CHARTER
OF THE
CITY OF
MANISTEE, MICHIGAN

ADOPTED APRIL 1, 1968

PREAMBLE

WE, THE PEOPLE OF THE CITY OF MANISTEE, MICHIGAN, IN ORDER TO SECURE THE BENEFITS OF EFFICIENT SELF-GOVERNMENT AND TO PROMOTE OUR COMMON WELFARE, DO HEREBY ENACT AND ESTABLISH THIS CHARTER.

TABLE OF CONTENTS

Ch. I	Incorporation and Powers
Ch. II	Council (Amended 11-5-96.)
Ch. III	Elections
Ch. IV	Legislation
Ch. V	Administration
Ch. VI	Justice Court (Repealed 4-68)
Ch. VII	Finances, Budget, Contracts
Ch. VIII	Taxation
Ch. IX	Special Assessments
Ch. X	Borrowing
Ch. XI	Utilities, Franchises and Permits
Ch. XII	Retirement System (Repealed 2-16-88)
Ch. XIII	Miscellaneous
Ch. XIV	Schedule
Appendix I	Boundary: City of Manistee, Michigan

CHAPTER I
INCORPORATION AND POWERS

Section 1-1. Incorporation. The Municipal corporation now existing and known as the "City of Manistee" as its limits are now or may hereafter be established, shall be and continue a Municipal corporation under the laws of the State of Michigan,

Section 1-2. Boundaries. The City shall embrace the territory constituting the City of Manistee, on the effective date of this Charter as described in Appendix I attached hereto and made a part hereof by this reference, together with such annexations thereto and less such detachments therefrom as may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed thereby changed without amendment of this section. The Clerk shall maintain and keep available in his or her office for public inspection and distribution an official description of the current boundaries of the City.

Section 1-3. Powers. The City of Manistee is hereby vested with and may exercise any and all powers which cities are now, or may hereafter be, required or permitted to exercise or to provide for in their charters as fully and completely as though said powers were specifically enumerated herein, except for such limitations and restrictions as are provided in this Charter, which shall be held to be exclusive. All powers herein granted to the City or its officers shall be exercised only in conformance with all validly applicable constitutional, statutory and decisional laws and regulations.

Section 1-4. Construction. The powers of the City under this Charter shall be construed liberally in favor of the City, and specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this chapter.

Section 1-5. Intergovernmental Relations. The City may exercise any of its powers or perform any of its functions and may participate in the authorized financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof.

CHAPTER II
COUNCIL

Section 2-1. Powers. There is hereby created a City Council which shall have full authority, except as otherwise provided herein or by general law, to exercise all of the powers conferred upon the City, to adopt all ordinances, resolutions, or other measures relating to its Municipal concerns, and to otherwise govern its affairs.

(A) The City Council shall not sell, lease or otherwise dispose of any Lake Michigan beach front property or access thereto without an affirmative vote by the majority of the electors of the City voting thereon.

(B) The City Council shall not spend, loan or otherwise obligate any oil or gas royalty income of any of the principal in the Oil and Gas Fund without an affirmative vote by the majority of the electors of the City voting thereon. (Amended 11-3-92.)

(C) The City Council shall not sell, lease or otherwise dispose of any Memorial Park property, North Duffy Park property, Douglas Park property or Red Szymarek Park property, Man-Made Lake Property without an affirmative vote by the majority of the electors of the City voting thereon. (Amended 11-5-96) (Amended by adding Man-Made Lake Property 11-4-97 by vote of the general electorate)

Section 2-2. Composition. The Council shall consist of seven (7) members, who shall be the Mayor and six (6) Councilpersons elected as provided hereafter.

Section 2-3. Qualifications. No person shall be eligible to the office of City Councilperson unless he or she has been a registered elector of the City or any area annexed thereto for not less than two (2) years immediately preceding the filing deadline and unless he or she shall be at least twenty-five (25) years of age on such date. No member of the City Council shall during his or her term of office hold any other City office or employment unless otherwise provided in this Charter.

Section 2-4. Mayor. Each year, at the first meeting of the City Council, following the regular Municipal elections, after the newly elected members have been sworn and assume their duties of office, the Council shall elect a Mayor by a majority vote of its members. The Mayor shall preside at Council meetings and shall be considered the executive head of the City. He or she shall be considered a member of the Council and shall have a voice and vote on all issues but no veto power.

Section 2-5. Election. At the regular City election held in November of odd numbered years Councilpersons shall be elected from the 2nd, 4th and 6th districts and in even numbered years Councilpersons shall be elected from the 1st, 3rd, 5th and 7th districts, all from one (1) non-partisan ballot as provided in Chapter III for terms of two (2) years each.

Section 2-6. Vacancies. Any vacancy occurring in the office of Council person shall be filled within thirty (30) days by appointment of a resident of the district involved by a majority vote of the remaining Council persons. If there is any vacancy in the office of Mayor, the vacant Council seat shall first be filled and then the Council as so reconstructed shall select from among its members a Mayor to fill the unexpired term. If the Council has not filled the vacancy within thirty (30) days, then a special election shall be called in accordance with Chapter 3 to fill the unexpired term. If there is a vacancy in the office of Mayor, the Mayor Pro-Tem shall serve until after the special election and then the Council as so reconstructed shall select from among its members a Mayor to fill the unexpired term. No vacancy need be filled if it occurs within one hundred and twenty (120) days preceding a City election.

A vacancy shall be deemed to occur upon the death, resignation, recall, loss of residence in the City district involved, conviction of a felony, interest disqualification as provided in Section 2-9, or upon finding of mental incompetence by a court having jurisdiction thereof, or failure to qualify by taking an oath of office within seven (7) days after notice of election has been either handed to him or her or sent to him or her by registered or certified mail. (Amended 11-5-96)

Section 2-7. Oath. Before assuming office every Councilperson shall publicly subscribe an oath in writing promising before the Clerk to uphold and defend the Constitutions and laws of this nation and State and the Charter of the City of Manistee.

Section 2-8. Compensation. Each Councilperson shall receive as compensation for his or her services as such the sum of up to $500.00 per year payable quarterly. The Mayor shall receive an additional amount up to $100.00 per year payable quarterly. Such compensation is to be fixed by the Council. The said Mayor and Councilpersons shall be reimbursed for any authorized actual and itemized out of pocket expenses incurred while on duly authorized City business, provided, however, that this shall not constitute or include any lost wages, salaries, commission, etc.

Section 2-9. Conflict of Interest. No member of the City Council or other officer of the City shall be interested directly or indirectly beyond a trivial extent, in the profits or any contract, job or work or in the sale to or by the City of any land, materials, supplies, or services, other than official services. Any member of the City Council or other officer of the City violating this provision shall, upon conviction, be deemed guilty of a misdemeanor and shall forfeit his or her office. The prohibitions of this section shall not apply if the City Council shall declare upon its records by a two-thirds vote of the members thereof, other than the member so interested, that the best interests of the City are served notwithstanding said personal interest.

Section 2-10. Restrictions. Neither the Council nor any of its members shall require the appointment, discipline or removal of any City administrative employees whom the Manager or any of his or her subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment, discipline, and removal of such employees.

Section 2-11. Judge of Qualifications. The Council shall be the judge of the qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his or her office shall be entitled to public hearing on demand, and notice of such hearing if demanded shall be published in one (1) or more newspapers (published and/or circulated) in the City at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review of court.

