT**

The power to contract on behalf of the City is vested in the Council and shall be exercised in accordance with law.

**SECTION 13.2 AUTHORITY TO SIGN CONTRACTS**

All contracts, except as otherwise provided in this Article as those of purchase and sale, shall be authorized by the Council and shall be signed by the Mayor and the Clerk.

**SECTION 13.3 CONSTRUCTION CONTRACTS**

Contracts for construction of public improvements shall be awarded after opportunity for competitive bidding.

**SECTION 13.4 BIDDING**

The Council shall provide detailed bidding procedures by ordinance or resolution, which may include guidelines for prequalification of bidders for certain projects. All bids shall be sealed bids and reported to the Council at its next regular meeting. The Council shall have discretion to reject any and all bids.

**SECTION 13.5 WAIVER OF BIDS**

The Manager may recommend that a contract be awarded without bidding. The Manager shall explain in writing to the Council why no advantage to the City would result in using the bidding process. The affirmative vote of at least five Council members shall be required to approve this action.

**SECTION 13.6 PERSON IN DEFAULT TO CITY**

The City shall not contract with a person who is in default to the City, as defined in Section 3.12.

**SECTION 13.7 CERTIFICATION OF APPROPRIATION**

The Manager shall certify that an appropriation has been made for the amount to be contracted.

**SECTION 13.8 ATTORNEY'S APPROVAL**

The Attorney shall review and approve contracts referred to the Attorney as to legal form before they are entered into by the City.

### **SECTION 13.9 CONTRACT AMENDMENT**

No contract shall be amended after it has been entered into by the City unless such amendment, after review by the Attorney, is approved by the Council.

### **SECTION 13.10 CONTRACTS WHEN CHARTER IS ADOPTED**

Contracts to which the City is a party when this Charter is adopted shall continue in effect according to their terms.

### **SECTION 13.11 PURCHASING AGENT**

The Manager is the purchasing agent of the City, and shall be responsible for the purchase and sale of all personal property of the City, and shall obtain competitive bids for the purchase or sale of all equipment, materials and supplies, except when the Manager shall determine that no advantage to the City would result.

**13.11.1** The Manager may obligate the City, with budgeted funds, in an amount not exceeding Five Thousand dollars for the purchase of materials, products, or services necessary to the City and shall report all such obligations incurred at least monthly to the Council in such detail as the Council may require.

**13.11.2** The Manager shall request Council approval for the purchase of any material, product or service costing, or expected to cost in excess of Five Thousand dollars. If the Council approves and the Manager affirms the money is available in the budget, the Manager shall obtain formal sealed bids. Sealed bids may be waived if the Manager recommends in writing that no advantage to the City would result in using the bidding process, and the Council approves.

### **SECTION 13.12 EMERGENCY PURCHASES**

The Manager shall have authority in cases of emergency to purchase essential equipment, materials and supplies above the established limit, and shall make a full report of such purchase to the Council at its next meeting.

### **SECTION 13.13 PURCHASING GUIDELINES**

The Council may establish detailed purchasing, sale and contract procedure by ordinance or resolution.

### **SECTION 13.14 LEASING CITY OWNED REAL ESTATE**

The Council shall have the power to lease, using the sealed bid process, any real estate owned by the City and for which the City has no present need. The approved lease shall be in writing, approved as to legality by the Attorney, and include a provision allowing the City to cancel the lease with ninety (90) days written notice.

### **SECTION 13.15 SALE OF CITY OWNED REAL ESTATE AND PROPERTY**

The Council, after a public hearing, by an affirmative vote of not less than five members may sell any City owned real or personal property for which the City has no need, except a park or cemetery or any part of either unless approved by a majority of the electors voting on the sale. Sealed bids are required.

### **SECTION 13.16 SEALED BIDS**

**13.16.1** The Council shall impose uniform conditions of sale or lease in bidding documents.

**13.16.2** All sealed bids shall be filed with the Clerk.

**13.16.3** The Council has the right to reject any or all bids.

**13.16.4** The Council shall determine which bid is most favorable to the City.

**ARTICLE XIV  
GENERAL FINANCE**

**SECTION 14.1 FISCAL YEAR**

The fiscal year of the City and all of its agencies shall begin on the first day of July each year and end on the last day of June the following year. If the fiscal year is changed related dates specified in the Charter shall change accordingly.

