

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
PREAMBLE	1
CHAPTER 1. BOUNDARIES OF THE CITY.	1
Boundaries: Section 1.1	1
Section 1.2	1
Section 1.3	2
CHAPTER 2. DEFINITIONS AND GENERAL PROVISIONS.	2
Records to the Public: Section 2.1	2
Definitions and Interpretations: Section 2.2	2
Official Performance: Section 2.3	3
Public Records as Evidence: Section 2.4	3
Quorum: Section 2.5	3
Sundays and Holidays: Section 2.6	3
Estoppel: Section 2.7	3
Penalties for Violation of Chapter: Section 2.8	3
Chapter and Second Headings: Section 2.9	4
Amendments: Section 2.10	4
Severability: Section 2.11	4
City Liability: Section 2.12	4
CHAPTER 3. GENERAL MUNICIPAL POWERS.	5
General Powers: Section 3.1	5
CHAPTER 4. GENERAL PROVISIONS REGARDING OFFICERS OF THE CITY.	9
Officers to be Elected, Terms of Office: Section 4.1	9
Administrative Officers, Appointment, Term of Office, Compensation: Section 4.2	9
City Employees: Section 4.3	9
Eligibility for Elective Office: Section 4.4	9a
Eligibility for Appointive Office: Section 4.5	9a
Eligibility for Appointment to a City Board or Commission: Section 4.6	10
Vacancies in Office: Section 4.7	10
Vacancies in Boards and Commissions: Section 4.8	10
Removal from Office: Section 4.9	11
Resignations: Section 4.10	11
Filling Vacancies: Section 4.11	11
Change in Term of Office: Section 4.12	12
Change in Compensation: Section 4.13	12
Oath of Office: Section 4.14	12
Surety Bonds: Section 4.15	12
Acting as Surety or Agent for Surety: Section 4.16	13
Delivery of Office and its Effects by Officer to His Successor: Section 4.17	13
Nepotism: Section 4.18	13

## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
CHAPTER 5. THE COUNCIL.	13
City Governing Body: Section 5.1	13
Mayor and Mayor Pro Tem: Section 5.2	14
Compensation for Councilmen: Section 5.3	14
Powers, Duties and Functions of the Council: Section 5.4	14
Meetings of the Council: Section 5.5	15
Health: Section 5.6	16
Licenses: Section 5.7	16
CHAPTER 6. CITY LEGISLATION.	16
Legislative Power: Section 6.1	16
Introduction, Consideration and Style of Ordinances: Section 6.2	16
Publication of Ordinances: Section 6.3	17
Penalties: Section 6.4	17
Initiative and Referendum: Section 6.5	17
Initiative and Referendary Petitions: Section 6.6	17
Council Procedure on Initiative or Referendary Petitions: Section 6.7	18
Same - Submission to Electors: Section 6.8	18
Same - Status of Ordinance Adopted: Section 6.9	18
Same - Ordinance Suspended: Section 6.10	18
Recall: Section 6.11	18
CHAPTER 7. ADMINISTRATIVE ORGANIZATION.	18
Mayor: Section 7.1	18
City Clerk: Section 7.2	19
City Treasurer: Section 7.3	20
City Attorney: Section 7.4	20
City Assessor: Section 7.5	20
City Planning: Section 7.6	21
Zoning: Section 7.7	21
Additional Administrative Powers and Duties: Section 7.8	21
Merit System: Section 7.9	21
Employee Welfare Benefits: Section 7.10	21
CHAPTER 8.	22
Fiscal Year: Section 8.1	22
Budget Procedure: Section 8.2	22
Budget Document: Section 8.3	22
Budget Hearing: Section 8.4	23
Adoption of Budget: Section 8.5	23
Budget Control: Section 8.6	23
Funds for Public Improvement: Section 8.7	24
Depository: Section 8.8	24
Independent Audit: Annual Report: Section 8.9	24

## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
CHAPTER 9. BORROWING POWER.	25
Grant of Authority to Borrow: Section 9.1	25
Limits of Borrowing Powers: Section 9.2	26
Preparation and Record of Bonds: Section 9.3	26
Deferred Payment Contracts: Section 9.4	26
CHAPTER 10. TAXATION.	27
Power to Tax: Tax Limit: Section 10.1	
Amended 5/18/76	27
Subjects of Taxation: Section 10.2	27
Exemptions: Section 10.3	27
Tax Day: Section 10.4	27
Preparation of the Assessment Roll: Section 10.5	27
Board of Review: Section 10.6	28
Duties and Functions of the Board of Review:	
Section 10.7	28
Meetings of the Board of Review: Section 10.8	28
Notice of Meetings: Section 10.9	29
Certification of Roll: Section 10.10	29
Clerk to Certify Tax Levy: Section 10.11	29
City Tax Roll: Section 10.12	29
Tax Roll Certified for Collection: Section 10.13	30
Tax Lien on Property: Section 10.14	30
Tax Payment Due; Notification Thereof:	
Section 10.15	30
Collection Charges on Late Payment of Taxes:	
Section 10.16	30
Failure or Refusal to Pay Personal Tax:	
Section 10.17	31
Collection of Delinquent Taxes: Section 10.18	31
State, County and School Taxes: Section 10.19	31
CHAPTER 11. SPECIAL ASSESSMENTS.	31
General Powers Relative to Special Assessments:	
Section 11.1	31
Property Subject to Assessment: Section 11.2	32
Detailed Procedure to be Fixed by Ordinance:	
Section 11.3	32
Additional Assessments: Correction of Invalid	
Special Assessments: Section 11.4	33
Disposition of Excess Special Assessments:	
Section 11.5	34
Contested Assessments; Limitations on Suits and	
Actions: Section 11.6	34
Special Assessment Accounts: Section 11.7	34
Failure to Receive Notice: Section 11.8	34
Deferred Payment of Special Assessments:	
Section 11.9	35
Special Assessments a Lien on Property:	
Section 11.10	35
Hazards and Nuisances: Section 11.11	35

## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
CHAPTER 12. JUSTICE COURT.	36
Establishment of Court: Section 12.1	36
Compensation and Bond of the Justice: Section 12.2	36
Power and Jurisdiction: General: Section 12.3	36
Jurisdiction in Charter and Ordinance Cases: Section 12.4	36
Extended Jurisdiction: Section 12.5	36
Procedure in Justice Court: Section 12.6	37
Place and Conduct of Court: Section 12.7	37
Transfer of Cases: Section 12.8	37
Fees, Fines and Penalties: Prosecution of State Penal Cases: Section 12.9	37
Docket: Section 12.10	38
Constables: Section 12.11	38
CHAPTER 13. ELECTIONS.	38
Qualifications of Electors: Section 13.1	38
Election Procedure: Section 13.2	38
Wards and Precincts: Section 13.3	38
Primary Election: Section 13.4	39
Regular City Election: Section 13.5	39
Special Elections: Section 13.6	39
Election Commission: Section 13.7	39
Nominations: Section 13.8	39
Form of Petitions: Section 13.9	40
Approval of Petition: Section 13.10	40
Form of Ballot: Section 13.11	41
Canvass of Votes: Section 13.12	41
Tie Vote: Section 13.13	42
Recount: Section 13.14	42
CHAPTER 14. CONTRACTS.	42
Contracting Authority of Council: Section 14.1	42
Purchase and Sale of Personal Property: Section 14.2	42
Limitations on Contractual Power: Section 14.3	42
CHAPTER 15. SUPERVISORS.	43
Number of Supervisors: Section 15.1	43
Selection of Supervisors: Section 15.2	43
Duties of Supervisors: Section 15.3	43
Compensation for Supervisors: Section 15.4	44
CHAPTER 16. UTILITY FRANCHISES AND MUNICIPAL OWNERSHIPS.	44
General Powers Respecting Utilities: Section 16.1	44
Management of Municipal Utilities: Section 16.2	44
Rates: Section 16.3 - 16.3 B - deleted 11/4/75	44

## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
CHAPTER 16. UTILITY FRANCHISES AND MUNICIPAL OWNERSHIPS.	
Collection of Municipal Utility Rates and Charges:	
Section 16.4	45
Disposal of Utility Plants and Property:	
Section 16.5	45
Granting of Public Utility Franchises:	
Section 16.6	45
Conditions of Public Utility Franchises:	
Section 16.7	46
Regulation of Rates for Franchised Utilities	
Section 16.8	46
Use of Public Places of Utilities: Section 16.9	47
Sale and Assignment of Franchise: Section 16.10	47
CHAPTER 17. SCHEDULE.	47
Status of Schedule Chapter: Section 17.1	47
Election to Adopt Chapter: Section 17.2	47
Form of Ballot: Section 17.3	48
Election Commission: Section 17.4	48
Inspectors of Election: Section 17.5	48
Board of Canvassers: Section 17.6	48
Notice of Registration: Section 17.7	48
Election of Officers: Section 17.8	49
Nomination of Candidates for Elective Offices:	
Section 17.9	49
Terms of Office of the First City Officers Elected:	
Section 17.10	49
Canvass of Votes: Section 17.11	49
First Meeting of First City Officers: Section 17.12	50
Township Assets and Liabilities: Section 17.13	50
Cost of Incorporation: Section 17.14	50
Interim Financial Provisions: Section 17.15	50
Borrowing Power: Section 17.16	51
CERTIFICATE OF ADOPTION.	51
GOVERNOR'S APPROVAL	52

PROPOSED CHARTER FOR THE  
CITY OF LUNA PIER, MICHIGAN

PREAMBLE

We, the people of the City of Luna Pier, pursuant to authority granted by the Constitution and Laws of the State of Michigan, in order to secure the benefits of self-government, and to provide for the public peace and health for the safety of persons and property, do hereby ordain and establish this Charter for the City of Luna Pier.

CHAPTER I  
BOUNDARIES OF THE CITY

BOUNDARIES:

Section 1.1 The following described territory, together with all territories that may be annexed thereto, shall constitute the territory and be know as the City of Luna Pier, and shall be subject to the municipal control thereof:

Commencing at the intersection of the North line of the Township of Erie, Town 8 South, Range 8 East, and the East right of way line of the Detroit-Toledo Expressway. Proceeding thence Southwesterly along the East right of way line of said expressway to the West line of Section 11 of said Township; thence South along the West line of said Section 11 to the Southwest corner of said Section, said point being the Southeast corner of Section 10 of said Township; thence West on the South line of Section 10 to the North and South one-quarter line of the East one-half of Section 15; thence South along the North and South one-quarter line of the East one-half of said Section 15 to the East and West one-quarter line of the South half of Section 15; thence East along the East and West one-quarter line of the South one-half of Section 15 and continuing East along the East and West one-quarter line of the South one-half of Section 14 to the shores of Lake Erie; thence Northerly and Northeasterly along the shores of Lake Erie to the North line of Erie Township; thence West along the North line of Erie Township to the point of beginning. Said description embraces lands in Section 1, 2, 10, 11, 14 and 15 of said Erie Township and contains approximately 1.68 square miles of land, all in Monroe County, Michigan.

Section 1.2 Upon the annexation or detachment of territory, the boundaries of the City shall be deemed thereby to be changed without amendment to this section.

The Clerk shall maintain and keep available in his office for public inspection and distribution copies of the official boundary description and map of the current boundaries of the City.

Section 1.3 The City shall consist of and constitute one single word.

## CHARTER 2 DEFINITIONS AND GENERAL PROVISIONS

### RECORDS TO THE PUBLIC:

Section 2.1 All records of the City shall be public unless otherwise provided by law; shall be kept in City offices, except when required for official reasons or for purposes of safekeeping to be elsewhere; and shall be available for inspection at all reasonable times.