Section 2-12. Nepotism. Relatives by blood or marriage of any Councilperson or the City Manager within the second degree of consanguinity or affinity may not enter upon employment with the City during the term for which the said Councilperson was elected, or during the tenure of said Manager. This prohibition shall not apply if the Council shall declare upon its record by unanimous vote of the members elect thereof, other than the member involved, that the best interests of the City are served notwithstanding said relationship.

Section 2-13. Organization and Procedure. The City Council shall meet at 7:30 o'clock p.m. on the Tuesday night following the completion of the official canvass, at which time the members shall be sworn and assume the duties of their office. They may establish rules of procedure and policy which shall be made public, they shall meet in public session at least twice each month at such times as may be prescribed by the rules, and a public journal of every session of their proceedings shall be kept by the Clerk in the English language. Special meetings may be called by the Mayor, Manager, or any two (2) Councilpersons on reasonable notice, the time and manner of which shall be defined in the Council rules. The City Council shall select from its members, in addition to the Mayor, a Mayor Pro Tem who shall act in the Mayor's absence or disability and whose term shall expire at the next annual organization meeting of the Council. A majority of the members elect shall constitute a quorum. The affirmative vote of a majority of the members elect shall be required to adopt an ordinance, and the vote thereon shall be recorded, provided, however, that five (5) votes shall be required to pass any measure granting a franchise or authorizing a bond issue. All sessions of the City Council and records of the City shall be public.

Section 2-14. Appointments. The Council shall appoint and may remove a City Manager, Clerk, Attorney and Assessor for the City, all to serve at the pleasure of the Council. The Council shall fix the compensation to be paid such officers of the City.

Section 2-15. City Manager Attendance. The City Manager shall have a seat in the Council sessions and may take part in all its proceedings and deliberations on all matters subject to such rules as the Council shall from time to time prescribe but without the right to vote.

Section 2-16. Compelling Attendance. The City Council may enforce the attendance of any Councilperson, officer or employee at its meetings in such a manner as shall by ordinance be prescribed.

Section 2-17. Voting. On all questions other than those involving financial interest of a member of the Council or his or her own conduct, each member who is present shall vote when his or her name is called, unless excused by the unanimous consent of the remaining members present and a member refusing to vote except when so excused shall be guilty of a violation of this Charter.

Section 2-18. Board of Supervisors. (EDITOR'S NOTE: Provisions relating to the County Board of Supervisors as provided in this section have been superseded by State action which re-organized county government.) The City shall have the maximum number of representatives on the Manistee County Board of Supervisors to which it is entitled by law. The City shall be represented on the Board of Supervisors by the Assessor, one (1) person elected from and by each City district for a two (2)-year term and such other persons as shall be appointed by the City Council

who shall serve at the Council's pleasure. Any City representative may retain the fees or compensation payable for such service. In case any City member of the Board of Supervisors is unable to attend the meetings of the Board for any reason, the City Council may appoint a qualified person to discharge the duties of such office during such regular supervisor's inability to attend.

CHAPTER III
ELECTIONS

Section 3-1. Wards and Precincts. The City of Manistee, including any area annexed thereto, shall constitute one (1) ward. The City shall be divided into seven (7) approximately evenly populated districts for the purpose of nominating residents thereof for the seven (7) offices of Councilpersons to be elected at large and for nominating and electing one (1) resident as supervisor from each district. The districts shall consist of the areas set forth in Exhibit B-1 through Exhibit B-7 attached to the original Charter, until such time as the City Council shall re-define such districts. The City Council shall by resolution establish convenient election precincts. Until the Council shall otherwise determine, the precincts shall continue as now established. The inhabitants of the City having the qualifications of electors under the constitution and general laws of this State shall be the electors therein.

Section 3-2. Annual and Special Elections. A regular non-partisan City election shall be conducted on the first Tuesday after the first Monday of November in each year. The registration of voters, the preparation of ballots or machines, and the conduct of elections in the City of Manistee shall be in accordance with the terms of this Charter and the State election laws to every reasonably practicable extent and shall be under the general supervision of the City Clerk. Special elections shall be held when called by resolution of the City Council at least forty (40) days in advance of such election, or when required by this Charter or the general laws of the State. Such resolution shall set forth the purpose of the election and the question to be voted upon with reasonable clarity. (No primary election is contemplated by this Charter.)

Section 3-3. Election Commission. The Election Commission of the City of Manistee shall consist of the City Clerk, as Chairperson, the City Attorney and the City Assessor and, in cases of vacancy in such office or inability to act, a substitute shall be appointed by the Council to serve until the disability is removed. The Election Commission shall have such duties as may be prescribed by State law. Until otherwise provided, they shall determine disputes as to the adequacy of petitions, determine the qualifications of and appoint inspectors of election and prescribe the procedure to be followed. The City Council shall fix the rate of compensation for inspectors.

Section 3-4. Nominations-Petitions. Any legally qualified person may have his or her name placed in the regular election ballot for any elective office of the City by filing with the City Clerk by 5:00 p.m. on the fifth Friday preceding such election, a petition signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the district of the City to be represented and it shall be the duty of the Clerk to provide uniform nomination petition blanks for that purpose. No person shall sign his or her name to a greater number of petitions for any one (1) office than there are persons to be elected to said office. Where the signature of any individual appears on more petitions than he or she is so permitted to sign, the signatures bearing the most recent dates shall be invalidated. If it shall appear to the Clerk that such petition has been signed by the required number of electors of the City, nominating such person for such office, it shall be the duty of the Clerk to place such name on the regular City election ballot in the same manner and form as any other name on the ballot. Incumbency shall not be indicated unless required by State law. Any candidate may withdraw by filing a signed statement to such effect with the City Clerk not later than Tuesday noon following the deadline for filing the original petition.

Section 3-5. Voting Hours. The polls for all elections shall be open as provided by State law.

Section 3-6. Board of Canvassers. A Board of Canvassers shall be appointed and maintained as required by law.

Section 3-7. Recall. Any elective officer may be removed by the qualified voters of the City at the time and in the manner provided by general law.

CHAPTER IV
LEGISLATION

Section 4-1. Legislative Power. The legislative power of the City is fixed exclusively in the City Council, except as otherwise provided by law. All official action of the City Council shall be by ordinance, resolution or motion.

Section 4-2. Prior Legislation Preserved. All ordinances, resolutions and rules of the City and of each administrative agency of the City which are in force on the effective date of this Charter, to the extent that they are consistent with the provisions of this Charter, shall continue in full force until repealed. All such ordinances, resolutions and rules may be amended by the City Council and shall continue in effect as amended. A numbering system shall be established for all preserved ordinances within one (1) year after the adoption of this Charter.

Section 4-3. Ordinance Enactment.

(A) Form. Each proposed ordinance shall be introduced in written or printed form. The enacting clause on all ordinances passed by the City Council shall be "The City of Manistee Ordains." Each ordinance shall be identified by a number and a short title, when adopted.

(B) Enactment and Effective Date. Ordinances may be enacted by the affirmative vote of a majority of the membership of the City Council. No ordinance shall be enacted at the same meeting at which it is introduced unless it is an emergency ordinance. All ordinances shall take effect ten (10) days after their enactment.

(C) Emergency Ordinances. Ordinances immediately necessary for the preservation of public peace, health, morals, safety or welfare may be given immediate effect or earlier effect than ten (10) days after their enactment upon receiving five (5) affirmative votes of the City Council. The emergency and effective date shall be declared therein.

(D) Amendments. Any ordinance may be amended only by an ordinance passed in the manner provided in this section and no such ordinance shall be amended by reference to its title only, but the section or subsection amended shall be enacted in full.

(E) Traffic and Parking Regulations. In any ordinance regulating traffic, parking and one-way streets, it may be provided that, subject to adequate standards to be set forth therein, the details of regulating traffic, parking and one-way streets may be promulgated by the City Manager without formality of ordinance amendment.