**SECTION 14.2 BUDGET SUBMISSION**

The City Manager shall prepare and submit to the City Council, not later than the first Monday of May of each year, a recommended budget, in detail, covering the next fiscal year and an accompanying budget message.

**SECTION 14.3 BUDGET MESSAGE**

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

**SECTION 14.4 BUDGET**

**14.4.1** The proposed budget shall provide a detailed estimate of expenditures and revenues for each agency, department and office of the City. It shall show the actual expenditures, revenues and fund balance for corresponding items for the last fiscal year. It shall also show the same information for the current year to date and estimated expenditures, revenue and fund balance for the current fiscal year.

**14.4.2** The proposed budget shall include current status of all indebtedness of the City.

**14.4.3** For any fund the total of proposed expenditures shall not exceed the total of estimated income plus fund balance exclusive of reserves.

**SECTION 14.5 BUDGET CONTROL**

**14.5.1** Prior to adopting the proposed budget, the Council shall hold a public hearing at such time as it may direct. Notice of such public hearing, shall be published at least one week in advance of the hearing, and the proposed budget shall be on file for public inspection during office hours in the office of the Clerk for a period of at least one week prior to the date of such hearing.

- 14.5.2** The Council, by resolution, not later than the first Monday of June of each year, shall adopt the budget for the next fiscal year, shall appropriate the money required for municipal purposes during said fiscal year and shall provide for a levy of the amount required to be raised by taxes upon real and personal property for municipal purposes subject to the limitations of Section 15.8.
- 14.5.3** No money shall be drawn from the treasury of the City without an appropriation. No obligation for the expenditure of money shall be incurred without an appropriation covering all payments, which will be due under such obligation in the current fiscal year.
- 14.5.4** The Council may transfer any unencumbered appropriation balance, or any portion of it, from one department, fund or agency to another.
- 14.5.5** In the case of emergency and when necessary to protect the public health, safety or welfare, the Council may make additional appropriations to cover unanticipated expenditures required of the City because of such emergency. The balance in any appropriation, which has not been encumbered at the end of the fiscal year, shall revert to the general fund.
- 14.5.6** At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the officer responsible for maintenance of the City accounting system shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date. If it shall appear that the revenues are less than anticipated, the Council shall reduce appropriations, unless the fund balance shall be such that failure to act will not result in a deficit.
- 14.5.7** Within sixty days following the end of each fiscal year, the Manager shall file with the Council a schedule of all obligations upon the budget appropriations existing at the end of the fiscal year, with written recommendations. The Council shall provide for the payment of those obligations, which constitute valid claims against the City.
- 14.5.8** The City shall have a system of accounts that conforms to uniform systems of accounts as required by law. All expenditures shall be charges to a specific fund, office or department.
- 14.5.9** The Manager shall prepare and submit to the Council a five-year capital program no later than the final date for submission of the budget. This program shall include a list of capital improvements and other capital expenditures proposed over the next five years. The Program shall include cost estimates, method of financing and estimate of annual operating and maintenance costs.

**14.5.10** The Council shall notify the citizenry of proposed capital improvements by publication as provided in Section 3.17 and shall hold a public hearing on the proposal.

**14.5.11** The Council by resolution shall adopt the capital improvements program with or without amendments after the public hearing on or before the twenty fifth (25th) day of June of the current fiscal year.

#### **SECTION 14.6 INDEPENDENT AUDIT**

An independent audit shall be made of all accounts of the City government at the close of each fiscal year. Special independent audits may be made at any time that the Council may designate. All audits shall be made by certified public accountants experienced in municipal accounting. All audits shall be made directly to the Council. The results of such audits shall be made public in such manner as the Council may determine, but at a minimum, they shall be available for inspection at the office of the Clerk.

#### **SECTION 14.7 DEPOSITORIES**

**14.7.1** The Council shall designate financial institution(s) as depositories for City funds and shall provide for the regular deposit of all City money or for its investment as authorized by law.

**14.7.2** City funds may be withdrawn from such depository on the signature of such persons as the Council shall, by resolution, determine.

## **ARTICLE XV TAXATION**

### **SECTION 15.1 ASSESSMENT**

An assessment of all taxable property in the City shall be made annually by the Assessor who shall complete the assessment before the first Tuesday in March. Except as otherwise provided by state law, the subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general law.