### DEFINITIONS AND INTERPRETATIONS:

Section 2.2 Except as otherwise specifically provided or indicated by the context of this Charter:

- (a) The word "City" shall mean the City of Luna Pier.
- (b) The word "Council" shall mean the City Council of the City of Luna Pier.
- (c) The word "officer" shall include, but shall not be limited to the mayor, the members of the Council, and, as hereinafter provided, the administrative officers, deputy administrative officers, and members of the city boards and commissions created by or pursuant to this Charter.
- (d) The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals.
- (e) The word "printed" and "printing" shall include printing, engraving, stencil, duplicating, lithographing, typewriting, photostating, or any similar method.
- (f) Except in reference to signatures, the work "written" and "in writing" shall include hand written script, printing, typewriting, and teletype and telegraphic communications.
- (g) The word "publish" means the insertion of a notice in a newspaper printed in the English language and circulated within the City or the posting of notice at least in three conspicuous public places within the City.
- (h) The words "public utility" shall include all common carriers in the public streets: water, sewage disposal, electric light and power gas, telegraph and telephone lines and systems, garbage collection, garbage disposal, refuse collection, refuse disposal and reduction plants, and such other

and different enterprises as the Council may, from time to time, determine or designate.

-2-

(i) All words indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement to which any provision of this Charter is applied.

(j) The singular shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

#### OFFICIAL PERFORMANCE:

Section 2.3 Whenever this Charter requires the performance of an act by an officer, the act may be performed by a deputy or by a subordinate, under the officer's direction, unless otherwise provided by law.

#### PUBLIC RECORDS AS EVIDENCE:

Section 2.4 All papers, books or other records of any matter required to be kept by any of the several departments of the municipal government, either by law or by the provisions of any ordinance, shall be deemed public records of such department, and they, or copies duly certified by the custodian thereof, shall be prima facie evidence of their contents in all suits at law or in equity, or in other proceedings.

#### QUORUM:

Section 2.5 Except as otherwise expressly provided in this Charter, a quorum of any Board created by or under authority of this Charter shall consist of a majority of the number of its members as established by this Charter, or by the ordinance creating such commission or Board. The concurring vote of a majority of such established number of members of each such Board shall be necessary for official action by it.

#### SUNDAYS AND HOLIDAYS:

Section 2.6 Whenever the date fixed by law or ordinance for the doing or completion of any act falls on Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

#### ESTOPPEL:

Section 2.7 No estoppel may be invoked against the City.

#### PENALTIES FOR VIOLATION OF CHARTER:

Section 2.8 Any person or officer of the City found guilty by a court of competent jurisdiction of an act stated herein to constitute a violation of this Charter may be punished by a fine which, in addition to Court costs charged to him, shall not exceed Five Hundred Dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both such fine and

-3-

imprisonment, in the discretion of the Court. For an officer of the City the punishment provided in this Section shall be in addition to that of having the office declared vacant as provided in this Section shall be in addition to that of having the office declared vacant as provided in this Charter. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

#### CHARTER AND SECTION HEADINGS:

Section 2.9 The chapter and section headings used in this Charter are for convenience only, and shall not be considered as part of this Charter.

#### AMENDMENTS:

Section 2.10 This Charter may be amended at any time in the manner provided by law; should two or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail as to those provisions.

#### SEVERABILITY OF CHARTER PROVISIONS:

Section 2.11 If any provisions, section, or clause of this Charter, or the application thereof to any person or circumstances, shall be found to be invalid, such invalidity shall not affect any remaining portion or application of the Charter, which can be given effect without the invalid portion or application, and, to this end, this Charter is declared to be severable.

#### CITY LIABILITY:

Section 2.12 The City shall not be liable for damages sustained by any person either to his person or property by reason of the negligence of the City, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk, within sixty (60) days after the injury resulting in such damages shall have occurred, a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same have become known, the names and addresses of the witnesses known at the time by the claimant and a statement that the person sustaining such damages intends to hold the City liable for such damages as may have been sustained by him.

The City shall not be liable for any damages to person or property arising out of any such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and the extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the City for any such

damages until such claim shall have been filed with the Clerk and until the Council shall have been given reasonable opportunity to act thereon, either by allowing or refusing to allow the claim.

-4-

It shall be a sufficient bar and answer in any Court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of injury and the verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided. This section shall not apply to claims arising out of the exercise of any proprietary function of the City.

### CHAPTER 3 GENERAL MUNICIPAL POWERS

#### GENERAL POWERS:

Section 3.1 (a) Unless otherwise provided or limited in this Charter, the City and its officers shall possess and be vested with all the powers, privileges, and immunities, expressed or implied, which cities are, or hereafter may be, permitted by law to exercise or to include in their Charters. The enumeration of particular powers, privileges, or immunities in this section or elsewhere in this Charter shall not be held to be exclusive.

(b) The City and its officers shall have power to manage and control its finances, rights, interests, buildings, and property, to enter into contracts, to do any act to advance the interest, good government, and prosperity of the City and its inhabitants, to protect the public peace, health, safety, and general welfare, and to restrain and prevent crime and vice. In the exercise of such powers, the City may enact ordinance, rules, and regulations and take such other action as may be required, not inconsistent with law. The power of the City shall include, but shall not be limited to, the following:

(1) To declare as a hazard or nuisance any act or condition, upon, public or private property, or both, including, but not limited to, the accumulation of rubbish and the growing of noxious weeds, which is, or may be dangerous to the health, safety, or welfare of the inhabitants of the City; to provide for the abatement thereof, and to provide that the cost of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located.

(2) To provide for the public welfare by:

(a) Regulating trades, occupations, and amusements within the City, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health or welfare of its inhabitants.

(b) Regulating the preparation, storage, transportation, and sale of goods, drugs, and beverages for human consumption.

(c) Collecting and disposing of garbage and rubbish.

(d) Regulating and restricting the locations of oil and gasoline stations.

(e) Licensing, and regulating the number of vehicles, which carry persons or property for hire, fixing the rates of fare and charges, and determining the locations of stands for such vehicles.

-5-

(f) Licensing and regulating billboards and advertising signs and the locations thereof.

(g) Regulating the construction, erection, alteration, equipment, repair, moving, removal and demolition of buildings and structures and their appurtenances and service equipment.

(h) Establishing zones within the City and regulating therein the use and occupancy of lands or structures; the height, area, size and location of buildings; the required open spaces for light and ventilation of buildings, and the density of population.

(i) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires.

(j) Regulating and controlling the use of streams, waters, water courses, beaches and shoreland of Lake Erie, within the City in any manner consistent with the provisions of law.

(3) To establish and reasonably control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:

(a) Creating and vacating the same and acquiring and disposing of land, or any interest in land, required therefor, including any surplus land which may be incidental to or necessary for the purchase of land required.

(b) Providing for a plan of streets and alleys within and for a distance of not more than three miles beyond the limits of the City.

(c) Requiring the owners of real property to build and maintain public sidewalks in the area of streets immediately adjacent to such property, and, upon the failure of any owner to do so, constructing and maintaining such sidewalks and assessing the cost thereof against such property as a special assessment.

(d) Compelling all persons to care for the untraveled portions of streets lying between the traveled portion and the property line which abut upon premises owned, controlled or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety, and, upon the failure to do so, cutting and

removing such weeds and removing such objects and assessing the cost thereof against such property as a special assessment.

(e) Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, weeds, shrubbery, or any other object which obstructs such sidewalks, or which makes the same

-6-

hazardous or offensive to the public health and safety, and upon failure to do so, to cut and remove such weeds and remove such objects and assess the cost thereof against such property as a special assessment.

(f) Providing for the grade of streets and requiring public utility users of streets to conform thereto with respect to their tracks or facilities located on, above, or under the streets or alleys; requiring railroads to keep their tracks and the street surface between the tracks, and for a distance of one and one-half feet on each side of them in reasonable repair at all times.

(g) Regulating the speed of vehicles, trains and locomotives upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings.

(h) Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property.

(i) Preventing and abating the encumbering of streets and alleys or any part thereof.

(j) Regulating the location of buildings and structures and of trees and shrubbery at and near corners and street intersections with alleys and driveways, so as to provide for the public safety and welfare in the use of streets and alleys.

(k) Providing for and regulating the numbering of buildings upon property abutting streets and alleys and compelling the owners and occupants thereof to affix numbers thereto.

(l) Providing for the use by other than the owner, of property located on, above, or under the streets, alleys and public places, in the operation of a utility, upon the payment of a reasonable compensation therefor to the owner thereof.

(m) Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the City and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the City.

(n) Prohibiting or regulating the use, occupancy,

sanitation and parking of house trailers within the City, and the right of the City to so regulate any house trailer shall not be abrogated thereof because of any detachment from its wheels or because of placing it on or attaching it to the ground by means of any temporary or permanent foundation or in any manner whatsoever.

-7-

(o) Providing for the control over all trees, shrubs and plants in the public streets, highways, parks, or other public places in the City, all dead and diseased trees on private property and trees on private property overhanging the street, sidewalk or public places, including the removal thereof and assessing the cost thereof against the abutting property as a special assessment.

(4) To undertake any public work or make any public improvement or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency.

(5) To construct, provide, maintain, extend, operate and improve:

(a) Within the City: a city hall, city office buildings, community buildings, police stations, fire stations, civic auditoriums, public libraries, and polling places; and

(b) Either within or without the corporate limits of the City or Monroe County: Public parks, recreation grounds, and stadiums, municipal camps, public grounds, zoological gardens, museums, airports and landing fields, cemeteries, levees, embankments, boat docks, and structures for flood control and other purposes related to the public health, safety, and welfare; electric light and power plants and systems, gas plants and systems, waterworks and water treatment plants and systems, sewage disposal plants and systems, storm sewers, garbage collection and disposal facilities, refuse and rubbish collection and disposal facilities, market house and market places, facilities for storage and parking of vehicles, hospitals, facilities for the landing of helicopters and air vehicles having like landing characteristics, and any other structures or facility which is devoted to or intended for public purposes within the scope of the powers of the City.

(6) To acquire by purchase, gift, condemnation, lease or otherwise, real and personal property, and interests in property, either within or without the corporate limits of the City or of Monroe County, for any public use or purpose within the scope of its powers, including, but not by way of limitation, the uses and purposes set forth in this section.

(7) To join with any municipal corporation or with any other unit or agency 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.

-8-

CHAPTER 4  
GENERAL PROVISIONS REGARDING  
OFFICERS OF THE CITY

OFFICERS TO BE ELECTED, TERMS OF OFFICE:

Section 4.1 (a) The elective officers of the City shall be six (6) councilmen, a mayor, and a Justice of the Peace.

(b) At each regular city election three (3) councilmen shall be elected to serve for a term of four (4) years and a mayor shall be elected to serve for a term of two (2) years.

In the event there is a vacancy in the office of councilman to be filled at such election, the candidate receiving the highest number of votes after the three (3) candidates for the regular four (4) year term, shall be elected for the unexpired term of the person in whose office the vacancy occurs.

(c) A Justice of the Peace shall be elected for a four (4) year term every other regular election beginning in April, 1965.

(d) The term of office of the mayor and councilmen shall commence at 8:00 P.M. on the Monday next following the regular City election at which they were elected.

(e) The term of office of the Justice of the Peace shall commence at the time provided by Statute.