(F) Repeal of Ordinances. An ordinance may be repealed only by an ordinance passed in the manner provided in this section, except that the ordinance to be repealed may be referred to by its number and title only.

Section 4-4. Publication. Within seven (7) days after the enactment of an ordinance the same shall be published by one of the following methods:

(A) Said ordinance shall be printed in full in any newspaper published and/or widely circulated in the City of Manistee, or

(B) Said ordinance shall be posted in the office of the City Clerk and in two (2) other public places in the City of Manistee. In case an ordinance is posted rather than printed, a notice of the enactment of the ordinance giving the subject thereof and the place where the copies have been posted, and where copies may be obtained at reasonable cost, shall be printed at once in one (1) newspaper published and/or widely circulated in the City.

Section 4-5. Ordinance Record. All ordinances shall be recorded by the City Clerk in a book to be called "The Ordinance Book", and it shall be the duty of the Clerk to authenticate such record by official signature but the failure of the Clerk to do so shall not invalidate it or suspend its operation.

Section 4-6. Enactment By Reference. Ordinances and codes may be enacted by reference to the extent and in the manner provided by general law.

Section 4-7. Penalties. The City Council may provide in ordinances adopted by it for the punishment of violations thereof. Such punishment may be a fine of not to exceed $500.00 or imprisonment for not more than ninety (90) days, or both, in the discretion of the court. These maximums shall automatically increase as permitted by law. The court may order imprisonment until a fine is paid and it may suspend sentences or establish probationary supervision. Imprisonment for violations of ordinances may be in the City or County jail. Enforcement by injunction, mandamus, orders of superintending control or other proceedings may be also authorized.

Section 4-8. Time Limit for Prosecution. No prosecution for the violation of an ordinance shall be commenced after the expiration of two (2) years after the commission of the offense.

Section 4-9. Initiative and Referendum. An ordinance may be initiated by petition to which all signatures shall be obtained within thirty (30) days before the date of filing. A referendum on an ordinance enacted by the City Council may be had by a petition signed within twenty-one (21) days after the enactment of the ordinance. A petition for an initiated ordinance or for a referendum shall be in the form and manner hereinafter provided.

Section 4-10. Signatures Required. An initiatory or a referendum petition shall be signed by registered electors of the City not less in number than fifteen (15) percent of the registered electors of the City as of the date of the last regular City election prior to the filing of the petition.

Section 4-11. Form of Petitions. An initiatory or referendum petition shall be addressed to the City Council. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers identical as to contents, except as to signatures. A referendum petition shall clearly identify the ordinance or part thereof and ordinance number it proposes to have repealed. An initiatory petition shall set forth in full the ordinance it proposes to initiate and no petition shall propose to initiate more than one (1) ordinance.

Section 4-12. Signing and Circulation of Petition. Each signer shall sign his or her name, and shall place thereon, after his or her name, his or her place of residence by street and number or put other customary designation and the date of his or her signing said petition. To each petition paper there shall be attached a sworn affidavit executed by the circulator of such paper that each signature thereof is the genuine signature of the person it purports to be, and that such circulator believes each signer to be a duly registered elector of the City of Manistee. Such petition shall be filed with the Clerk.

Section 4-13. Canvass by Clerk. Upon filing with the Clerk of any initiatory or referendum petition, the Clerk shall canvass the signatures thereon to determine whether said petition contains a sufficient number of signatures of registered electors of the City. Any signatures obtained more than thirty (30) days before the filing of such petition with the Clerk shall not be counted. The Clerk shall complete said canvass within five (5) days from the filing of said petition, and in the event the petition filed is in any respect deficient, the Clerk shall forthwith so notify the person filing the same. In the case of initiative or referendum then ten (10) days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed and is in compliance with the provisions of this Charter, the Clerk shall present the petition to the City Council at its next regular meeting. The filing of a referendum petition shall suspend effectiveness of the ordinance in question until the issue is determined.

Section 4-14. Council Procedure on Initiatory and Referendum Petitions. Upon receiving an initiatory or referendum petition from the Clerk, the Council shall, within thirty (30) days, either:

(A) If it be an initiatory petition, enact the ordinance as submitted in the petition;

(B) If it be a referendum petition, repeal the ordinance or part thereof to which the petition refers; or

(C) In either case, determine to submit the proposal to the electors.

Section 4-15. 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 other purpose, or, in the discretion of the Council, at a special election called for that purpose. In the case of an initiatory petition, if no election is to be held in the City for any other purpose within one hundred and fifty (150) days from the time the petition is presented to the Council and the Council does not adopt the ordinance, then the Council shall call a special election within sixty (60) days from such time for the

submission of the initiative proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the general laws of the State of Michigan. If two (2) or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

Section 4-16. Limitation on Amendment or Repeal of Initiatory or Referendum Ordinances. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of two (2) years after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of two (2) years after the date of the election at which it was repealed.

CHAPTER V
ADMINISTRATION

Section 5-1. City Manager. A City Manager shall be appointed by a majority of the membership of the City Council to hold office for an indefinite term and at the pleasure of said majority of the City Council. He or she shall be the chief administrative officer of the City Government. The Council may designate a qualified person to perform the duties of Manager during his or her absence, disability, or during a vacancy in the office.

Section 5-2. Manager's Qualifications. The Manager shall either be a registered engineer or a graduate of a school of public administration, or have at least five (5) years of experience in city administration or a major department thereof.

Section 5-3. Manager's Functions and Duties. The functions of the City Manager shall include the following:

(A) To supervise and control the administrative affairs of the City and all departments thereof and to seek quality, economy and efficiency therein.

(B) To fully advise the Council regarding the policies, affairs, and financial condition and needs of the City with the right to take part in all discussions relating thereto.

(C) To recommend an annual budget or budgets to the City Council and to carry out the policies, budgets, and directives of the Council.

(D) To preserve the public peace, health, and safety of persons and property and see to the enforcement of the ordinances of this City, this Charter, and general law.

(E) To install a system of centralized purchasing, control expenditures, and superintend all operating units and contracts of the City.

(F) To appoint and remove subject to the provisions of this Charter or the administrative code adopted pursuant hereto, employees of the City, all appointments to be on a basis of fitness, training and experience and for indefinite terms.

(G) To perform such other functions and have such other duties as may be established by general law, this Charter, any ordinance or resolution of this City, or as may be required of or accorded to him or her by the Council.

Section 5-4. Appointments. The Manager with Council approval shall appoint and may remove for just cause, a City Finance Director who shall also be the City Treasurer, a Police Chief, Fire Chief, and such other officers and heads of departments as may be deemed necessary. The functions and duties of these officers and heads of departments shall be as prescribed by State law, this Charter and the ordinances of the City. The Manager with Council approval may delegate appropriate functions and duties to them. They may appoint deputies of their choice within the administrative service. City officers shall have the qualification of being registered electors of the City or shall become registered as an elector within sixty (60) days after appointment unless expressly exempted by the City Council.

Section 5-5. Administrative Code. The administrative service shall be divided into such departments, divisions, and bureaus as may be provided by ordinance, to be known as the "Administrative Code" to be adopted within one (1) year following the adoption of this Charter. Pending the passage of such code, the Manager may establish temporary regulations. Said code may be amended from time to time and may provide for the consolidation or abolition of departments or the designations and functions of officers including those mentioned in Section 4 of this chapter unless contrary to general law. Each officer or department head shall, subject to the approval of the Manager, have supervision and control of his or her department and shall have power to prescribe rules and regulations for the conduct thereof, not inconsistent with this Charter or said administrative code. Council appointees shall be exempt from this section.