### **SECTION 15.2 PROCEDURE**

Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by state law. The City shall have all the rights, liens, powers, and remedies accorded by state law to all political subdivisions in connection with the collection of taxes.

### **SECTION 15.3 BOARD OF REVIEW**

The City Council shall appoint a Board of Review consisting of three (3) electors of the City. Members of the Board of Review shall be appointed by the City Council for two (2) year terms beginning at noon on January 1 of each odd-numbered year. The City Council shall fix the compensation of the Board of Review. The City Assessor shall be the secretary of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

### **SECTION 15.4 MEETING OF THE BOARD OF REVIEW**

The Board of Review shall meet at times and dates required by state law and as provided by resolution or ordinance complying with state law.

### **SECTION 15.5 ORGANIZATION AND POWERS OF THE BOARD OF REVIEW**

The Board of Review shall elect one of its members to act as Chairperson. The Board shall appoint one of its members to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board of Review shall have the same powers and duties as are conferred upon township boards of review by state law.

### **SECTION 15.6 NOTICE OF RECORDS OF MEETINGS OF THE BOARD OF REVIEW**

Notice of the time and place of the sessions of the Board of Review shall be published as provided in § 3.17 of this Charter by the City Clerk at least two weeks prior to the first meeting and shall be posted in the City office building. The Assessor shall prepare a record of the

proceedings following each meeting of the Board of Review, a copy of which shall be filed with the City Clerk on or before the first Monday of April.

#### **SECTION 15.7 CERTIFICATION OF TAX LEVY**

**15.7.1** After the Board of Review has completed its review of the assessment roll, the majority of its members shall sign a certificate to the effect that the same is the assessment roll of the City for the year in which it has been prepared, as approved by the Board of Review, which certificate, when attached to any volume of the roll, shall constitute a conclusive presumption of the validity of the entire roll.

**15.7.2** Within three days after adoption of the next fiscal year's budget by the City Council, the City Clerk shall certify to the Assessor the amount of the tax levy fixed by the Council. The Assessor shall assess the amount of the tax levy to each person and parcel of property on the assessment roll, together with all special assessments and other amounts, which the City Council may require.

#### **SECTION 15.8 TAX LIMIT**

The annual general ad valorem tax levy shall not exceed one point five (1.5) percent (15 mills) of the assessed value of all real and personal property subject to taxation in the City, exclusive of any levies authorized by law beyond this Charter limitation. Subject to this limit, the affirmative vote of at least five Council members is required to increase or decrease the tax levy.

#### **SECTION 15.9 COLLECTION BY TREASURER**

After extending the taxes on the assessment roll and certifying to such roll in the manner required of assessing officers by state law, the Assessor shall, on or before the first day of June, deliver the assessment roll and one copy to the City Treasurer. The City Assessor shall annex a warrant to the original roll directing and requiring the City Treasurer to collect from the several persons named in the roll the several sums, or the total thereof, opposite their respective names. The taxes thus assessed shall become at once a debt to the City from the persons to whom they are assessed; and the amount assessed, together with all charges thereon, shall on the first day of July become a lien until paid on the property of the taxpayer of the same character and effect as the lien created by state law for state and county taxes. The City Treasurer shall have the same power and duty to collect City taxes as is granted to or required of township treasurers in the collection of state and county taxes.

#### **SECTION 15.10 TAX DUE DATE**

City taxes shall be due and payable on July 1 of each year. All taxes paid on or before August 31 of the same year, by 5pm, (or next business day if city offices are closed on August 31) shall be



collected without additional charge. After August 31 there shall be added collection fees at the following rates:

Two (2) percent if paid after August 31 and before November 1.

Four (4) percent if paid on or after November 1 and before January 20.

Five (5) percent if paid on or after January 20 and before March 1.<sup>2</sup>

#### **SECTION 15.11 PARTIAL PAYMENT OF TAXES**

The Council may, by resolution, authorize the Treasurer, for a period not extending beyond the next March 1, to accept partial payment of taxes and special assessments, together with interest and penalties, in such manner as the Council may determine.