ADMINISTRATIVE OFFICERS, APPOINTMENT, TERM OF OFFICE, COMPENSATION:

Section 4.2 (a) The appointive administrative officers of the City shall be City Clerk, City Treasurer, City Assessor, City Attorney, and City Constable, and such other administrative officers as may be established by the Council. The Council may establish additional administrative offices and may combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City.

The Administrative officers and any additional administrative officers that are created by ordinance shall be appointed by the Council after nomination by the Mayor, shall be responsible to and serve at the pleasure of the Council, and shall have their compensation fixed by the Council. Provided, however, that in the event an administrative office is vacant for more than sixty (60) days, the Council may nominate the officer.

CITY EMPLOYEES:

Section 4.3 All personnel employed by the City who are not elected officers of the City or administrative appointive officers by or under authority of this Charter shall be deemed to be employee of the City.

-9-

#### ELIGIBILITY FOR ELECTIVE OFFICE:

Section 4.4 No person shall hold any elective office of the City unless he has been a resident of the City for at least one (1) year immediately prior to the last day for filing original petitions for such office and shall appear on the assessment roll of the City as an owner of property subject to taxation by the City for a period of not less than one (1) year immediately prior to the last day for filing original petitions for such office. No person shall be eligible for appointment to fill a vacancy in an elective office unless such qualifications are held at least one (1) year immediately prior to the time of appointment. No person shall hold any elective office unless he is a qualified and registered elector of the City on the last day for filing, or at such time of appointment and throughout the tenure of office.

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

Each candidate for elective office shall file with his petition his affidavit that he possesses qualifications for such office provided for in this Section. Failure to file such affidavit shall invalidate the petition.

No incumbent elective City officer shall become a candidate for any elective City office except to succeed himself without first resigning from his then incumbent elective city office. Provided, that the provisions hereof shall not apply to any incumbent City officer whose term of office will expire with the election at which he is to be a candidate for another elective City office.

#### ELIGIBILITY FOR APPOINTIVE OFFICE:

Section 4.5 No person shall be eligible for appointment as Clerk, Treasurer, Assessor or Constable unless such person is a resident of the City at the time of appointment. If any such officer ceases to be a resident of the City his appointment shall terminate immediately.

Any elected officer may also hold an appointive office at the same time and receive such compensation prescribed by the Council for such administrative office in addition to the compensation prescribed for the elective office, provided, that such appointment be made by the favorable vote of the five (5) members of the Council, excluding the vote of the interested elected officer.

ELIGIBILITY FOR APPOINTMENT TO A CITY BOARD OR COMMISSION:

Section 4.6 No person shall be appointed to a Board or Commission of the City unless such person shall have been a resident of the City for at least one (1) year prior to the date of his appointment and shall be a qualified and registered elector of the City on such day and throughout the tenure of his office.

VACANCIES IN OFFICE:

Section 4.7 Any elective City office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office.

(a) For any reason specified by Statute or by this Charter as creating a vacancy in office.

(b) If no person is elected to, or qualified for, the office at the election at which such office is to be filled.

(c) If the officer shall be found guilty by a court of competent jurisdiction of any act constituting misconduct in any office under the provisions of this Charter.

(d) If any officer ceases to have the qualifications for eligibility for such office required by this Charter.

(e) If any officer shall absent himself continuously from the City for more than sixty (60) consecutive days in any one calendar year without permission of the Council.

(f) In the case of members of the Council, if such officer shall miss four (4) consecutive meetings of the Council, unless such absences shall be for a confining illness or be excused by the Council at the time they occur.

VACANCIES IN BOARDS AND COMMISSIONS:

Section 4.8 The office of any member of any Board or Commission created by or pursuant to this Charter shall be declared vacant by the Council before the expiration of the term of such office:

(a) For any reason specified by Statute or by this Charter as creating a vacancy in office.

(b) If the officer shall be found guilty by a competent court of any act constituting misconduct of the office under the provisions of this Charter.

(c) If such officer shall miss four (4) consecutive meetings of such Board or Commission or twenty-five (25) per cent of such meetings in any fiscal year of the City, unless such absences shall be excused by such Board or Commission at the time of such absences.

-10-

(d) If the officer is removed from the office by the Council in accordance with the provisions of this Charter.

#### REMOVAL FROM OFFICE:

Section 4.9 Removals by the Council of elective or appointive officers or of members of Boards or Commissions may be made for any of the following reasons:

(a) For any reason specified by law for removal of City officers by the Governor.

(b) For any act constituting a violation of this Charter.

(c) Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten (10) days in advance, either personally or by delivering the same at his last known place of residence according to the records of the City. Such notice shall include a copy of the charges against the officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause of his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal may be being considered, shall be required for any such removal.

#### RESIGNATIONS:

Section 4.10 Resignations of elective officers and of members of Boards and Commissions shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

#### FILLING VACANCIES:

Section 4.11 (a) If a vacancy occurs in any elective City office, except the office of mayor, the Council shall, within thirty (30) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office. Each such appointee to an elective office shall hold office under such appointment until the Monday following the next regular City election.

A person possessing the qualifications for the office shall be elected to fill such vacancy for the remainder of the unexpired term.

(b) In the event of a vacancy in the office of Mayor, the Council may appoint any person eligible under Section 4.4, or may appoint one of its members to fill the unexpired term and the office of the Councilman so appointed shall be declared vacant and appointment made in accordance with Section 4.11 (a); or

-11-

The Council may call a special election for the purpose of filling the remainder of the unexpired term of the office of Mayor.

(c) If a vacancy occurs in any appointive office, it shall be filled in the manner provided for making the original appointment. In the case of members of Boards and Commissions appointed for a definite term, such appointments shall be for the unexpired term.

Resolution No. 794- Elected Officials' Oath of Office:

*Minutes of a regular meeting of the City Council of the City of Luna Pier, County of Monroe, Michigan (the "City"), held on the 12th day of November, 2009 at 7:30 p.m., Eastern Standard Time.*

*Present: Councilmember's Heid, Murray, Russell, Kruzal, Gramza, Mayor Liske  
Absent: Young*

*The following preamble and Resolution were offered by Councilmember Heid and supported by Councilmember Gramza.*

***Whereas, City Resolution No. 794 changed the start date of elected officials terms of office from the first Monday following the election to the date of the first meeting of City Council after the new year, pursuant to Michigan Compiled Laws Section 117.3b, and***

***Whereas, the City Charter Section 4.14 requires all city officers to take the oath of office prescribed by the Michigan Constitution and file the oath and bond with the Clerk within ten days from the date of the election or appointment, unless the City Council shall extend the time for such qualification for office,***

***NOW THEREFORE, BE IT RESOLVED THAT: The City Council does hereby extend the time for a City official to take the oath of office and to file the oath and bond with the Clerk, from ten days after the election, to the date of the first meeting of City Council after the new year.***

*All other Resolutions inconsistent with this Resolution are hereby rescinded.*

***RESOLUTION DECLARED ADOPTED ON November 12, 2009.***

CHANGE IN TERM OF OFFICE:

Section 4.12 Except by procedures provided in this Charter, the term of the elective officials of the City and of officers of the City appointed for a definite term shall not be shortened. The terms of officers of the City may not be extended beyond the period for which any officer was elected or appointed.

CHANGE IN COMPENSATION:

Section 4.13 The Council shall not grant or authorize extra compensation to any officer, elective or appointive, or to any employees, agents or contractors after his services have been rendered. The salary of any

elective officer shall not be increased or decreased from the day he is elected until the end of the term of office for which he was elected or appointed.

#### OATH OF OFFICE:

Section 4.14 Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by the Michigan Constitution and shall file the same with the Clerk, together with any bond required by this Charter or by the Council. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declared the office and such office shall thereupon be vacant, unless the Council shall, by resolution, extend the time in which such officer may qualify as set forth above.

#### SURETY BONDS:

Section 4.15 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 shall determine. All such officers or employees who receive, distribute, or are responsible for city funds or investments shall be bonded. The resignation, removal or discharge of any officer or employee, or appointment of another person to such office or employment, shall not exonerate such officer or employee or any sureties of such officer or employee from any liability incurred by such officer, employee or sureties. All official 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

-12-

official bond shall be issued for a term exceeding three (3) years, unless the term of the officers concerned exceeds three (3) years. The bonds of all officers and employees shall be filed with the Clerk, except that the Clerk's bond (unless he is covered within the scope of a blanket surety bond) shall be filed with the Treasurer. The requirements of this section may be met by the purchase by the City of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the City. Any officer or employee who is covered by a blanket surety bond, need not be bonded individually for the purpose of qualifying for office.

#### ACTING AS SURETY OR AGENT FOR SURETY:

Section 4.16 No officer, agent or employee of the City shall become surety on the official bond of any City officer, agent, or employee, nor upon any bond or contract executed to or made with the City, nor except for himself or his immediate family, give or furnish any bail or recognizance in connection with any complaint or warrant charging the violation of this Charter or of any ordinance of the City. No officer, agent or employee of the City shall be the agent of any surety or insurer in connection with any license granted by the City or with respect to which the approval of the Council or any officer of the City is required.

## DELIVERY OF OFFICE AND ITS EFFECTS BY OFFICER TO HIS SUCCESSOR:

Section 4.17 Whenever any officer or employee shall resign, or be removed from office, or the term of office for which he has been elected or appointed, has expired, he shall, on demand, deliver to his successor in the office or to the superior, all books, papers, moneys and effects in his custody as such officer or employee, and which in any way appertain to his office or employment.

## NEPOTISM:

Section 4.18 Unless the Council shall be favorable vote of six (6) members of the Council, which vote shall be recorded as part of its official proceedings, determine that the best interest of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouses, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them, all relationship shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bonafide appointive officers or employees of the City at the time of the election or appointment of said official.

## CHAPTER 5 THE COUNCIL

### CITY GOVERNING BODY:

Section 5.1 The six (6) councilmen and mayor shall constitute the legislative governing body of the city, they shall be elected from the city at large.

-13-

### MAYOR AND MAYOR PRO TEM:

Section 5.2 (a) At the first meeting of the Council following each City election, the Council shall organize and elect one of its members to the office of Mayor Pro Tem.

(b) The Mayor shall preside at Council meetings. He shall be the chief executive officer of the City insofar as required by law, and for all ceremonial purposes. He shall be a conservator of the peace, and shall have the powers conferred by law upon sheriffs in times of emergency to suppress disorder, preserve the public peace and health and the safety of persons and property. He shall authenticate by his signature such instruments as may require such authentication, under the provisions of law. He shall have an equal voice and vote with other members of the Council on all matters before the Council, but shall not possess the veto power. He shall do all acts required of him by law.

(c) The mayor pro tem shall act in the stead of the mayor in the case of the mayor's absence or disability to act. The Council shall fill any vacancy in the office of the mayor pro tem, but until such vacancy is filled, the senior member of the Council from the standpoint of continuous service, shall act as mayor pro tem. As between persons of equal seniority, the person receiving the highest number of votes at the time of his last election shall act.

#### COMPENSATION FOR COUNCILMEN:

Section 5.3 The mayor shall receive as compensation eight hundred dollars (\$800.00) per year and each councilman shall receive as compensation four hundred dollars (\$400.00) per year, which shall be paid quarterly, and except as otherwise provided in this Charter, shall constitute the only compensation which may be paid for the discharge of any official duty for or on behalf of the City during the tenure of office. However, the mayor and Councilmen may upon order of the Council be re-imbursed for such necessary bona fide expenses incurred in services in behalf of the City as are authorized and itemized.