Section 5-6. City Personnel. The City Manager shall be Personnel Director with authority to delegate the duties of said office. All City employment shall be based upon fair and impartial principles with fitness, ability, training and experience the major considerations. There shall be no discrimination on account of color, politics or religion. No City official or employee may solicit political contributions from Municipal employees and they shall not engage in Municipal political activities on City property or on City time. The administrative code shall be based on the best general accepted provisions of personnel programs in business, industry and government and may include

the following subjects: classification of City employees, pay scales, probationary period, order of layoffs, procedures for suspension or removal, employment procedure, hours of work, vacation, sick leave, and any other pertinent data relating to employees. A Personnel Advisory Board may be appointed by the City Manager with the approval of the City Council to make investigations and recommendations to the City Manager. Decisions of the City Manager on these matters, however, shall be deemed final.

Section 5-7. Salaries, Wages and Fringe Benefits. The City Council shall fix by resolution the salary or rate of compensation of all officers and employees of the City. The Council may also provide other fringe benefits, including insurance covering life, hospital, health, surgical, accident, medical or similar risks of life and the City may pay all or such portions of the cost thereof or premiums therefor as the City Council may determine. Such programs may extend to the immediate families and dependents of City officials and employees.

Section 5-8. City Attorney. There shall be a City Attorney of the City, appointed by the City Council, who shall serve as chief legal advisor to the Council, the Manager, and all City departments, offices, and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by the Council. The City Attorney shall be and continue to be duly licensed to practice law in the State of Michigan. The Council may engage one (1) or more special attorneys for specific purposes or cases.

Section 5-9. City Clerk. A City Clerk shall be appointed by the Council. He or she shall attend all meetings of the Council, keep its journal, and maintain a record of all actions of the Council at its regular or special meetings. He or she may delegate his or her duties to one or more deputies on his or her staff. He or she shall conduct all elections and maintain all registration and election records; he or she shall have the power to administer all oaths required by law or by the ordinances of the City; he or she shall be the custodian of the City's seal and affix the same to documents as required and be the custodian of all papers, documents and records pertaining to the City, together with others as provided by law; he or she shall give the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts, agreements, or appointments of the City; he or she shall require the administration of the oath of office and the furnishing of any required bond in all appropriate cases and shall report to the City Council the failure of any officer of the City in these respects; he or she shall authenticate and certify all ordinances and resolutions adopted by the Council; he or she shall perform such other duties in connection with his or her office as may be required by law, this Charter, or the ordinances or resolutions of the City.

Section 5-10. Finance Director. The Finance Director shall be appointed by the City Manager with Council approval and shall be the treasurer and chief financial officer and general accountant of the City. He or she shall establish and maintain a uniform system of accounts, keep a record of the assets, receipts, expenditures, and other funds of the City and keep the Manager and Council continually informed as to the financial status of the City and its funds. He or she shall certify as to the sufficiency or sources of funds for all purchases and contracts of the City and that the obligations are or will be within the ability of the City to finance the same. He or she shall issue such licenses or permits as are required by the ordinances of the City. He or she shall establish and maintain systems of internal financial control and have such other duties as the Manager or Council may prescribe. All moneys due to or collected by the City shall be received and all disbursements shall be made by the Finance Director. He or she shall have custody of all such money and of all evidences of value belonging to or held by the City. He or she shall collect all taxes and assessments collectible by the City or by the County, school district or other agencies within the City. He or she shall deposit and account for all moneys and funds as required by the Council or by law.

Section 5-11. City Assessor. The Assessor shall possess all of the powers vested in and shall be charged with all the duties imposed upon other assessing officers, prepare all regular and special assessment rolls, and perform such other duties as may be required by the Council or by law.

CHAPTER VI
JUSTICE COURT (REPEALED)

(EDITOR'S NOTE: Chapter VI of this Charter, was repealed by implication in April, 1968, by State statute which preempted local authority.)

CHAPTER VII
FINANCES, BUDGET, CONTRACTS

Section 7-1. Fiscal Year. The fiscal and budget year of the City shall be July 1 to June 30 of each year.

Section 7-2. Financial Control. The City Finance Director shall have charge of the administration of the financial affairs of the City, subject to the general supervision of the City Manager. He or she shall maintain a uniform system of accounting and control over the finances of the City, make such reports, and perform such other duties as may be required by this Charter, and by ordinances, or by the City Manager. He or she shall audit and approve all bills and liquidated claims against the City and shall pay the same on vouchers duly certified by the Manager or a City official designated by the Council.

Section 7-3. Budget Preparation. At such time as may be fixed by the City Manager, each officer or department head shall submit to the City Manager an itemized estimate of the expenditures and receipts for the next fiscal year for the activities under his or her control. After review and revision by the City Manager in consultation with the Finance Director, the City Manager shall submit the proposed budget to the City Council on or before the first official meeting of the Council in April of each year.

Section 7-4. Budget Hearing and Adoption. A public hearing on the budget shall be held thereon before its final adoption by the City Council at such time and place as is required by law. Thereafter, but not later than May 15 of each year, the City Council shall, by resolution, adopt a budget for the ensuing fiscal year, make appropriations therefor, and, after realistic consideration of probable other revenues, determine and declare the amount of money necessary to be raised by property taxation. Should the Council fail to adopt a budget for the next fiscal year on or before May 15, the budget proposal as recommended to the Council by the City Manager shall be deemed to have been finally adopted by the Council, and shall constitute an appropriation of the money needed for Municipal purposes during the next fiscal year, and shall be deemed legal authority for a levy of the amount necessary to be raised by taxes upon real and personal property subject to the provisions of Section 8-1. If any budget adopted in this manner requires an amount to be raised by taxes upon property in excess of the limitation provided in Section 8-1 the budget and appropriations and each item thereof shall be adjusted by the City Manager to conform to such limitation.

Section 7-5. Budget Bonds. Any capital improvement items contained in the budget upon five affirmative votes of the Council, may be financed by the issuance of bonds as a part of the budget system, provided that the amount of such bonds together with the taxes levied for the same year shall not exceed the limit of taxation authorized by law.

Section 7-6. Transfer of Appropriations. After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation. The Council may transfer any unencumbered appropriation balance or any portion thereof from one department fund, or agency, to another. The Council may make additional appropriations during the fiscal year for emergency purposes or for unanticipated and urgently needed purposes, provided such appropriations shall not exceed the amount by which actual or anticipated revenues of the year are exceeding the revenues as estimated in the budget, or expenses are proving less than anticipated, or a combination thereof. The Council may make additional appropriations from any available and unencumbered funds, although not budgeted.

Section 7-7. Budget Control. At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Manager shall submit to the Council data showing the relation between the estimated and actual income and expense to date, and if it shall appear that the income is proving insufficient, the Council, on the recommendation of the Manager, may reduce appropriations for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within income. The Manager may provide for monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he or she shall prescribe.

Section 7-8. Depository. The Council shall designate the depository or depositories for City funds, and shall provide for the daily deposit of all City moneys.

Section 7-9. Independent Audit and Report. An independent audit shall be made of all accounts of the City Government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants. If a State audit is required by law, the Council, by resolution, may declare that it takes the place of the audit required in this section. An annual report of the City's business, including an abstract of the annual audit, shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finances of the City government.