#### **SECTION 15.12 RETURN TO COUNTY TREASURER**

If the Treasurer has been unable to collect any of the City taxes on the roll of real and personal property before the first day of March following the date when the roll was received by the Treasurer, then it shall be the Treasurer's duty to return all unpaid tax assessments on real property to the County Treasurer in the same manner and with like effect as similar returns made by township treasurers. Returns shall include all additional interest, penalties, and other charges, which shall be added to the amount assessed on the roll against each description. The taxes thus returned shall be collected in the same manner and with the same interest and charges as are other taxes returned to the County Treasurer under the provisions of the general tax laws of the state. All delinquent taxes shall be and remain a lien until paid. At the time of making the return, the Treasurer shall file in his or her office a copy upon which shall be recorded subsequent collections or reassessments as returned by the County Treasurer. The City shall have the power to purchase any premises within the City at any tax or other public sale that may hereafter be held when such purchase is necessary to protect the lien of the City.

#### **SECTION 15.13 NON-CITY TAXES**

For the purpose of assessing and levying taxes in the City for the state, county, library, school, or other non-City purposes, the City shall be considered the same as a township. Except as otherwise provided in this Charter, all provisions of state law relative to the collection of such taxes, the accounting thereof to the appropriate taxing units, and the returning of property to the County Treasurer for non-payment thereof shall apply to the City Treasurer who shall perform the same duties and powers as township treasurers.

#### **SECTION 15.14 FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX**

If any person shall neglect or refuse to pay any tax on personal property assessed to such person, the City Treasurer shall collect the same by seizing any personal property of such person, to an amount sufficient to pay such tax, together with any charges and interest added

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<sup>2</sup> MCL 211.44(7)

thereto, wherever the same may be found in the State of Michigan. No property shall be exempt from such seizure. The City Treasurer may sell the property seized, at an amount sufficient to pay the taxes and all charges, fees, penalties, and interest, in accordance with statutory provisions. The City Treasurer may also sue the person to whom a personal property tax is assessed, in accordance with the powers granted by law.

#### **SECTION 15.15 PROTECTION OF CITY LIEN**

The City shall have the power, insofar as the exercise thereof shall not conflict with or contravene the provisions of law, to acquire such interest in any premises within the City, by purchase at any tax or other public sale, or by direct purchase from or negotiation with the State of Michigan or the owner, as may be necessary to assure to the City the collection of its taxes, special assessments, charges and any interest thereon which are levied against any lot or parcel of real property or to protect the lien of the City therefore, and may hold, lease, or sell the same. Any such procedure exercised by the City to assure the collection of its taxes or the protection of its tax or other liens shall be deemed to be for a public purpose. The Council may adopt any ordinance, which may be reasonably necessary to make this section effective.

**ARTICLE XVI  
SPECIAL ASSESSMENTS**

**SECTION 16.1 SPECIAL ASSESSMENTS**

**16.1.1** To the maximum extent permitted by law, the Council shall have the power by a vote of two-thirds of its members elected and serving to determine, with or without a petition, that the whole or any part of the cost of any public improvement or repair shall be defrayed by special assessment upon the parcels of property especially benefited and shall so declare by resolution. Except as otherwise provided in this Charter or ordinance, the City shall have all the rights and powers established by state law for the collection and enforcement of special assessments. The Council shall prescribe by ordinance the complete special assessment procedure to be used, the preparation and confirmation of the assessment roll, for the contest of the assessment, and collection of the assessment.

**16.1.2** Appeals of special assessments may be made as provided by state law.<sup>3</sup>

**16.1.3** From the date of confirmation of any assessment or reassessment roll, the special assessment shall constitute a lien upon the respective parcels of property assessed and shall also be a charge against the person or entity to whom assessed until paid, and in the case of delinquency, may be enforced by addition to any later return to the County Treasurer of regular taxes or by suit against the person or entity.

**SECTION 16.2 PROCEDURE ORDINANCE**

The City Council shall prescribe by general ordinance the complete special assessment procedure to be used, including the preparing of plans and specifications, estimating costs, conducting a public hearing on necessary construction following at least 10 days' notice, the preparation, hearing, correction and confirmation of the special assessment roll, the collection of special assessments, the assessment of single lots or parcels, the apportionment of assessments if land is divided, and any other matters concerning the making of improvements by the special assessment method. Said ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and costs incident thereto or in case of invalidity in whole or in part, and it shall provide for the refund of excessive assessments, provided that if the excess is less than 5% of the total cost it may be placed in the general fund of the City.<sup>4</sup>