#### POWERS, DUTIES AND FUNCTIONS OF THE COUNCIL:

Section 5.4 The Council shall determine all matters of policy of the City and adopt ordinances and necessary rules and regulations to make the same effective. Further the Council shall, subject to the limitations of law, raise revenue and make appropriations for the operation of the City government, provide for the public peace and health and safety of persons and property, investigate municipal affairs, and, when it deems necessary, any office or department of the City, and do and perform all acts required of it by this Charter. In the event of any investigation by the Council, any officer or employee of the City who shall fail or refuse to obey any summons or to give any evidence pertaining to such investigation, subject to such exceptions as are permitted by law, shall, upon conviction thereof, be guilty of violation of this Charter.

-14-

#### MEETINGS OF THE COUNCIL:

Section 5.5 (a) The Council shall provide by ordinance for the time and place of its regular meetings and shall hold at least two (2) meetings in each month.

(b) Special meetings may be called by the Clerk on the written request of the mayor or any three (3) members of the Council on at least twelve (12) hours written notice to each member of the Council designating the time, place and purpose of such special meeting, served personally or left at a Council member's usual place of residence by the Clerk or someone designated by him, but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

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

(d) All regular and special meetings of the Council shall be open to the public, and the rules of order of the Council shall provide that citizens shall

have a reasonable opportunity to be heard.

(e) Four members of the Council shall be a quorum for the transaction of business, at all meetings of the Council, but, in the absence of a quorum, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

(f) The Council shall determine its own rules and order of business, and shall keep a journal in the English language of all of its proceedings, which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be by a "yes" or "no" vote and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. The people shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g) Each Councilman shall be required to attend all meetings of the Council unless excused in accordance with Section 4.7. The Council may order the attendance of the members and other officers of the City at its meetings in such manner and may enforce such fines for non-attendance as may be prescribed by ordinance. The refusal of any member of the Council or any other officer of the City to attend such meeting or to conduct himself in an orderly manner thereat shall be deemed in violation of this Charter. Any person designated by the mayor shall serve as the sergeant-at-arms of the Council in the enforcement of the provisions of this Section.

(h) Except as otherwise provided in this Charter, a Councilman shall not vote on any question in which he shall have a direct personal financial interest, other than as a citizen of the community, but on all other questions he shall vote, unless excused therefrom by a vote of at least five (5) members of the Council.

(i) A favorable vote of at least four (4) members of the Council shall be required for official acts by the Council unless a larger majority is specifically required herein or by law.

-15-

(j) There shall be no standing committees of the Council.

#### HEALTH:

Section 5.6 The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a Board of Health is established for the City by ordinance, the Council shall constitute the Board of Health of the City and it and its officers shall possess all powers, privileges and immunities granted to Boards of Health by Statute.

#### LICENSES:

Section 5.7 The Council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked, and may require and exact payment of such reasonable sums for any license as it may deem proper.

## LEGISLATIVE POWER:

Section 6.1 The legislative power of the City is vested exclusively in the Council, except as otherwise provided by law.

## INTRODUCTION, CONSIDERATION AND STYLE OF ORDINANCES:

Section 6.2 (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be "City of Luna Pier Ordains:"

(b) Each ordinance, after adoption, shall be identified by a number.

(c) An ordinance or a part of an ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number only.

(d) If a section of an ordinance is amended, the section shall be re-enacted and published at length. This requirement shall not apply to the schedules of stop streets, one-way streets, and of parking limitations contained in any traffic ordinance or the vehicular traffic regulating portion of the City's ordinance code.

(e) Each ordinance shall be recorded by the Clerk forthwith in the Ordinance Book, and the enactment of such ordinance and the effective date thereof shall be certified by him therein.

(f) The ordinances of the City shall be set forth in code form as soon as practicable after the City government is established.

(g) No ordinance shall be finally passed by the Council at the same meeting at which it is introduced.

-16-

## PUBLICATION OF ORDINANCES:

Section 6.3 (a) Before an ordinance may become effective it shall be published at least once in at least one (1) newspaper which is of general circulation in the City or shall be posted in at least three (3) public places within the City. The effective date of an ordinance shall be stated therein which shall not be less than ten (10) days after publication or posting, unless the ordinance is declared by the Council to be an emergency ordinance necessary for the preservation of public peace, health or safety by the affirmative vote of five (5) members of the Council.

(b) All codes and other ordinance subject matter, which are or may be permitted by law to be adopted by reference, shall be adopted and published in the manner permitted and required by law.

## PENALTIES:

Section 6.4 The Council shall provide in each ordinance for the punishment of violations thereof, but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed a fine of five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both, in

the discretion of the court. Imprisonment for violations of ordinances shall be in the City or the County Jail.

#### INITIATIVE AND REFERENDUM:

Section 6.5 An ordinance may be initiated by the electors of the City and a referendum on an ordinance may be had by them by the submission of a petition therefor as provided in this Chapter.

#### INITIATIVE AND REFERENDARY PETITIONS:

Section 6.6 An initiatory or a referendary petition shall be signed by not less than fifteen (15%) per cent of the registered electors of the City. No referendum shall be permitted respecting any ordinance required to be passed by the Council by law. Such petition may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name, and shall place thereon, after his signature, the date and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed in the presence of the affiant. Such petitions shall be filed with the Clerk who shall within fifteen (15) days canvass the signatures thereon to determine the sufficiency thereof. Any signatures obtained more than ninety (90) days before the filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of registered voters of the City, or be improper as to form or compliance with the requirements of this section, the Clerk shall notify forthwith the persons filing such petition, and ten (10) days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

-17-

#### COUNCIL PROCEDURE ON INITIATIVE OR REFERENDARY PETITIONS:

Section 6.7 Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, either:

- (1) If it be an initiatory petition, adopt the ordinance as submitted in the petition within thirty (30) days after the receipt thereof, or determine to submit the proposal to the electors; or
- (2) If it be a referendary petition, repeal the ordinance to which the petition refers within thirty (30) days after receipt thereof or determine to submit the proposal to the electors.

#### SAME - SUBMISSION TO ELECTORS:

Section 6.8 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, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of electors voting thereon, except in cases where otherwise required by law.

SAME - STATUS OF ORDINANCE ADOPTED:

Section 6.9 An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two (2) years after the date of the election at which it was adopted. Should two (2) or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

SAME - ORDINANCE SUSPENDED:

Section 6.10 The certification by the Clerk of the sufficiency of a referendary petition within forty (40) days after 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 the final determination of the electors thereon.

RECALL:

Section 6.11 Any elected official may be recalled from office by the electors of the City in the manner provided by statute. A vacancy created by such recall be filled in the manner prescribed by this Charter.

CHAPTER 7  
ADMINISTRATIVE ORGANIZATION

MAYOR:

Section 7.1 (a) The Mayor shall be the executive head of the City. He shall see that the laws, ordinances and regulations of the City are

-18-

enforced. He shall have a voice and vote in all proceedings, but shall have no veto power. He shall from time to time give the Council information concerning the affairs of the City and recommend such measures as he shall deem expedient. He shall have the right to demand and procure such information as he may desire from any elective or appointive officer of the City; and it shall be his duty to furnish such information as may be requested by any other city officers in connection with the proper performance of their official duties.

(b) He shall prepare and administer the annual budget under policies formulated by the Council, and he shall keep the Council informed as to the financial condition and needs of the City.

(c) He shall establish and maintain a central purchasing service for the City and he or his authorized representative be the purchasing agent for the City.

(d) He shall employ or be responsible for the employment of all City employees and coordinate and supervise the personnel policies and practices of the City, subject to any employment ordinance of the City.

CITY CLERK:

Section 7.2 (a) The Clerk shall be the Clerk and clerical officer of the Council. He shall attend all meetings of the Council, and shall keep its journal.

(b) He shall keep the record of all actions of the Council at its regular and special meetings.

(c) He shall have the power to administer all oaths required by law and by the ordinances of the City.

(d) He shall be the custodian of the City seal, and shall affix the same to documents required to be sealed. He shall also be custodian of all papers, documents, and records pertaining to the City, the custody of which is not otherwise provided for by this Charter.

(e) He shall give to the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the City is a part.

(f) He shall notify the Council of the failure of any officer or employee required to take an oath of office or to furnish any bond required of him.

(g) He shall certify all ordinances and resolutions adopted by the Council.

(h) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council.

(i) He shall be the general accountant of the City, shall keep the books of account of the assets and expenditures of the City, and shall keep the Mayor and Council informed as to the financial affairs of the City. The system of accounts of the City shall conform to such uniform systems as may be required by good practice and by law.

-19-

(j) He shall balance all books of account of the City at the end of each calendar month, and shall make reports thereon as soon as practical to the Mayor and City Council.

#### CITY TREASURER:

Section 7.3 (a) The Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value or indebtedness belonging to or held in trust by the City.

(b) He shall keep and deposit all monies or funds in such manner and only in such places as the Council may determine, and shall report the same in detail to the Mayor and City Council.

(c) He shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and City taxes and monies as are provided by law.

(d) He shall perform such other duties in connection with his office as may be required by him by law, the ordinances or resolutions of the Council.

CITY ATTORNEY:

Section 7.4 (a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall advise any officer of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

(b) The Attorney shall prosecute such ordinance violation and he shall conduct for the City such cases in Court and before other legally constituted tribunals as the Council may request. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(c) The Attorney shall prepare and review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and shall promptly give his opinion as to the legality thereof.

(d) The Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.

(e) The Attorney shall perform such other duties as may be prescribed for him by this Charter, by ordinance or by direction of the Council.

(f) Upon recommendation of the Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the attorney thereon.

CITY ASSESSOR:

Section 7.5 (a) The Assessor shall possess all the power vested in and shall be charge with the duties imposed upon assessing officers by law.

-20-

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or the ordinances of the City.

(c) He shall perform such other duties as may be prescribed by law or the ordinances of the City.

CITY PLANNING:

Section 7.6 The Council may provide for a City Planning Commission in accordance with and have all the powers and duties granted by the provisions of Statute relating to such commissions. The citizens members of the Planning Commission shall be appointed by the Mayor, subject to confirmation by the Council, and they shall represent insofar as possible different professions or occupations. The members of the Commission shall serve without compensation.

ZONING:

Section 7.7 The zoning regulations of the Township of Erie existing on the effective date of this Charter shall remain in full force and effect in the areas

to which they apply until one (1) year after the effective date of this Charter, or until the Council shall adopt a Zoning Ordinance for the City and shall thereafter maintain such ordinance current and in effect. At the discretion of the Council, the Planning Commission may be designated as the Zoning Board of Appeals, or a separate board may be designated and appointed by the Mayor with the approval of the Council.

#### ADDITIONAL ADMINISTRATIVE POWERS AND DUTIES:

Section 7.8 From time to time upon the recommendations of the Mayor, the Council may by ordinance prescribe additional administrative power and duties or diminish any power and duties in a manner not inconsistent with the Charter to be exercised and administered by appropriate officers and departments of the City.

#### MERIT SYSTEM:

Section 7.9 The Council may provide by ordinance for a merit system for personnel management of the City.

#### EMPLOYEE WELFARE BENEFITS:

Section 7.10 The Council shall have the power to make available to the administrative officers and employees of the City and its departments and boards, an actuarial pension plan, and any recognized standard group plan of life, hospital, health or accident insurance or any one or more thereof.

## -21- CHAPTER 8

#### FISCAL YEAR:

Section 8.1 The fiscal and budget year of the City and all of its agencies shall begin on the first day of July of each year.