Section 7-10. Receipts and Payment of Money. All moneys shall be received by the City Finance Director regardless of source. Unless otherwise provided by law or by ordinance, all moneys drawn from the treasury shall be drawn pursuant to the authority and appropriation of the Council. The Council, upon the recommendation of the City Manager, where necessary to expedite operating procedures, may authorize, by resolution, designated officers and employees of the City to make minor disbursements from petty cash accounts, which disbursements shall be accounted for and shall be audited by the Finance Director. Checks for the expenditure of City funds shall be signed by the Manager and Finance Director, or such official as may be designated by the Council. Checks may be issued prior to authorization by the Council for such purposes and up to such amounts as the Council shall provide by ordinance. All such checks and the purpose thereof shall be reported to the Council at its next regular meeting.

Section 7-11. Deferred Payment Contracts. The City may enter into installment or lease-purchase contracts for the acquisition or sale of real or personal property or capital equipment. Each such contract shall not extend over a period greater than twenty (20) years. All such deferred payments shall be included in the budget for the year in which the installment is payable. The total unpaid principal of all such contracts shall not exceed one percent of the equalized valuation of all real and personal property in the City subject to taxation as most recently determined.

Section 7-12. Investment of City Funds. Idle moneys may be invested according to the general laws of the State as the City Council may determine.

Section 7-13. Purchasing and Contracts. Uniform and centralized purchasing and contracting procedures shall be developed and maintained by the City Manager with the approval of the Council. Competitive bids shall be required by the Council where practical and contracts awarded when deemed in the best interests of the City. Power shall be reserved, however, to reject any or all bids. The Council may authorize the construction or repair of public improvements by the City work force. The power to contract on behalf of the City is hereby vested in the City Council, but the City Manager shall have power to bind the City as to routine or operational items. No contract shall be made with any person, firm or corporation who is in default to the City and not contesting such status.

Section 7-14. Improvement Funds. The City may establish and maintain funds, including revolving funds, for special assessment projects or other improvements, for the purpose of accumulating moneys to be used for financing, making, acquiring, extending, altering, or repairing public improvements. Moneys so accumulated may be transferred, encumbered or otherwise disposed of only for the purpose for which accumulated unless otherwise determined and declared by formal resolution of the City Council, and then only for the purpose of making some other public improvement.

CHAPTER VIII
TAXATION

Section 8-1. Power, Limitation and Subjects of Taxation. The City shall have the power to assess taxes and to levy and collect rents, tolls, and excises, and including all powers now or hereafter granted to cities by the State of Michigan. Exclusive of any levies authorized by law to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed 2.0 percent of the equalized assessed value of all real and personal property of the City. The subjects of ad valorem taxation for Municipal purposes shall be the same as for State, County, and school purposes under the general laws. Except as otherwise provided in this Charter, City taxes shall be assessed, levied, collected and returned in the manner provided by statute. No exemptions from taxation shall be allowed except as expressly required or permitted by law.

Section 8-2. Assessment Roll. Between tax day and the first meeting of the Board of Review in each year, the City Assessor shall make and complete an assessment roll in the manner and form provided in the general tax law.

Section 8-3. Board of Review. The Board of Review shall consist of three (3) taxpaying electors of the City who are owners of property assessed for taxes in the City and, at the time of their appointment, are not either elected or appointed officials of the City. They shall be appointed by the Council to serve three (3)-year staggered terms subject to the pleasure of the Council. Each term shall commence as of January 1. The Board shall select its own Clerk, who may be the City Assessor. They shall meet and complete their work as required by law. Their compensation shall be fixed by Council.

Section 8-4. Notice of Meeting. The Assessor shall cause notice of the date, time and place of the annual meeting of the Board of Review to be published at least one (1) week prior thereto in a newspaper widely circulated in the City. In each case in which the assessed value of real property is increased or decreased from the previous year, the Assessor shall give notice thereof to the owner shown on the assessment roll by regular mail not later than the second day following the first meeting of the Board, giving the time and place of its second meeting. Failure to give or receive the notices provided in this section shall not invalidate the roll or any assessment thereon.

Section 8-5. Duties and Procedures of Board of Review. The Board of Review shall have power to correct or amend said assessment roll and to increase or decrease any assessment or valuation of taxable property, may strike therefrom any property wrongfully listed or add any property rightfully taxable, either on its own motion or at the request of any person. Any person considering himself or herself aggrieved by reason of any assessment may complain thereof either verbally or in writing or by authorized representative to said Board. The Board may establish reasonable regulations for the conduct of its hearings, require the filing of a brief written statement of the arguments by those appealing to it, require the appellant to appear in person and otherwise provide for the expediting of its work. The concurrence of a majority of the membership of said Board shall be necessary to decide any question. The Assessor shall make any changes, additions, or corrections to said roll directed by the Board of Review. Thereupon said Board shall complete and adopt the roll and a majority thereof shall endorse the same as provided by law. When so endorsed, said roll shall be conclusively presumed by all courts to be valid and shall not be set aside except for causes mentioned in the general laws. The omission of the endorsement or any other formality herein prescribed shall not affect the validity of the roll. A summary report of the assessment roll shall be delivered to the City Council by the Assessor immediately thereafter.

Section 8-6. Assessment of Taxes. The Assessor shall take said roll, thus completed and adopted, and prepare a "City Tax Roll" by spreading thereon rateably to each person or property assessed the funds required to be raised by property taxation by the terms of the annual appropriation resolution adopted by the City Council or by the terms of other valid procedures.

Section 8-7. Warrant. Upon delivering said City tax roll to the Finance Director, the Assessor shall annex thereto his or her warrant over his or her signature, commanding the Finance Director to collect from the several persons named in said roll the several sums mentioned therein and enforce payment as provided herein or by general law.

Section 8-8. Lien and Persons Liable. All taxes thus assessed shall become a debt due the City as provided by general law and, as of July 1 of the year of assessment, the said taxes with any applicable charges, fees or penalties shall become a lien, paramount to all other claims, encumbrances or liens, upon the property against which they are assessed until paid.

Section 8-9. Statement to Taxpayers. Upon receipt of said City tax roll, the Finance Director shall proceed to collect the taxes. He or she shall prepare and mail to each taxpayer, at his or her last known address on the tax roll, a statement or billing showing the description of the property, the assessed valuation, and the tax payable, but the failure to send or receive such statement shall not prejudice the validity of the tax on the right and duty to collect or enforce payment thereof.

Section 8-10. Collection Fees and Interest. The City taxes provided for by this chapter shall be assessed and levied prior to July 1, in each year, shall become payable on that date, and shall be collected on or before the 20th day of August in each year, and if so paid no collection fee shall be charged. As of August 21 of each year a collection fee of four (4) percent shall be charged, and on the 21st day of each month thereafter an interest charge and penalty of one (1) percent in addition shall be charged, and when paid said charges shall be placed in the General Fund of the City. The City Council may, by ordinance, establish a system for the installment collection of said taxes extending not more than one year and provide for the collection of reasonable interest or collection fees thereon and of penalties for the late payment thereof.

Section 8-11. All Taxes Other Than City. For the purpose of assessing and levying taxes in the City for all purposes other than City taxes, the City shall be considered the same as a township and, except as otherwise provided in this Charter, all provisions for State law relative to the collection of such taxes, the accounting thereof to the appropriate taxing units, and the returning of delinquent taxes to the County Treasurer for collection shall apply and the City Finance Director shall have all of the powers and duties in connection therewith of township treasurers.

Section 8-12. Failure to Pay Personal Property Tax. If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or her or them, the Finance Director shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax and applicable fees together with charges for subsequent sale costs, wherever the same may be found in the State, and from such seizure no property shall be exempt. He or she may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with general law. If otherwise unable to collect a tax on personal property, the Finance Director may sue therefor the person, firm or corporation to whom it is assessed.