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<sup>3</sup> MCL 211.746

<sup>4</sup> See MCL 104A.2

**ARTICLE XVII  
BORROWING POWER**

**SECTION 17.1 BORROWING AND BONDS**

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

**SECTION 17.2 LIMITATION ON INDEBTEDNESS**

- 17.2.1** The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such bonded indebtedness there shall be excluded special assessment bonds, even though they are a general obligation of the City, mortgage bonds, revenue bonds, motor vehicle highway fund bonds, even though they are a general obligation of the City, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.
- 17.2.2** The amount of emergency borrowing which may be incurred under the provisions of this Charter may not exceed the maximum amount permitted by law.
- 17.2.3** No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.
- 17.2.4** The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

**SECTION 17.3 PREPARATION AND RECORD**

- 17.3.1** Each bond or other evidence of indebtedness shall contain on its face a statement of the purpose for which the same is issued and no officer of the City shall use the proceeds thereof for any other purpose, except that whenever the proceeds of any bond issue, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the City Council may authorize the use of such unexpended and unencumbered funds as provided in this section, which use shall be subject to the approval of the Michigan Department of Treasury where required:
  - a. For an additional extension or improvement of facility or project for which the bond issue was made;
  - b. For the retirement of such bond issue;

- c. If such bond issue has been fully retired or funds are segregated which are adequate for such purpose, then for the retirement of other bonds or obligations of the City;
  - d. If there is no other indebtedness, or funds are segregated which are adequate for such purpose, then for such other purposes as may be permitted by law.
- 17.3.2** All collections on each special assessment roll or combination of rolls, in anticipation of which bonds have been issued, shall be set apart in a separate fund (but not necessarily in a separate bank account) and shall be used for the purpose for which levied and for the payment of the principal and interest on such bonds. If there is any deficiency in a special assessment fund to meet the payment of the principal or interest to be paid therefrom, money shall be advanced from the general funds of the City to meet such deficiency and shall be replaced in the general fund when the special assessment fund shall be sufficient therefore.
- 17.3.3** No bond or other evidence of indebtedness of the City shall bear interest at a rate that exceeds a rate ceiling imposed by state law.
- 17.3.4** All bonds issued by the City shall be signed by the Mayor and countersigned by the City Clerk and shall bear the corporate seal of the City. Said signatures of the Mayor and the City Clerk and the seal of the City may be by facsimile if permitted by law.
- 17.3.5** The City Treasurer shall keep a detailed record of all bonds and other evidence of indebtedness. Upon payment of bonds or other evidence of indebtedness the same shall be cancelled.
- 17.3.6** Each bond or other evidence of indebtedness shall contain a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this Charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the City Council may authorize the use of said funds for the retirement of bonds of said issue or for any other purpose permitted by law.

#### **SECTION 17.4 UNISSUED BONDS:**

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

#### **SECTION 17.5 LOAN OF CREDIT**

The City shall not loan its credit for any private purpose or, except as provided by law, for any public purpose.

**ARTICLE XVIII  
PUBLIC UTILITIES AND FRANCHISES**

**PUBLIC UTILITIES**

**SECTION 18.1 POWERS RESERVED BY CITY**

The City shall possess and reserve unto itself all the powers granted to cities by the Constitution and laws of the state to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities within and without its corporate limits, to supply its inhabitants, and to require a connection of private property within the City to the utility systems.

**SECTION 18.2 FURNISHING UTILITIES OUTSIDE CORPORATE LIMITS**

Public utilities and services may be furnished by the City to properties and users outside the corporate limits of the City to the extent allowed by law.

**SECTION 18.3 ACQUISITION OF PUBLIC UTILITIES**

The City shall not acquire a public utility furnishing heat, light, or power unless the proposition to acquire the utility shall have first received an affirmative vote of three-fifths of the electors of the City voting on the question at any regular or special election. The question of raising the money required for such purpose by borrowing and issuing bonds of the City may be submitted at the same time, either as an independent question or as part of the same question.

**SECTION 18.4 UTILITY RATES**

The Council shall establish rates from time to time as may be deemed advisable for supplying the inhabitants of the City, and others with utility services as the City may provide.

**SECTION 18.5 UTILITY CHARGES COLLECTION**

18.5.1 When any person fails or refuses to pay to the City any sums due on utility bills, the service upon which such delinquency exists, may be discontinued, except as prohibited by law, and suit may be brought for the collection thereof.