#### BUDGET PROCEDURE:

Section 8.2 On or before the second Monday in March of each year, each officer and Board of the City, shall submit to the Mayor an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the activities under their control. The Mayor shall compile and review such budget requests and shall then prepare his budgetary recommendations and submit them to the Council at its meeting nearest the third Monday in April of each year. He shall inform the Council of the additions or deletions made in the departmental budget requests and his reasons for making them.

#### BUDGET DOCUMENT:

Section 8.3 The budget document shall present a complete financial plan for the ensuing year. It shall include at least the following information:

(1) A brief and concise budget summary, showing the estimated receipts and expenditures of each fund and the total of all funds.

(2) A statement of the detailed estimates of all proposed expenditures for each fund, itemized for each department and activity by objects of expenditures showing, in parallel columns, the expenditures for the preceding year, the appropriation and expenditures for the current year, and the recommendations of the Mayor as to the appropriations to be made for the ensuing year, including any appropriation for contingencies. Expenditures for the current year shall be computed as the actual expenditures to the last day of February, or the last day of the month preceding that for which he has a financial statement available, plus the estimated expenditures from that date to the end of the current fiscal year.

(3) Detailed statements of estimates of all anticipated income of the City from taxes and sources other than the current taxes and borrowing, compared with the amounts received by the City from each of the same or similar sources for the last preceding year and for the current year.

(4) A statement of the estimated financial condition of each City fund reflecting the estimated surplus or deficit in each such fund and showing all transfers made from each fund.

(5) A statement of the bonded or other indebtedness of the City showing the amount required in the ensuing year for retirement on the debt and necessary interest requirements.

-22-

(6) A statement of outstanding delinquent taxes and delinquent special assessments which have been levied during the current year and preceding fiscal years of the City and a reasonable estimate of the amount expected to be collected during the next fiscal year of the City.

(7) An estimate of the amount of money proposed to be raised by taxation and the amount to be raised from bond issues which together with the estimated income from other sources will be necessary to meet the proposed expenditures.

(8) Such other information as may be required by the Council.

#### BUDGET HEARING:

Section 8.4 A public hearing on the budget proposal shall be held before its final adoption. Notice of the time and place of holding such hearing shall be published by the Clerk at least one week in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the Clerk for a period of not less than one week prior to such public hearing.

#### ADOPTION OF BUDGET:

Section 8.5 (a) At the regular meeting held not later than the third Monday in May, the Council shall by resolution, adopt a budget for the next fiscal year and make an appropriation of the money needed therefor. Such resolution shall designate the sum to be raised by taxation for the general purposes of the City and for the payments of principal and interest on its indebtedness. Failure to adopt such resolution within the time herein set shall not invalidate either the budget or the tax levy, therefor.

(b) Should the Council fail to adopt a budget for the next fiscal year on or before the first Monday in June, the budget proposal as recommended to the Council by the Mayor shall be deemed to have been finally adopted by the Council, and, without further action by the Council shall constitute an appropriation of the money needed for municipal purposes during the next fiscal year. It shall be deemed due and 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 10.1. 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 10.1, the budget and appropriations and each item thereof shall be adjusted by the Mayor to conform to such limitations.

#### BUDGET CONTROL:

Section 8.6 (a) Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the City except in accordance with the appropriation thereof for such specific purposes, nor shall any obligation for the expenditures of money be incurred without an appropriation covering all payments which will

-23-

be due under such obligation in the current fiscal year. The Council, by resolution, may transfer any unencumbered appropriation balance, or any portion thereof, from one account, department, fund or agency to another.

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

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

(d) At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Mayor shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than

anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(e) The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to restrictions imposed or permitted by law, revert to the general fund.

#### FUNDS FOR PUBLIC IMPROVEMENT:

Section 8.7 The City may establish and maintain a fund or funds for the purpose of accumulating moneys to be used for making, acquiring, extending, altering or repairing authorized public improvements. Moneys so accumulated may be transferred, encumbered or otherwise disposed of only for the purpose for which they were accumulated, unless another authorized public improvement purpose is approved by a resolution concurred in by at least six (6) members of Council after public hearing. Whenever property is acquired for any public improvement the cost of the property and of the proceedings required to acquire it may be added to the cost of the improvements.

#### DEPOSITORY:

Section 8.8 The Council shall designate the depository or depositories of City funds, and shall provide for the regular deposit of all City moneys.

#### INDEPENDENT AUDIT: ANNUAL REPORT:

Section 8.9 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 audits shall be made by qualified accountants experienced in municipal accounting selected by the Council. An

-24-

annual report of the City business shall be made available for distribution to the public by the Mayor in such printed form as will disclose pertinent facts concerning the activities and finances of the City government, including Justice Court. The Council shall provide the funds to defray the cost of the annual audit and report herein required in each annual budget of the City.

### CHAPTER 9 BORROWING POWER

#### GRANT OF AUTHORITY TO BORROW:

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

(a) General obligation bonds which pledge the full faith, credit and resources of the City for the payment of such obligations.

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 8.6.

(c) In case of fire, flood or other calamity, emergency loans due in not more than five (5) years for the relief of the inhabitants of the City and for the preservation of municipal property.

(d) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or anticipation of the payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts and a general obligation of the City.

(e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the City is authorized by this Charter to acquire or operate.

(f) Bonds for the refunding of the funded indebtedness of the City.

(g) Revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility, and do not constitute a general obligation of the City.

(h) Bonds in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the State which the City may be permitted by law to pledge for the payment of principal and interest thereof.

-25-

#### LIMITS OF BORROWING POWERS:

Section 9.2 (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum percentage permitted by statute, provided that the in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections of this Charter: 9.1 (b) (tax anticipated notes), 9.1 (d) (special assessment bonds even though they are also a general obligation of the City), 9.1 (e) (mortgage bonds), 9.1 (g) (revenue bonds), and any other obligations excluded by law from such limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

(b) The amount of emergency loans which may be made under provisions of Section 9.1 (c) may not exceed the maximum amount permitted by law, and such loan may be made even if it causes the indebtedness of the City to exceed the limit of net bonded indebtedness fixed in this Charter.

(c) No bonds shall be sold to obtain funds for any purpose, other than that for which they were specifically authorized, and if such bonds are not sold within three (3) years after authorization such authorization shall be null and void.

(d) The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of the law with reference to public notice in advance of the authorization of such issues, filing or petitions for a referendum on such issuance, holding of such referendum, and other applicable procedural requirements.

#### PREPARATION AND RECORD OF BONDS:

Section 9.3 Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the City to use the proceeds thereof any other purposes. 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 part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose permitted by law. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and counter-signed by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signature of the Mayor and the Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

#### DEFERRED PAYMENT CONTRACTS:

Section 9.4 The City may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not

-26-

extend over a period greater than ten (10) years nor shall the total amounts of principal payable under all such contracts exceed a sum greater than permitted by law.

### CHAPTER 10 TAXATION

#### POWER TO TAX; TAX LIMIT:

Section 10.1 The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by Statute to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed one percent of the assessed value of all real and personal property subject to taxation in the City. In addition to any tax authorized by this Charter, the Council may in the years 1976 to 1985, inclusive, levy a tax not exceeding one-half of one percent of the assessed value of all real and personal property subject to taxation in the City for the purpose of paying the cost of street improvements in the City consisting of paving of streets, installing of curb and gutter and constructing and installing of storm sewers and pump stations for street drainage.

*Charter Amendment Proposition- August 5, 2008*

*In addition to any tax authorized by this Charter, the Council may in the years 2009 to 2012, inclusive, levy a tax not exceeding 0.05 of one percent (.05 mill) of the assessed value of all real and personal property subject to taxation in the City for the purpose of increasing the reserve fund for repairs to the City's dike.*

*Charter Amendment Proposition- August 7, 2012:*

*In addition to any tax authorized by this Charter, the Council may in the years 2013 to 2016, inclusive, levy a tax not exceeding 0.05 of one percent (.05 Mill) of the assessed value of all real and personal property subject to taxation in the City for the purpose of increasing the reserve fund for repairs to the Dike system throughout the city, including pump stations, gates, earthen dikes, walls and wave deflectors.*

#### SUBJECTS OF TAXATION:

Section 10.2 The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by Statute.

#### EXEMPTIONS:

Section 10.3 No exemptions from taxation shall be allowed except as expressly required or permitted by law.

#### TAX DAY:

Section 10.4 Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law which shall be deemed the tax day.

#### PREPARATION OF THE ASSESSMENT ROLL:

Section 10.5 (a) On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City. Such roll shall be prepared as required by the general property tax act. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, and of the building improvements thereon, and of personal property. The method of estimating such values shall be as nearly uniform as possible.

-27-

(b) On or before the first Monday in March the Assessor shall give, by first class mail, a notice of any change from the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

#### BOARD OF REVIEW:

Section 10.6 The Board of Review shall be composed of three freeholders who are qualified and registered electors of the City. Councilmen may be appointed to the Board of Review. The Council shall fix the compensation of the members of the Board, except that in the event that Councilmen are appointed to act as members of the Board of Review, then their compensation shall be twenty dollars (\$20.00) per day of actual attendance at its meetings. The first members shall be appointed by the Council during the month of January, 1964 for terms which shall be such that the term of one of the members shall expire in the month of January in each year. Thereafter, one member shall be appointed in the month of January of each year for a term of three years commencing upon his appointment. The City Attorney shall be the legal adviser of the Board of Review.

The Board of Review shall annually select its own chairman for the ensuing year and the Assessor shall be Clerk of the Board and shall be entitled to be heard at its session, but shall have no vote. A majority of the members of the Board shall constitute a quorum.

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

Section 10.7 For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform the like duties in all respects as are conferred by law upon and required of Boards of Review in townships, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and, if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after that day shall be considered by the Board in making its decisions. Except as otherwise provided by law no person, other than the Board of Review, shall make or authorize any change upon, or addition or corrections to, the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings of the Board and to enter therein all resolutions and decisions of the Board.

#### MEETINGS OF THE BOARD OF REVIEW:

Section 10.8 (a) The Board of Review shall convene in its first session on the Tuesday next following the first Monday in March, and shall remain the session for at least six (6) hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over or decreased from the amounts shown on the

-28-

assessment roll as prepared by the Assessor or any property added to such roll, the Assessor shall give notice thereof to the owner as shown by such roll, by first class mail, mailed not later than the second day following the end of first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

(b) The Board of Review shall convene in its second session on the second Monday in March, each year at such time of day and place as shall be

designated by the Council and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than four (4) hours. At the second session, the Board may not increase, or decrease any assessment or add any property to the rolls, except in those cases in which the Board resolves at its first session to consider such increase, decrease or addition at its second session.

#### NOTICE OF MEETINGS:

Section 10.9 Notice of the time and place of the annual meetings of the Board of Review shall be published by the Assessor not less than one (1) week prior to each session of the Board.

#### CERTIFICATION OF ROLL:

Section 10.10 After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

#### CLERK TO CERTIFY TAX LEVY:

Section 10.11 Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed, or charged upon the said roll against any property or any person in accordance with the provisions of this Charter or any ordinance of the City.

#### CITY TAX ROLL:

Section 10.12 After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised, as provided in Section 10.11, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the general ad valorem City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the City.

#### TAX ROLL CERTIFIED FOR COLLECTION:

Section 10.13 After spreading the taxes the Assessor shall certify the tax roll and attach his warrant thereto directing and requiring the Treasurer to collect prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him, for the purpose of collecting the taxes, assessment and charges on such roll, all the statutory powers and immunities possessed by powers and immunities possessed by township

treasurers for the collecting of taxes. On or before June first the roll shall be delivered to the Treasurer for collection.