Section 8-13. Jeopardy Assessment of Personal Property Taxes. Whenever the proper conditions exist, the Finance Director shall accelerate the date on which personal property taxes shall be collected, as provided by general law.

Section 8-14. Failure to Pay Real Estate Taxes. All City taxes, including assessments, interest or other charges, upon real property remaining uncollected by the Finance Director on March 1st following the date when said amounts became payable, or one year thereafter in case an installment collection ordinance applies thereto, shall be subject to one of the following procedures:

(A) The real property against which such taxes, assessments, interest or other charges have been assessed shall be subject to sale and redemption for the enforcement and collection thereof in the manner which may be provided by ordinance. The Council is hereby empowered to adopt an ordinance providing for the sale and redemption of real property for such unpaid taxes, assessments, interest and other charges by sale conducted by the City Finance Director, with a redemption period as provided for sales by county treasurers, and foreclosure of the lien and perfection of the sale by petition duly filed in the Circuit Court for Manistee County, followed by a decree or order thereof.

(B) If no such ordinance is adopted and in effect, then such taxes, assessments, interest and other charges shall be returned to the County Treasurer in the manner provided by law for returns by township treasurers for township, County and school taxes, and the same shall be collected in the same manner by the County Treasurer, and shall remain a lien upon the property against which they are assessed or chargeable until paid.

Section 8-15. Inequitable Assessment or Tax. If it shall be found, at any time, that any property has been subjected to a substantially inequitable assessment or tax, as by reason of errors so that the same amounts to a constructive fraud upon the taxpayer, and if the City Attorney shall prepare and file a written memorandum indicating that, under current statutes and case law, relief would be granted by a court of competent jurisdiction, then the City Council may so determine and declare by resolution without requiring the commencement of court proceedings, and any necessary adjustment may be taken from the General Fund of the City.

Section 8-16. Tax Clearances. No warranty deed for the transfer of real estate or any interest therein shall be received or recorded by the Register of Deeds for the County of Manistee unless all City taxes and assessments on the property described therein, then due and payable, have been paid. It shall be the duty of the City Finance Director or such other agency as the City Council may designate, upon request and after the payment thereof, to furnish a certificate that all such taxes and assessments have been paid, and such certificate shall be filed with the Register of Deeds when the document is submitted for record. A fee to be fixed by the City Council may be charged for issuing the certificate.

CHAPTER IX
SPECIAL ASSESSMENTS

Section 9-1. Power to Assess. The City Council shall have the power to determine, with or without a petition therefor, that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessment upon the parcels or property especially benefitted and so declare by resolution. Such resolution shall state the estimated cost of the improvement, what portion of the cost shall be paid by special assessment, what portion, if any, shall be a general obligation of the City, the number of installments in which assessments may be paid, and the interest to be charged, and designate the districts or land and premises upon which special assessments shall be levied.

Section 9-2. 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 construction necessity following at least ten (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 five (5) percent of the total cost it may be placed in the General Fund of the City.

Section 9-3. Assessment Lien. From the date of confirmation of any assessment or reassessment roll the same shall constitute a lien upon the respective lots or premises assessed and shall also be a charge against the person to whom assessed until paid, and, in case of delinquency, may be enforced by addition to any later return to the County Treasurer of regular taxes or by suit against such person.

Section 9-4. Contest of Assessment. No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment (a) unless, within thirty (30) days after the confirmation of the special assessment roll, written notice is given to the City Clerk for attention of the City Council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty (60) days after the confirmation of the roll. If the City Attorney submits a written opinion finding said roll illegal, in whole or in part, the City Council may revoke its confirmation, correct the illegality if possible, and reconfirm the same as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice.

CHAPTER X
BORROWING

Section 10-1. General Power. Subject to the provisions of this Charter and to the applicable provisions of law as the same are now or may hereafter be enacted, the City may borrow money for any purpose within the scope of its powers, and may issue bonds or other evidence of indebtedness therefor. Such bonds or other evidence of indebtedness shall include but not be limited to:

(A) General obligation bonds which pledge the full faith and credit of the City for the payment thereof.

(B) Special assessment bonds which are issued in anticipation of the payment of special assessments for public improvements in a special assessment district or combination thereof, which bonds may be either an obligation of the special assessment districts or district, or both an obligation of such district and a general obligation of the City.

(C) Revenue bonds as authorized by law.

(D) Mortgage bonds for acquiring, owning, purchasing, constructing, improving or operating of any public utility which the City is authorized by law to finance in this manner, or for such other purposes as may be authorized by law.

(E) Tax anticipation notes as authorized by law.

(F) Calamity bonds issued in case of fire, flood or other calamity as authorized by law.

(G) Bonds for the City's share of the cost of local improvements, which bonds may be issued as a part of, or independently of, any issue of special assessment bonds which are issued for the same improvement or improvements.

(H) Bonds for refunding indebtedness of the City.

(I) Budget bonds as authorized elsewhere herein.

(J) Time-purchase contracts as authorized elsewhere herein.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten (10) percent of the equalized assessed valuation of all real and personal property in the City as defined and computed pursuant to general law. All limitations, procedures and approvals required by general law shall be faithfully followed.

Section 10-2. Use of Borrowed Funds. 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 part thereof, is 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 fund in the following order:

First, for an additional extension or improvement of the facility or project for which the bond issue was made.

Second, for the retirement of such bond issue.

Third, 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.

Fourth, 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.

Section 10-3. Special Assessment Collections. 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 a separate bank account) and shall be used for the purpose for which levied and for the payment of the principal of and interest on such bonds. If there is any deficiency in a special assessment fund to meet the payment of the principal and interest to be paid therefrom, moneys shall be advanced from the General Fund of the City to meet such deficiency and shall be replaced in the General Fund when the special assessment fund shall be sufficient therefor.

Section 10-4. Execution of Bonds. 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 may be by facsimile if permitted by law. Any attached coupons may be signed with the facsimile signature of the City Clerk.

Section 10-5. Bond Record. The City Clerk shall keep a detailed record of all bonds and other evidence of indebtedness. Upon payment of the same the Clerk shall mark them "cancelled" and keep them until their destruction is permitted by general law.

CHAPTER XI
UTILITIES, FRANCHISES AND PERMITS

Section 11-1. General Powers of City Respecting Utilities. The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, maintain, encumber, convey, dispose of, or sell, either within or without its corporate limits, public utilities, including but not by the way of limitation, aeronautical facilities, hospitals and public utilities for treating and supplying water and for supplying light, heat, power, gas, sewage treatment, garbage disposal, public transportation and facilities for the storage and parking of vehicles and marina, port and harbor facilities for boats and ships, or any of them; and also to sell and deliver the products or services thereof, both within and without its corporate limits. The power to supply said utility services as herein possessed and reserved, shall include the power to extract, process, manufacture, transport or purchase the same from others. No public utility owned and operated by the City may be sold unless the proposition shall first have been approved by a majority vote of the electors voting thereon.

Section 11-2. Rates. The City Council shall have the power to fix, from time to time, such rates and other charges as may be deemed advisable for supplying the inhabitants of the City and others with such public utility services as the City may provide. Higher rates may be charged for service outside the corporate limits of the City.

Section 11-3. Collection-Utility Rates and Charges. The Council shall provide by ordinance for the collection of all public utility rates and charges of the City. Such ordinance may provide at least:

(A) Except as otherwise provided by law, the City shall have as security for the collection of such utility rates and charges a lien upon the real and personal property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance.

(B) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.

(C) That suit may be instituted by the City in any court of competent jurisdiction for the collection of such rates or charges.