18.5.2 Except as prohibited by law, the City shall have a lien upon the premises to which utility services are supplied and, for such purposes, shall have all the powers granted to cities by law. The lien shall become effective immediately on the distribution or supplying of utility services to such premises. In each case where a lien to secure the payment of utility charges is not available to the City by operation of law or otherwise, the Council shall require that an adequate deposit be made by the person to whom City utility services are furnished, for the purpose of guaranteeing the collection of charges for such utility services.

18.5.3 Except as prohibited by law, all unpaid charges for utility services to any such premises, which, on the thirty-first day of March of each year, have remained unpaid for a period of six (6) months or more, shall be reported to the Council by the City Manager at the first meeting thereof in the month of April. The Council thereupon shall order the publication that all such unpaid utility charges not paid by the thirtieth day of April will be spread upon the City's tax roll against the premises to which such utility services were supplied or furnished, and such charges shall then be spread upon the City's tax roll and shall be collected in the same manner as the City taxes.

#### **SECTION 18.6 DISPOSAL OF UTILITY PLANTS AND PROPERTY**

Unless approved by a three-fifths affirmative vote of the electors voting on the question at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege or asset of any municipally owned 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 equipment of any City owned 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.

#### **SECTION 18.7 UTILITY ACCOUNTS**

Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in separate accounts under an appropriate fund caption and classified in accordance with generally accepted utility accounting practice. Charges for all services furnished to, or rendered by, other City departments or agencies shall be recorded. An annual report shall be available for inspection at the office of the clerk.

#### **PUBLIC UTILITY FRANCHISES AND OTHER FRANCHISES**

##### **SECTION 18.8 DEFINITION OF PUBLIC UTILITY FRANCHISE**

A public utility franchise for the purposes of this Article shall be defined as the granting by the City of the right of any third party to operate public utilities including but not by the way of limitation, public utilities for supplying water, light, heat, electronic communications, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, electronic communications, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and constitution. A public utility shall not be defined as a franchise given by the City for any other purpose.

##### **SECTION 18.9 GRANTING PUBLIC UTILITY FRANCHISES AND OTHER FRANCHISES**

Public utility franchises and other franchises and all renewals, extensions and amendments shall be granted by ordinance and by contract. No exclusive franchise of any type shall be granted. No franchise of any type shall be granted for a period longer than thirty years.

A public utility franchise agreement which is not subject to revocation at the will of the City shall not be enacted nor become operative until it shall first have been referred to the people at a regular or special election and received an affirmative vote of three-fifths of the electors voting on the question. No public utility franchise agreement shall be approved by the Council for referral to the electors before thirty days after it has been published and notice of its publication has been filed with the council, nor until a public hearing has been held nor until the grantee has filed with the Clerk an unconditional acceptance of all terms of franchise. No special election for that purpose shall be ordered by the Council unless the expenses of holding election, in an amount as determined by the Council, shall have first been paid to the Treasurer by the proposed grantee of the public utility franchise.

Agreements, other than public utility franchise agreements, may be enacted by the Council without referral to the voters, but shall not be enacted or become operative unless it shall first be filed with the Clerk in the form in which it is finally enacted and remain on file for public inspection for at least thirty (30) days before its final enactment.

#### **SECTION 18.10 CONDITIONS OF PUBLIC UTILITY FRANCHISES**

All public utility franchises granted after the adoption of this Charter, whether provided in the granting agreement or not, shall be subject to the following rights of the City, which shall not exclude other rights as determined by the Council:

- 18.10.1** To their termination for misuse, non-use, or failure to comply with franchise provisions.
- 18.10.2** To require reasonable and adequate extension of plant and service and their maintenance at the highest practicable standard of efficiency.
- 18.10.3** To establish reasonable and practicable standards for service and quality of products and to prevent unjust discrimination in service or rates.
- 18.10.4** To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout its entire period.
- 18.10.5** To impose such other reasonable regulations as may be conducive to the health, safety, and welfare of the public.
- 18.10.6** To use, control, and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. This enumeration of rights shall not be



exclusive nor impair the right of the Council to include in a franchise any provision within the power of the City to impose or require.