#### TAX LIEN ON PROPERTY:

Section 10.14 On July first the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed, the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all claims, encumbrances, and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

#### TAX PAYMENT DUE; NOTIFICATION THEREOF:

Section 10.15 (a) City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall (1) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof, and (2) mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed.

(b) Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this Chapter in case of late payment or non-payment of the same.

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

Section 10.16 All taxes paid on or before the thirty-first day of July shall be collected by the Treasurer without additional charge. On the first day of August the Treasurer shall add to all taxes paid thereafter a penalty charge of one (1%) per cent per month but not to exceed a total of six (6%) per cent for all months or fractions thereof that the taxes remained unpaid. Such penalty charges shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added. If delivery of the tax roll to the Treasurer, as provided in Section 9.13 is delayed for any reason by more than thirty (30) days after June first, the application of the penalty charge provided herein shall be postponed thirty days for each thirty days or major fraction thereof of such delay.

-30-

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

Section 10.17 If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory

provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

#### COLLECTION OF DELINQUENT TAXES:

Section 10.18 All City taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by Township Treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided which shall be added to the amount assessed in said tax roll against each property or person.

The Taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Monroe is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

#### STATE, COUNTY AND SCHOOL TAXES:

Section 10.19 For the purpose of assessing and collecting taxes for state, county and school purposes, the City shall be considered the same as a township and all provisions of law relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as are granted and imposed upon township treasurers by law.

### CHAPTER 11 SPECIAL ASSESSMENTS

#### GENERAL POWERS RELATIVE TO SPECIAL ASSESSMENTS:

Section 11.1 The Council shall have the power to provide for assessing and reassessing the costs, or any portion thereof, of public improvement to a special assessment district and to determine, by resolution, with or without a petition that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefitted in proportion to the benefits derived or to be derived.

-31-

In addition to the other improvements which the City may make and finance in whole or in part by special assessment, the City may:

(a) Install and connect sewers and water works on and to property within the City and finance the same in whole or in part by special assessments.

(b) Construct, establish and extend facilities for the storage, and parking of vehicles within its corporate limits as a public

improvement, and finance the same in whole or in part by special assessments.

(c) Establish, construct and extend street improvements and facilities including constructing, grading and widening and, but not limited to, the paving of streets, alleys, curbs, and gutters, storm sewers, sanitary sewers and water mains, and constructing and maintaining sidewalks.

(d) Provide for the assessment of single lots when any expenditure is made on any separate or single lot, parcel of land, or lands, or premises, which the City is authorized to charge and collect as a special assessment against the same.

(e) Provide for the assessment of the cost of construction, removal or abatement of any condition which the Council determines to be a public hazard or nuisance which is dangerous to the health, safety or welfare of the inhabitants of the City.

(f) For installing a boulevard lighting system on any street as a public improvement.

#### PROPERTY SUBJECT TO ASSESSMENT:

Section 11.2 All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefitting such property, unless specifically exempted from special assessments by law.

#### DETAILED PROCEDURE TO BE FIXED BY ORDINANCE:

Section 11.3 (a) The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in special assessment rolls, correction of assessments, refunds of excess moneys and many other matters concerning the making and financing of improvements by the special assessment method.

(b) Such ordinances shall be subject to the following provisions:

(1) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be adopted by the Council, until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding.

-32-

(2) No special assessment roll shall be finally confirmed until after a meeting of the Council has been held for the purpose of reviewing such roll.

(3) Ten days' notice of each meeting of the Council for a public hearing on the advisability of proceeding with any public improvement and to review any special assessment roll shall be given prior to the date and time of such meeting, which notice shall be published and mailed to all property owners in the proposed district,

as shown by the current assessment roll of the City by first class mail.

(4) If, prior to the public hearing on the advisability of proceeding with the making of the improvement, written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty (50%) per cent of the amount of such special assessment, the resolution determining to proceed with the improvement shall be adopted only by the affirmative vote of five (5) or more members of the Council.

(5) For the purpose of subsection 4 of this Section only:

(a) In the case of tenancy by the entireties or joint tenancy any one tenant shall be considered the owner entitled to file objection.

(b) In the case of tenancy in common, objection shall be valid only if filed by all the common tenants.

(c) In the case of property sold under land contract, the party in whose name the property is assessed for taxation shall be deemed to the owner.

#### ADDITIONAL ASSESSMENTS: CORRECTION OF INVALID SPECIAL ASSESSMENTS:

Section 11.4 (a) Additional pro rata assessments to defray the cost of any public improvement may be made when any special assessment roll and/or the proceeds of sale of special assessment bonds issued in anticipation thereof proves insufficient to pay for the improvement for which it was levied and the expenses incidental thereto, or to pay the principal and interest on bonds or other evidence of obligation issued therefor; provided, that the additional pro rata assessment shall not exceed twenty-five (25%) per cent of the assessment as originally confirmed, unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of the review of the original special assessment roll.

(b) Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether any part of the assessment has been paid or not, or whether the improvement has been made or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, except respecting the correction of the

-33-

proceedings for the purpose of making the proceedings legal. Whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or, if the payment exceed the amount of the reassessment, refunds shall be made.

(c) No judgement or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the City upon the premises

assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceedings might have been lawfully assessed thereupon.

#### DISPOSITION OF EXCESS SPECIAL ASSESSMENTS:

Section 11.5 The excess by which any special assessment proves larger than the actual cost of the improvement and expense incidental thereto may be placed in the general fund of the City if such excess is five (5%) per cent or less of the assessment. If the assessment should prove larger than necessary by more than five (5%) per cent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the City. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

#### CONTESTED ASSESSMENTS; LIMITATION ON SUITS AND ACTIONS:

Section 11.6 No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment; (a) Unless, within thirty (30) days after the confirmation of the special assessment roll, written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and (b) unless such suit or action shall be commenced within sixty (60) days after the confirmation of the roll.

#### SPECIAL ASSESSMENT ACCOUNTS:

Section 11.7 Except as otherwise provided in this Charter, monies raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which assessment was levied and expenses incidental thereto and to repay any money borrowed therefor.

#### FAILURE TO RECEIVE NOTICE:

Section 11.8 Failure to receive any notice required to be so sent by this Charter or by ordinance shall not invalidate any special assessment roll or special assessment roll.

-34-

#### DEFERRED PAYMENT OF SPECIAL ASSESSMENTS:

Section 11.9 The Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and Assessor, by reason of poverty, are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the City shall require mortgage security on the real property of the beneficiary, payable upon his death.

#### SPECIAL ASSESSMENTS A LIEN ON PROPERTY:

Section 11.10 Upon confirmation of each special assessment roll, the special assessment thereon shall become a debt to the City from the persons to whom they are assessed, and, until paid, shall be a lien upon the property assessed for the amount of such assessment and all interest and charges thereon. Such lien shall be of the same character and effect as created by this Charter for City taxes.

The Council may provide by ordinance for fees, penalties or interest for late payments or nonpayment of special assessment, which fees, penalties and interest shall be a lien and shall be collected as are penalties charged on City taxes. The Council may provide that delinquent special assessments be placed upon the tax roll, together with any accrued fees, penalties and interest thereon to be collected in all respects as are City taxes or may make such other provisions for the enforcement of the lien created by such special assessment.

#### HAZARDS AND NUISANCES:

Section 11.11 When any lot, building or structure within the City, because of age or dilapidation, the accumulation of refuse or debris, the uncontrolled growing of noxious weeds or trees, or because of any other condition or happening becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health, safety or welfare of the inhabitants of the City, or of those residing or habitually going near such lot, building or structure, the Council shall after investigation, give notice to the owner or occupant of the Building or structure itself by posting notice upon the premises, or give notice to the owner or owners of the land upon which nuisance exists, or by registered or certified mail, addressed to the address set forth in the current assessment roll of the City, or the records of the Assessor, specifying the nature of the nuisance and requiring such owner or occupant to alter, repair, tear down, abate, or remove the nuisance within a time to be specified by the Council which shall be commensurate with the nature of the nuisance. If, at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such hazard or nuisance abated by the proper department or agency of the City which is qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises, or description of real property upon which such hazard or nuisance is located, by special assessment.

-35-  
CHAPTER 12  
JUSTICE COURT

#### ESTABLISHMENT OF COURT:

Section 12.1 There is hereby established a Justice Court in the City to be presided over by the Justice of the Peace elected in accordance with

Sections 4.1 and 4.4.

#### COMPENSATION AND BOND OF THE JUSTICE:

Section 12.2 The Justice of the Peace shall receive as his compensation the usual fees of this office as provided by statute. The Council may, however, by ordinance, whenever it deems that the best interests of the City will be served thereby, provide that the Justice of the Peace be paid an annual salary.

Any salary provided shall be in lieu of all fees, costs and charges to which such Justice would be entitled but for the provisions of this section, except those for the performance of marriage ceremonies.

The Justice of the Peace shall, before entering upon the duties of his office, give bonds to the Treasurer of the County of Monroe in such sum as is provided by statute and to the City of Luna Pier in like amount. Such bonds shall be subject to the provisions of Section 4.12.

#### POWER AND JURISDICTION: GENERAL:

Section 12.3 The Justice of the Peace of the City shall have and exercise therein and within the County the same jurisdiction, powers and duties as are or may be conferred upon or required of Justices of the Peace in townships by statute and shall be subject to such general laws with respect to such Justices, except as otherwise provided in this Charter. They shall have concurrent jurisdiction with other Justices in the County of Monroe as to all crimes, offenses and misdemeanors when alleged to have been committed within the County of Monroe whether within or without the City.

#### JURISDICTION IN CHARTER AND ORDINANCE CASES:

Section 12.4 The Justice of the Peace shall have authority to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this Charter and the ordinances of the City, and to punish offenders for the violation of such Charter and ordinances as in such Charter or ordinances are prescribed and directed.

#### EXTENDED JURISDICTION:

Section 12.5 The Justice of the Peace shall have also:

(a) Jurisdiction to the amount of five hundred dollars (\$500.00) in all civil matters ex contractu and ex delicto with such exceptions and restrictions as are provided by law.

-36-

(b) Such power and authority as can under Public Act 279 of 1909 be conferred by this Charter to set aside the verdict or judgement in any civil case and grant a new trial therein, to be exercised in such manner and on such conditions as provided in said act. The filing of a motion for a new trial or to set aside a verdict or judgement shall have such an effect on the time for taking an appeal from any judgement and upon the issuance and levy of execution or other similar process and sale thereunder and on other

proceedings in said cause as provided in said act.

(c) Such additional powers and authority as may now or hereinafter be conferred upon City Justices of the Peace by statute.

#### PROCEDURE IN JUSTICE COURT:

Section 12.6 The proceedings in all suits and actions before the Justice and in the exercise of the powers and duties conferred upon and required of the Justice, shall be according to and governed by the statutes applicable to the justice courts and to the proceedings before such courts.

#### PLACE AND CONDUCT OF COURT:

Section 12.7 The Council may furnish necessary supplies and a suitable place for the conducting of court by the Justice. It may regulate the hours of court of said Justice and may make other necessary and proper rules and regulations for the conduct of the business of the court which are not inconsistent with this Charter or the Statutes.

#### TRANSFER OF CASES:

Section 12.8 In case of the absence, disability or disqualification of the Justice, any other Justice of the Peace or Municipal Judge of the County of Monroe shall be qualified to act in the place of and for the Justice in the performance of any of the duties imposed upon him by statute or this Charter.