(D) With respect to the collection of rates, the City shall have all the powers granted to cities by any statute of the State.

Section 11-4. Accounts and Finances. Separate accounts shall be kept for each public utility owned and operated by the City. Such accounts shall be classified and made in accordance with generally accepted municipal 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 prepared to show fairly the financial position of the utility and the results of its operations, which report shall be on file in the office of the City Clerk for inspection.

Section 11-5. Granting of Public Utility Franchise. All irrevocable public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No franchise shall be granted for a longer period than thirty (30) years. No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election as provided by general law. This requirement shall be deemed to have the same limits of applicability as is accorded the franchise requirements in the State Constitution and general laws.

Section 11-6. Conditions of Public Utility Franchise. All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the City to impose or require:

(A) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;

(B) To require the proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(C) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(D) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(E) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public;

(F) To use, control and regulate the use of its streets, alleys, bridges and public places and space above and beneath them;

(G) To make independent audit and examination of accounts at any time, and to require reports annually.

The City Council shall cause to be instituted such actions or proceedings as may be necessary to prosecute a public utility company for violations of its franchise, the City Charter, or ordinances, and may revoke, cancel, or annul all franchises granted by the City which for any reason have become inoperative, illegal or void.

Section 11-7. Regulation of Rates. All public utility franchises shall make provision therein for fixing rates, fares and charges and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Section 11-8. Joint Use Permitted. Every such public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the City by the City and by such other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

Section 11-9. Revocable Permits. Temporary permits for public utilities, revocable at any time at the will of the City Council, may be granted by the City Council by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. All said temporary permits shall be subject to the right of the City to make independent audit and examination of accounts at any time and to require reports annually or at more frequent intervals as prescribed by resolution of the City Council. When the City Council deems it in the public interest, such permits may be exclusive.

Section 11-10. Acquisition by City-Condemnation. The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the State, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill or prospective profits.

Section 11-11. Use of Streets. Every public utility shall be subject to the power of the City to use, control and regulate use of its streets, alleys, bridges, and public places, and the space above and beneath them and shall pay such part of the cost of improvements or maintenance of streets, alleys, bridges, and public places, and the space above and beneath them as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

Section 11-12. Existing Franchises and Permits Remain in Effect. All franchises and permits to which the City of Manistee is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

CHAPTER XII
RETIREMENT SYSTEM (REPEALED)

(EDITOR'S NOTE: Chapter XII was repealed by the voters February 16, 1988. See Chapter 294 of the Administration Code of the Codified Ordinances of the City.)

CHAPTER XIII
MISCELLANEOUS

Section 13-1. Property. The City shall have power to acquire by purchase, gift, condemnation, lease, legacy, bequest or otherwise any and all kinds of property, both real and personal, absolute or in trust, located within or without the City, for any public, proprietary, or charitable use or for any purpose within the scope of its powers; to do all things necessary to effectuate such purpose; to hold, manage, maintain, develop or operate the same; to change the use to other public purposes subject to any limitation expressly placed thereon by law or the valid terms of any trust; and to lease, encumber, sell, convey, or otherwise dispose of the same.

Section 13-2. Dilapidation. The City shall have power by ordinance to prevent, prohibit, and correct public nuisances, structural dilapidation of dwellings and commercial, industrial or other structures, and the spread of blight and deterioration. It may exercise all powers granted by law for such purposes to prevent devaluation, unhealthful influences and hazards to inhabitants or to otherwise serve the public health, morals, peace, safety and welfare. The cost of any such measures upon specific properties may be assessed against the same.

Section 13-3. Streets and Public Ways. The City reserves the power to use, regulate, improve, vacate, abandon, and control the surface of its streets, alleys and public ways and of the space above and beneath them; to prepare and adopt a plan regarding the same within said City and for a distance of three (3) miles beyond its limits.

Section 13-4. Licenses. The City Council may prescribe the terms and conditions upon which licenses may be granted and revoked, and may regulate trades, occupations and amusements including the location of gas stations and billboards. The City Council may provide for the punishment by fine or imprisonment, or both, of any person who, without license, shall exercise any occupation or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of said City.

Section 13-5. Other Express Powers. The City shall also have power:

(A) To use, control and regulate the streams, waters and watercourses within its boundaries.

(B) To acquire, establish, extend, operate, and maintain parks, boulevards, cemeteries, hospitals, almshouses, and all works which involve the public morals, peace, health, safety and welfare as provided by law.

(C) To provide by ordinance for the establishment of districts or zones within which the use of lands and structures, the height, the area, the size and location of the buildings, and the required open spaces for light and ventilation of such buildings, and the density of population may be regulated.

(D) To establish and maintain a Planning Commission having the powers and duties prescribed by law.

(E) Any powers expressed in this Charter shall not be deemed to be exclusive, and the City shall have all powers permitted by law, whether enumerated or not.

Section 13-6. Plats. The City shall have power to establish standards for the acceptance of plats or subdivisions of lands or premises within or without said City to the distance provided by State law, may require the dedication of streets and other public ways to public ownership, and the grading and improvement thereof to acceptable standards.

Section 13-7. Recording of Plats. The Register of Deeds of Manistee County shall not receive for record any plat or subdivision of any lands or premises, within the corporate limits, unless the same shall have endorsed thereon a certificate signed by the City Clerk of said City showing that such plat or subdivision has been accepted and approved by the City.

Section 13-8. Preservation and Destruction of Records. Subject to any applicable State law, the City shall have power to determine the period and manner in which Municipal records shall be preserved and the time and manner in which they may be summarized, microfilmed, recorded, or destroyed.

Section 13-9. Health. The City Council shall be the Board of Health of the City and may appoint a Health Officer, organize and maintain a Health Department, have and exercise all powers and authority conferred upon boards of health by the general laws, and enact such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants of the City. The City shall have power to establish, maintain, and regulate suitable hospitals within or without its corporate limits. The City is hereby authorized to consider, negotiate, determine and agree upon the terms and conditions under which this City may join in the organization and maintenance of a County health department, or similar agency authorized by law. It may delegate to such department, or agency such powers, functions and duties relating to health as it may deem proper, contract therewith for extra services, and appropriate thereto money, services, or both. It may make applicable to the area of the City any rules or regulations promulgated by said department or agency, and penalties for the violation thereof.

Section 13-10. Investigations. The City Council, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department, office or officer of the City and to make investigation as to Municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence, as ordered under the provisions of this section shall be a misdemeanor.

Section 13-11. Damage Claims Against the City. The City shall have all the immunities from claims for damages for injury to persons or property as may be permitted by law. The City shall not be liable on any claim for damages regardless of its basis unless the claimant has filed a notice of claim within sixty (60) days after it shall arise giving the particulars thereof so that the City may make timely investigation of the circumstances pertaining thereto.

Section 13-12. Bonds. All officers and employees of the City whose duties involve the custody of public personal property or funds shall file and maintain an official bond in such form and amount as the Council may approve, conditioned upon the faithful performance of duty and compliance with all laws and regulations pertaining thereto, including the prompt accounting and delivery thereof, with all pertinent records, to the person entitled thereto or to any duly selected successor. All official bonds shall be corporate surety bonds underwritten by a surety company authorized to do business in this State and may be a blanket bond and the premiums thereon shall be paid by the City. The City Clerk shall have custody of all bonds except his or her own, which shall be kept by the Finance Director. The City Council shall determine, in case of doubt, the persons required to submit bonds and the amount thereof and it may require additional coverage during periods of special risk.