- 18.10.7** To require payment of franchise fees or rent for the use of the public right of way, or other public places.
- 18.10.8** To require the franchisee to pay a part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the City, as shall arise from its use of them, and to hold the City harmless from and indemnify it against all damages and costs arising from its use.
- 18.10.9** To require the franchisee to file with the City drawings and maps of the location and nature of its facilities, as the Council may request.
- 18.10.10** To restore, as quickly as practical, any disturbances or intrusions to property within the City, to a condition as good or better than before the disturbance by the franchisee.
- 18.10.11** To remove all its structures and equipment, including but not limited to wires, pipes, conduits, junction boxes, towers and fixture, above and below ground upon their discontinued use or termination of the franchise, unless specifically permitted by the City Council to remain.

#### **SECTION 18.11 SALE OR ASSIGNMENT OF FRANCHISES**

The grantee of a franchise of any type may not sell, assign, sublet, or allow another to use it, without the written consent of the Council. Nothing in this section shall limit the right of the grantee of a franchise of any type to mortgage its property or franchise, nor to restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this Charter.

#### **SECTION 18.12 FRANCHISES REMAIN IN EFFECT**

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

**ARTICLE XIX  
NOTICE TO CITY OF CLAIMS FOR INJURIES**

**SECTION 19.1 NOTICE TO CITY OF CLAIMS FOR INJURIES**

The city shall have all the governmental immunities from claims for damages for injury to persons or property as may be permitted by state law. The procedures in regard to the filing of claims and disposition of the same shall be as permitted by state law.

**ARTICLE XX  
CHARTER ADOPTION, TRANSITION**

**SECTION 20.1 CHARTER ADOPTION**

The proposed Charter shall be submitted to a vote of the electors of the City at the general election to be held on Tuesday, November 8, 2022. Adoption of the Charter shall require a majority of those voting on the question.

**SECTION 20.2 BALLOT PROPOSITION**

The form of the ballot proposition shall be as follows:

“Shall the 2022 City Charter proposed by the  
Essexville Charter Commission be adopted?

Yes \_\_\_\_\_

No \_\_\_\_\_.”

**SECTION 20.3 CHARTER EFFECTIVE DATE**

Unless otherwise provided in this Charter, the effective date of the Charter shall be January 1, 2023.

**SECTION 20.4 TERMS OF ELECTED, APPOINTIVE OFFICERS, CITY EMPLOYEES**

**20.4.1** Commencing in 2023, the two Councilmembers who are elected in 2023 shall serve a five-year term expiring in 2028; one Councilmember who is elected in 2025 shall serve a three-year term expiring in 2028 and the other Councilmember who is elected in 2025 shall serve a five-year term expiring in 2030. The two council members elected in 2026 shall serve a four-year term expiring in 2030.

**20.4.2** After the effective date of this Charter all appointive officers and all employees of the City shall continue in the office or employment which they held before the effective date, subject to the terms and conditions of their appointment and employment, until replaced or removed in accordance with law or the provisions of this Charter.

**SECTION 20.5 BOARDS, COMMISSIONS, AUTHORITIES AND OTHER AGENCIES**

Unless otherwise provided by this Charter the boards, commissions, authorities and other agencies of the City shall continue after the adoption of this Charter, subject to the terms and conditions of their creation, their governing rules, and other enabling authority.

#### **SECTION 20.6 EXISTING MILLAGE**

All current millages, duly adopted, shall continue to exist and are not impaired by this Charter

#### **SECTION 20.7 TRANSITION ORDINANCES**

All matters of City government in transition from the previous Charter to this Charter, which are not otherwise addressed in this Charter, shall be accomplished by resolutions and ordinances of the Council.

#### **SECTION 20.8 PENDING MATTERS**

The City of Essexville under this Charter shall succeed to all privileges, titles, easements, rights of way, causes of action, duties, commitments, powers, obligations and be the complete successor to the City of Essexville under the previous Charter. The City shall be vested with all property, monies, contracts, credits, effects, records, files, books and papers belonging to it under and by virtue of its previous Charter. No rights, liability contract, lease, or franchise, either in favor of the City or against the City, and no suit or prosecution of any character shall be affected in any manner 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 continue to be its debts and liabilities; and all debts owing to it and fines, penalties, interest or fees imposed and existing at the time of such change shall be collected by the City.

#### **SECTION 20.9 PUBLICATION OF THIS CHARTER**

This Charter shall be published and made available as required by Law. There shall be a copy of this Charter available, at the City Clerk's office, for examination during the City Clerk's normal business hours.