#### FEES, FINES AND PENALTIES: PROSECUTION OF STATE PENAL CASES:

Section 12.9 All fees and fines, penalties, forfeitures and moneys collected or received by the Justice shall be paid over to the City Treasurer on or before the 10<sup>th</sup> day of the next month after the collection or receipt thereof; and the Justice shall take the receipt of the Treasurer therefor and file the same with the Clerk. Failure of the Justice to comply with the foregoing provision shall constitute misconduct in office.

If the Justice be paid an annual salary, all fees, and all fines, penalties, forfeitures and moneys collected in City ordinance and Charter cases shall be credited to the general fund of the City. All costs and fines recovered for the violations of the penal laws of the State, when collected and paid into the City treasury, shall be disposed of as provided by statute.

-37-

The expense of prosecution before the Justice for violation of penal laws of the state, and in punishing the offenders, shall be paid by the County of Monroe.

#### DOCKET:

Section 12.10 The Justice of the Peace shall keep, at the place of

holding court, a docket in the manner required by statute. Failure to comply with the requirements of this section shall misconduct in office.

#### CONSTABLES:

Section 12.11 The City Council shall appoint one or more citizens of the City as constables. Such constables shall have like powers and authority in matters of civil and criminal nature, and in the relation of service of process, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all process issued for breaches of ordinances of the City. The bond of the constable shall be that required of constables in townships. A constable shall receive as compensation the usual fees of the office of constable usually provided by the general laws of the State, unless the Council, by ordinance, shall otherwise prescribe.

### CHAPTER 13 ELECTIONS

#### QUALIFICATIONS OF ELECTORS:

Section 13.1 Each person who has the constitutional qualifications of an elector in the State of Michigan or who will have such qualifications at the next election held in the City shall be entitled to register as an elector of the City.

#### ELECTION PROCEDURE:

Section 13.2 All city elections for the election of officers shall be non-partisan. The general election laws of the State shall apply to and control, as nearly as may be, all procedures relating to notices for, to registrations for, and to the conduct of, city elections, except as such general laws relate to political parties or partisan procedures and except as otherwise provided in this Charter.

#### WARDS AND PRECINCTS:

Section 13.3 The City of Luna Pier shall consist of one ward. The Council shall by ordinance from time to time establish convenient election precincts in accordance with law.

-38-

#### PRIMARY ELECTION:

Section 13.4 A regular City primary election shall be held on the 3<sup>rd</sup> Monday of February in every odd numbered year, except as hereinafter provided.

If upon the expiration of the time for filing nominating petitions for any

elective City office, valid petitions have been filed for no more than twice the number of candidates for such office to be elected at the following regular City election, then no primary election shall be held with respect to such office.

Candidates, equal in number to twice the number of persons, to be elected to each office at the next subsequent regular City election, who receive the highest number of voices at any such primary election shall be declared the nominees for election to the respective offices for which they are candidates. The names of such candidates, together with the names of candidates who filed valid nominating petitions for any office for which no primary was held, shall be certified by the Clerk to the Election Commission as nominees for the next subsequent regular City election.

#### REGULAR CITY ELECTION:

Section 13.5 A regular City election shall be held on the first Monday in April of each odd numbered year.

#### SPECIAL ELECTIONS:

Section 13.6 Special City elections shall be held when called by resolution of the Council at least forty-five (45) days in advance of such election, or when required by law. Any resolution calling a special election shall set forth the purpose of such election. No more special City elections shall be called in any one year than the number permitted by law.

#### ELECTION COMMISSION:

Section 13.7 An election commission is hereby created consisting of three (3) members to be appointed by the Council. The Council may set the compensation of the members. One member shall be chairman and two members of the commission shall be a quorum. 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 the Charter relating to the conduct of elections in this 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.

#### NOMINATIONS:

Section 13.8 The method of nomination for all candidates for City elections shall be by petitions. Such petitions for each candidate shall be signed by no less than twenty-five (25) nor more than fifty (50) registered electors of the City. No person shall sign his name to a greater number of

petitions for any one office than there are persons to be elected to said office at the following regular City election. Where the signature of any individual appears on more petitions than he is so permitted to sign, the signatures bearing the most recent date shall be invalidated.

Nominating petitions for candidates to be nominated at any regular City primary election, or to be elected at a special election, shall be filed with

the Clerk before five o'clock in the afternoon on the 28<sup>th</sup> day preceding each election, and not more than thirty-five (35) days preceding such election.

#### FORM OF PETITIONS:

Section 13.9 The form of nominating petition shall be substantially as that designated by law for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk. Before the Clerk shall furnish a nominating petition to any person, he shall enter on each petition form with typewriter or ink the name of the person to be nominated as a candidate and the name of the office for which he is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Clerk for filing.

#### APPROVAL OF PETITION:

Section 13.10 (a) The Clerk shall accept only nominating petitions which are on forms provided by him and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for respective elective City offices as set forth in this Charter. The Clerk shall receive no nominating petition for any person named thereon as a candidate unless the petition is accompanied by an executed affidavit or other proofs establishing the facts which show the eligibility of such candidate for the office named in the executed affidavit. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by an executed affidavit or other proofs establishing the facts which show the eligibility of such candidate for the office named in the executed affidavit. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

Any petition filed in the office of the Clerk which is not accompanied by such executed affidavit or letter of consent or other proofs shall not be valid.

(b) The Clerk shall, forthwith after the filing of a petition notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within four (4) days after the last date for filing petitions, the Clerk shall make his final determination as to the validity and sufficiency of each nominating petition and whether or not the candidate has the qualifications required for his respective elective City office by this Charter and shall write his determinations thereof on the face of the petition.

-40-

(c) The Clerk shall immediately notify, in writing, the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient or who is found not be qualified shall be delivered by personal messenger or by certified or registered mail. Any candidate whose petition is found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 P.M. at the then prevailing local time on the fourth day after the last day for filing original

petitions; thereafter no further petitions may be filed.

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

(e) All nominating petitions filed shall be open to public inspection in the office of the Clerk, except during a four day period immediately following the last day for filing such petitions.

#### FORM OF BALLOT:

Section 13.11 (a) The form, printing and number of ballots or the preparation of the voting machines used in any City election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all City elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

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

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

#### CANVASS OF VOTES:

Section 13.12 The Election Commission shall constitute the Board of Canvassers to canvass the votes cast at all elections. A majority of the members of such board shall be a quorum for the transaction of business of the board. The Board of Canvassers shall meet at the office of the Clerk at 8:00 P.M. on the second day following each City primary or election, and shall publicly determine the vote upon all questions and propositions, and shall declare whether the same have been adopted or rejected and which persons have been nominated for or elected to office and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the City duplicate certificates of the determinations of the board and shall file one certificate with the County Clerk and the other in his own office.

-41-

#### TIE VOTE:

Section 13.13 If, at any City election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the City Council shall name a date for the appearance of such persons within one week after said election for the purpose

of determining the election of such candidates by lot as provided by statute.

#### RECOUNT:

Section 13.14 A recount of the votes cast at any City election for any office or upon any proposition may be had in accordance with election statutes.

### CHAPTER 14 CONTRACTS

#### CONTRACTING AUTHORITY OF COUNCIL:

Section 14.1 (a) The power to authorize the making of contracts on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of law.

(b) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 14.2 hereof, shall be authorized by the Council and shall be signed on behalf of the City by the Mayor and the Clerk.

#### PURCHASE AND SALE OF PERSONAL PROPERTY:

Section 14.2 The Council shall establish, by ordinance, the procedures for the purchase and sale of personal property for the City. The ordinance shall provide the dollar limit within which purchase of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made without the necessity of prior Council approval. No purchase of personal property shall be made unless a sufficient unencumbered appropriation balance is available therefor.

#### LIMITATIONS ON CONTRACTUAL POWER:

Section 14.3 (a) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years, unless such contracts shall first receive the approval of a majority of the qualified electors voting thereon at a regular or special election. This limitation shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the City by law.

(b) The City shall not have power to purchase, sell or dispose of any real estate unless:

-42-

(1) Such action is approved by the affirmative vote of five (5) or more members of the Council, and unless,

(2) In the case of real estate owned by it, the resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is finally passed and has remained on file with

the Clerk for public inspection for twenty (20) days before the final adoption or passage thereof, and unless,

(3) In case of sale, there shall be at least two (2) published advertisements for bids prior to adoption of a resolution for sale or disposal.

(c) Except as provided by ordinance authorized by Section 14.2 of this Chapter, each contract for construction of public improvements or for the purchase or sale of personal property, shall be let after opportunity for competitive bidding. All bids shall be opened in public by the Council at the time designated in the notice of letting. The Council may reject any or all bids as deemed advisable; if after ample opportunity for competitive bidding no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or negotiate for a contract on the open market.

(d) No contract shall be made with any person who is in default to the City.

(e) No extra compensation shall be paid to any agent, employee or contractor after the service has been rendered or the contract entered into.

## CHAPTER 15 SUPERVISORS

### NUMBER OF SUPERVISORS:

Section 15.1 The City shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by law.

### SELECTION OF SUPERVISORS:

Section 15.2 The Mayor shall be a representative of the City on the County Board of Supervisors in accordance with statute. His term shall run concurrently with his term of office as Mayor. The other representative or representatives of the City on the County Board shall be appointed by the City Council.

### DUTIES OF SUPERVISORS:

Section 15.3 Except as otherwise provided in this Charter, the representatives of the City on the Board of Supervisors shall perform the statutory duties of Supervisors. In the performance of his duties each Supervisor shall represent the City, its inhabitants and its government to the best of his ability.

-43-

### COMPENSATION FOR SUPERVISORS:

Section 15.4 Representatives of the City on the Board of Supervisors shall be entitled to retain any compensation and expense allowance paid to them by the County as members of the Board of Supervisors, but shall receive no extra compensation from the City for their work as Supervisors.

CHAPTER 16  
UTILITY FRANCHISES AND MUNICIPAL OWNERSHIPS

GENERAL POWERS RESPECTING UTILITIES:

Section 16.1 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, and maintain public utilities either within or without its corporate limits, including, but not by the way of limitations, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

MANAGEMENT OF MUNICIPAL UTILITIES:

Section 16.2 All municipally owned or operated utilities shall be administered as a regular department of city government under the management and supervision of the mayor and the City Council.

RATES:

Section 16.3 (a) The Council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the City and others with such public utilities as the City may provide. There shall be no discrimination in such rates within any classification of users thereof nor shall free service be permitted. Higher rates may be charged for services outside the corporate limits of the City.

(b) Rates and charges for any municipal public utility for the furnishing of water, light, heat, power, gas or sewage treatment and garbage disposal shall be so fixed as to at least meet all the costs of such utility including depreciation. (16.3 B deleted 11/4/75)

(c) Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charge for all service furnished to, or rendered by, other City departments or agencies shall be recorded.

An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

COLLECTION OF MUNICIPAL UTILITY RATES AND CHARGES:

Section 16.4 (a) The Council shall provide by ordinance for the collection of all public utility rates and charges of the City. Such ordinance shall provide at least:

(1) That 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 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.

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

(3) That suit may be instituted by the City before a competent tribunal for the collection of such rates or charges.

(b) With respect to the collection of rates charged for water, the City shall have all the powers granted to cities by Act 178 of the Public Acts of 1939, as amended.

#### DISPOSAL OF UTILITY PLANTS AND PROPERTY:

Section 16.5 Unless approved by the majority vote of the electors voting therein at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility, which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases and all other forms or transfer in violation of this section shall be void and of no effect as against the City. The restriction of this Section shall not apply to the sale or exchange of any articles of machinery or equipment of any City owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery and equipment, to the leasing of property not necessary for the operation of the utility or the exchange of property or easements for other needed property or easements. It is provided, however, that the provision of this Section shall not extend to vacation or abandonment of streets as provided by statute.