Section 13-13. Library. The City shall continue to maintain and support from the General Fund a Manistee City Public Library and to provide for an Advisory Board of Trustees for the care, management and disbursements of funds for such purpose. Said Board of Trustees shall be five in number and shall serve staggered terms of five years without compensation unless otherwise determined by the City Council. All rules, regulations and disbursements of money recommended by the Library Board shall be subject to the approval of the City Council. The City is empowered to merge or consolidate the library with other public or private agencies provided that general library service to the citizens of Manistee shall be maintained.

Section 13-14. Oath. Every elective officer and such other employees as may be designated by the City Council, before taking office shall take the oath of office prescribed by law, but the oath of office of each Councilperson shall be in writing and be filed with the City Clerk, and contain the statement that in his or her candidacy for nomination and election he or she has not violated any provisions of the general election laws of the State.

Section 13-15. Condemnation. The City Council shall provide by resolution for acquiring by condemnation or otherwise such property and rights as may be required for any public use or purpose within the scope of its powers in the manner prescribed by the statutes of this State. Any property or rights so acquired and no

longer needed for the original purpose, at the discretion of the City Council may be diverted to any other public use or purpose within the scope of the powers of the City, or may be leased, encumbered, or sold and disposed of in such manner as said City Council shall prescribe.

Section 13-16. Advisory Committees or Boards. The City Council or City Manager with the approval of the City Council may, from time to time, appoint such boards as are deemed appropriate to advise and consult with them, and with appropriate department heads, regarding any Municipal activity. Such committees or boards shall serve temporarily and without compensation unless otherwise provided by the City Council.

Section 13-17. Amendments. This Charter may be amended at any time in the manner provided in Act 279 of the Public Acts of 1909, as amended. Should two or more amendments having conflicting provisions be adopted at the same election, the one receiving the largest affirmative numerical vote shall prevail as to those provisions.

Section 13-18. Saving Clause. If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this Charter or of the Charter as a whole unless it clearly appears that such other section or part of a section is also held invalid or unconstitutional.

CHAPTER XIV
SCHEDULE

Section 14-1. Purpose. The purpose of this schedule chapter is to inaugurate the Government of the City of Manistee under this Charter and it shall constitute a part of said Charter only to the extent and for the time required to accomplish that end.

Section 14-2. Submission to Electors. This Charter shall be submitted to a vote of the qualified electors of the City of Manistee, being the area described in Exhibit A, attached hereto and made a part hereof by this reference, at an election to be held on April 1, 1968, between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. The Clerk shall give and publish notice of such submission as the law requires.

Section 14-3. Form of Ballot. The form of the question on submission of this Charter shall be as follows:

Shall the proposed Charter of the City of Manistee, drafted by the Charter Commission which was elected April 4, 1966, be adopted?
YES _____ NO _____

Section 14-4. Canvass and Adoption. The City Clerk as chairperson, the City Attorney and City Assessor shall act as the election commission of said election. The Board of Canvassers shall meet within one week to publicly canvass the returns and declare the results of the election. If it is determined that a majority of those voting upon the question voted "yes" the Charter shall be declared adopted; otherwise, it shall be declared rejected. If it is adopted, the City Clerk shall perform all acts required by law to place this Charter into effect.

Section 14-5. Effective Date. Except as otherwise provided herein, this Charter, if adopted, shall go into effect on May 1, 1968, at or after which date appointments may be made and powers exercised as herein provided. The budget and appropriations in effect on this effective date shall continue in force unless validly amended by the incoming Council.

Section 14-6. First Elections and Terms. The first election conducted under this Charter shall take place in November, 1969. If this Charter is adopted April 1, 1968, all elected officers of the City shall retain their offices and their terms shall be extended as follows:

Supervisor terms shall be extended until their successors are elected and qualify in the November, 1970, election; terms otherwise expiring in April, 1969, shall be extended until their successors are elected and qualify in November, 1969, and terms otherwise expiring in April, 1970, shall be extended until their successors are elected and qualify in November, 1970.

Section 14-7. Fiscal Transition. The July 1 to June 30 fiscal year provided for in Section 7-1 shall be effective as of July 1, 1969, and thereafter. To adjust from the December 1 fiscal year, during the year 1969, the budget adopted, appropriation made and taxes levied in December, 1968, shall be for a seven-month period extending from December 1, 1968, to July 1, 1969.

Section 14-8. Succession to Rights and Property. The City of Manistee as herein provided shall succeed to all the privileges, titles, easements, rights of way, causes of action, duties, commitments, powers and obligations and be the complete successor of the previous City of Manistee. The City shall be vested with all property, moneys, contracts, credits, effects, records, files, books and papers belonging to it under and by virtue of its previous Charter. No right, liability, lease, contract, or franchise, either in favor of 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 all taxes, fines, penalties, interest or fees, imposed and existing at the time of such change, shall be collected by the City. All trusts, established for any Municipal purpose, shall be continued in accordance with the terms thereof, subject to the cy pres doctrine. All procedures for borrowing funds, assessing taxes, levying special assessments, establishing budgets, acquiring or disposing of property rights, or otherwise administering the affairs of the City, in progress on the effective date of this Charter, shall be continued and completed in accordance with the terms hereof. Until the City Council and City Manager herein authorized have exercised their powers with respect thereto, all officers and employees of the City shall continue to have the same rights, duties, powers and compensation as existed prior to the effective date of this Charter.

Section 14-9. Transition. In all cases involving the transition of the City Government from that under the previous Charter to that under this Charter, which are not covered by this Charter, the current Council shall supply the necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefor.

APPENDIX I

BOUNDARY: CITY OF MANISTEE, MICHIGAN

(As of November 1, 1966)

The Municipal corporation now existing, known as the City of Manistee, and including so much of the County of Manistee as is contained in the following description, to-wit:

That portion of Section One (1) West of Manistee Lake, entire Sections Two (2), Ten (10), Eleven (11) and Twelve (12); Lots Two (2) and Three (3) of Section Thirteen (13); North East Quarter (1/4) of the North West Quarter (1/4) of the North East Quarter (1/4) of said Section Thirteen (13); all in Town Twenty-one (21) North, Range Seventeen (17) West; also North East Quarter (1/4) of North West Quarter (1/4) and that part of the North West Quarter (1/4) of the North East Quarter (1/4) lying West of highway U.S.-31 of Section Thirteen (13); Town Twenty-one (21) North, Range Seventeen (17) West; County of Manistee, Michigan; Also commencing at the North West Quarter corner (1/4) of Section Thirteen (13); Township 21 North, Range Seventeen (17) West; being also the intersection of the center line of Twelfth Street (12th) and Maple Street in the City of Manistee; thence East on the center line of Twelfth Street (12th); Four Hundred Forty and 4/10 (440.4) feet to the intersection of the center line of Lexington Street; thence South 0°3" West, Thirty-three (33) feet to place of beginning; thence South 0°3" West, Nine Hundred Ninety (990) feet to the South line of Fifteenth Street (15th); thence East on the South line of Fifteenth Street

(15th), Eight Hundred and Eighty and 8/10 feet (880.8); thence North 0°02' East; Nine Hundred Ninety (990) feet to the South line of Twelfth (12th) Street; thence West on said line Eight Hundred Eighty and 8/10 (880.8) feet to place of beginning containing Fifty-seven (57) lots; also Lot Seven (7) of Section Eighteen (18), Town Twenty-one (21) North, Range Sixteen (16) West, also all that portion of Manistee Lake lying eastward of and adjoining said lands and within Fifty (50) rods of the West shore of said lake; shall remain and continue to be a body politic and corporate under the same name, with power and authority to change its boundaries in manner authorized by law.