#### GRANTING OF PUBLIC UTILITY FRANCHISES:

Section 16.6 (a) Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted only by ordinance. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty (30) years.

-45-

(b) 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 and received the affirmative vote of three-fifths (3/5) of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty (30) days after application therefor has been filed with

the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered, unless the expense of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

(c) A franchise ordinance, or renewal or extension thereof, or amendment thereto, which is subject to revocation at the will of the Council may be enacted by the Council without referral to the voters, but shall not be enacted unless it shall have been completed in the form in which it is finally enacted and shall have so been on file in the office of the Clerk for public inspection for at least four (4) weeks after publication of a notice that such ordinance is so on file.

#### CONDITIONS OF PUBLIC UTILITY FRANCHISES:

Section 16.7 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 proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency.

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

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

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

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

#### REGULATION OF RATES FOR FRANCHISED UTILITIES:

Section 16.8 All public utility franchises shall make provisions therein for fixing rates, fares, and charges and may provide for

-46-

readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall, in no event, include a value predicated upon the franchise, good-will or prospective profits.

#### USE OF PUBLIC PLACES OF UTILITIES:

Section 16.9 Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use. Every such public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, and other public places of the City by the City and by other public 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.

#### SALE AND ASSIGNMENT OF FRANCHISE:

Section 16.10 The grantee of a franchise may not sell, assign, sublet or allow another to use the same, except in accordance with the express conditions contained in the franchise. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall restrict the right 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.

### CHAPTER 17 SCHEDULE

#### STATUS OF SCHEDULE CHAPTER:

Section 17.1 The purpose of this Chapter is to inaugurate the government of the City of Luna Pier under this Charter and provide for the transition from the former government of the Township of Erie over the territory comprising the City to the new City status under this Charter. It shall constitute a part of the Charter of the City of Luna Pier only to the extent and for the time required to accomplish that end.

#### ELECTION TO ADOPT CHARTER:

Section 17.2 This Charter shall be submitted to a vote of the registered, qualified electors of the City of Luna Pier at a special election to be held on Monday, May 27, 1963. The Charter shall be adopted if a majority of the ballots cast thereon are in favor of adoption.

-47-

#### FORM OF BALLOT:

Section 17.3 The form of the ballot for the submission of this Charter shall be as follows:

Shall the proposed Charter of the City of Luna Pier which

was framed by the Charter Commission elected by the Charter Commission elected January 8, 1963 be adopted:

- (    ) Yes
- (    ) No

ELECTION COMMISSION:

Section 17.4 The Charter Commission shall be the election commission for such special election upon the adoption of this Charter and for the election of the first elective officers of the City. The Chairman of the Charter Commission shall be Chairman of the Election Commission and the Secretary of the Charter Commission shall act as Secretary of the Election Commission, and shall perform such duties in connection with the work of the Commission as are prescribed by the Commission and this Charter.

INSPECTORS OF ELECTION:

Section 17.5 The Inspectors of Election for this special election shall be those persons designated by the Charter Commission at its meeting at which the proposed Charter is adopted by the Charter Commission.

BOARD OF CANVASSERS:

Section 17.6 (a) The Secretary of the Charter Commission shall be in charge of the Registration of the electors of the City of Luna Pier. The Secretary shall have the power and authority to select and appoint such assistants as may be required to perform the registration of the electors. The Secretary shall be authorized to procure the necessary books, files and forms to conduct such registration.

The Registration records of Erie Township pertaining to that portion of Erie Township which is to be incorporated as the City of Luna Pier shall constitute the registration records of the City of Luna Pier and electors so registered need not a re-registered for this special election.

NOTICE OF REGISTRATION:

Section 17.7 The Secretary of the Election Commission shall give public notice of the time and place for holding the registration. At least ten (10) days public notice shall be given by posting written or printed notices in at least five of the most conspicuous places in said City or by publication in the Monroe Evening News of Monroe, Michigan, a newspaper of general circulation within the City.

The last day for registration of electors shall be Friday, April 26, 1963.

ELECTION OF OFFICERS

Section 17.8 At the election upon the adoption of this Charter, the first elective officers of the City shall be elected, namely, the mayor, six councilmen, and a Justice of the Peace.

#### NOMINATION OF CANDIDATES FOR ELECTIVE OFFICES:

Section 17.9 Candidates for the elective offices to be voted on at the special election shall be nominated by petition in form, manner and substance as near as may be, as provided in this Charter. Petitions shall be filed with the Secretary of the Election Commission. No person shall be a candidate at the first election of City officers unless he has been a resident of the portion of the Township of Erie, Monroe County, Michigan, incorporated within the territorial limits of the City of Luna Pier, and appears on the 1963 assessment roll of the Township of Erie as an owner of property subject to taxation.

The last day for filing nominating petitions with the Secretary of the Election Commission shall be Friday, April 26, 1963.

Notice of the last day, time and place for filing nominating petitions shall be given at least ten (10) days prior to the last day for filing by publishing notice in the Monroe Evening News, a newspaper of general circulation within the City or by posting written or printed notice at least in five of the most conspicuous places within said City.

#### TERMS OF OFFICE OF THE FIRST CITY OFFICERS ELECTED:

Section 17.10 The terms of office of the first elective officers elected at the time of adoption of this Charter shall commence on and date from June 3, 1963. Such officers shall hold office for the following terms:

(a) The mayor shall hold office until the election and qualification of his successor following the regular City election in April, 1965.

(b) The three councilmen receiving the highest number of votes shall hold office until the election and qualification of their successors following the regular City election in April, 1967.

(c) The three councilmen having the next highest number of votes shall hold office until the election and qualification of their successors following the regular City election in April, 1965.

(d) The Justice of the Peace shall hold office until the election and qualification of his successor following the regular City election held in April, 1965.

#### CANVASS OF VOTES:

Section 17.11 The Board of Canvassers shall meet at 8:00 P.M. at the old fire hall in the City of Luna Pier on May 28, 1963 and shall canvass

-49-

the votes on the adoption of this Charter and the election of the first elective officers thereunder. The Board shall determine the result of the votes at said election.

#### FIRST MEETING OF FIRST CITY OFFICERS:

Section 17.12 The Council first elected under this Charter shall assemble at 8:00 P.M. on June 3, 1963 at the old Luna Pier Fire Hall. At this meeting each elective officer of the City shall take and subscribe to his oath of office as administered by the Secretary of the Charter Commission and said elective official shall thereupon be qualified for and assume the duties of his office. This Charter shall take effect as soon as permitted by law.

#### TOWNSHIP ASSETS AND LIABILITIES:

Section 17.13 As soon as practicable the Council shall take all necessary and proper action to obtain the division between the City of Luna Pier and the Township of Erie of the assets and liabilities of such township.

#### COSTS OF INCORPORATION:

Section 17.14 The first Council shall provide for the defraying of the expenses of incorporating the City, including such as were incurred by the Charter Commission for the framing of this Charter and the conduct of the election and for the re-imbusement of anyone who has advanced moneys to defray the costs of any legally required procedure incident to the incorporation of this City.

#### INTERIM FINANCIAL PROVISIONS:

Section 17.15 The period from the effective date of this Charter until June 30, 1964 shall constitute a special interim fiscal budget and tax period in order to provide funds for the City. The Council is authorized to adopt a budget, levy and collect taxes not to exceed five (5) mills on the real and personal property within the City for this period.

The assessment roll of Erie Township, Monroe County, Michigan, endorsed by the Erie Township Board of Review in 1963 as to the real and personal property located within the City of Luna Pier, as equalized, shall be the assessment roll for the City of Luna Pier for this special interim fiscal budget.

The Mayor shall as soon as possible present a budget for the special interim fiscal period to the Council which shall give at least one week's notice of a hearing on the budget and adopt a budget by resolution and designate the sum to be raised by taxation, which sum shall not exceed five mills.

The Council shall designate when the tax shall be due, thirty (30) days after which said tax shall be a first lien and bear a penalty charge of one (1%) per cent per month until paid, but not to exceed a total of six (6%) per cent for all months or fractions thereof that the taxes remain unpaid.

The Clerk upon adoption of the special budget shall certify to the assessor the total amount which the Council determines to be raised by the general tax, to be spread against the property appearing upon the assessment roll. Thereafter, the assessor shall spread the amounts of the general city tax upon the assessment roll according to and in proportion to the several valuations set forth therein. To avoid fractions and computation on any tax roll,

the assessor may add to the amount of the several taxes to be raised not more than the amount permitted by law, which added amount, when collected, shall be credited to the general fund of the City. After the assessor spreads the taxes, the assessor shall certify the tax roll and annex his warrant thereto directing and requiring the treasurer to collect from the several persons named in the roll the sums mentioned therein opposite their respective names as a tax, and granting to and vesting in the treasurer for the purpose of collecting the taxes all the powers and immunities granted by law to township treasurers for the collection of taxes. The treasurer, upon receipt of the city tax roll, shall forthwith mail a tax statement to each person named in the tax roll and give at least ten days notice of the date upon which city taxes are due, as said date shall be established by the city ordinance for this special tax period.

The provisions of Section 10.14, 10.17, 10.18 and such other Sections of the Charter as may be applicable shall apply to the collection of taxes for the special interim fiscal budget.

#### BORROWING POWER:

Section 17.16 The Council shall have the power to borrow money as permitted by law in anticipation of the collection of special interim taxes to provide funds from which to operate the city until the tax moneys shall be available thereafter.

#### CERTIFICATE OF ADOPTION

Irene C. Wohlgeomuth, being first duly sworn, deposes and says:

That at an election duly called and held in the proposed City of Luna Pier on January 8, 1963 the following named persons were duly elected as the Charter Commissioners to frame a Charter for the City of Luna Pier, namely, Clyde Robert Evans, Robert Welton, Charles Calengor, Earl R. Stein, Fred Earls, Leo P. Miller, Irene C. Wohlgeomuth, Otto Dean Whipple and Lucille Yenor.

That she is the duly elected Secretary of the Luna Pier Charter Commission.

That the foregoing is a true and correct copy of the proposed Charter of Luna Pier as adopted unanimously by the Charter Commission on March 28, 1963, and as amended by unanimous resolution of the Charter Commission on May 2, 1963.

That the Charter Commission by resolution directed the publication of the proposed Charter in the Monroe Evening News, a newspaper of general circulation within the proposed City.

-51-

That the foregoing Charter as adopted on March 28, 1963 and amended on May 2, 1963 was presented to the Governor of the State of Michigan for approval.

That the Charter Commission directed that the proposed Charter be presented to the Electors of the proposed City in accordance with the

requirements of the Charter and the law of the State of Michigan.

Further deponent sayeth not.  
Irene C. Wohlgemuth, Secretary  
Luna Pier Charter Commission

Subscribed and sworn to before me this 2 day of May, 1963.

William J. Braunlich Jr.,  
Notary Public,  
Monroe County, Michigan  
May 8, 1966 My Commission Expires

Countersigned:

Clyde Robert Evans  
Earl R. Stein  
Robert Welton  
Fred Earls  
Charles Calengor  
Leo P. Miller  
Irene C. Wohlgemuth  
Otto Dean Whipple  
Lucille Yenor

#### GOVERNOR'S APPROVAL

I do hereby approve the foregoing Charter of the City of Luna Pier as adopted by the Charter Commission on March 28, 1963 and amended on May 2, 1963.

George Romney  
Governor of the State of Michigan

May 11, 1963