

City of Traverse City

GOVERNMENTAL CENTER

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RESOLUTION TO AMEND SECTION 129
OF THE CITY CHARTER OF TRAVERSE CITY

WHEREAS, Section 129 of the City Charter provides for the establishment of certain City trust funds including the Brown Bridge Trust Fund and provides restrictions upon their use; and

WHEREAS, the principal of the Brown Bridge Trust Fund has grown over the years and the interest pursuant to Section 129 has been transferred to the general fund annually to supplement City taxes; and

WHEREAS, the City previously utilized a portion of the Brown Bridge Trust Fund for capital improvements in parks pursuant to authorization of the citizens at the November 4, 2014 election; and

WHEREAS, the City of Traverse City is in further need of performing capital improvements to its park facilities on an ongoing basis, which improvements are of a long term benefit to the citizens of Traverse City; and

WHEREAS, the City Commission has identified priorities for the use of such funds, if approved by the voters, as indicated in the memorandum from the Ad Hoc Committee on Brown Bridge Trust Fund to the City Commission dated May 7, 2019; and

WHEREAS, it is in the best interest of the City to allow the principal in the Brown Bridge Trust Fund over the amount of twelve million dollars (\$12,000,000) to be placed in a separate trust fund for a period of five (5) years and used for capital improvement projects and/or acquisition of parkland; and

RESOLVED, that upon approval of the electors of Traverse City, Section 129 of the City Charter be amended to read in its entirety as follows:

Section 129. **Trusts.** All trusts heretofore established for cemetery, park or other purposes shall be used and continued in accordance with the terms of the trusts. The City of Traverse City may, in its discretion, receive and hold any property in trust for cemetery, park or other public purposes and shall apply the same to the execution of such trusts and for no other purposes whatsoever.

All money to be derived from the rights to explore for oil, gas and/or minerals on the Brown Bridge or other property of the City of Traverse City, together with production money (royalties), shall be placed in a perpetual trust fund in one or more banking institutions designated by the City Commission. This fund shall be known as the Brown Bridge Trust Fund, all portions of which shall be invested in obligations of the United States of America. The income from said Trust shall be used to supplement City taxes as a credit against the General Fund levy as established yearly by the City Commission. Said funds shall remain in a perpetual trust, the principal of which shall not be used except by a three fifths (3/5) majority vote of the qualified electors voting thereon. However, any amount of the principal in the Brown Bridge Trust Fund that is over twelve million dollars (\$12,000,000) may be placed in a separate trust fund for a period of five years beginning November 4, 2014, and ending November 5, 2019, and used for City parks capital improvements when matching funds can be secured from outside sources. **However, any amount of the principal in the Brown Bridge Trust Fund that is over twelve million dollars (\$12,000,000) may be placed in a separate trust fund for a period of five years beginning November 5, 2019, and ending November 4, 2024, and used for City park capital improvements and/or acquisition of property to be designated and used as City parkland; provided that no single allocation to a City park capital improvement or City parkland acquisition will be in excess of \$250,000.**

RESOLVED, that the purpose and ballot question of the Charter amendment be designated on the ballot as follows:

Shall the Charter of the City of Traverse City, Section 129, which currently provides that the principal of the Brown Bridge Trust Fund may only be used upon approval of the voters, be amended to allow the City Commission for a period of five years to place that part of the Brown Bridge Trust Fund principal that exceeds twelve million dollars (\$12,000,000) in a separate trust fund to be used for City park capital improvements and/or acquisition of property to be designated and used as City parkland?

and; be it further

RESOLVED, that this proposed amendment be placed before the voters of the City of Traverse City at the election to be held November 5, 2019, and that the City Clerk submit this Resolution to the Governor and the Attorney General and take all necessary or advisable actions in connection with this proposed amendment.

I hereby certify that the foregoing Resolution was adopted by the City Commission of the City of Traverse City at a regular meeting held on June 17, 2019, at the Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

I further certify that the following Commissioners were present at said meeting: Mayor Jim Carruthers, Mayor Pro Tem Amy Shamroe, Commissioner Michele Howard, Commissioner Richard Lewis, Commissioner Brian McGillivray, Commissioner Roger Putman, Commissioner Tim Werner and that the following Commissioners were absent: none

Benjamin C. Marentette, City Clerk

I further certify that Commissioner Michele Howard moved for adoption of said Resolution, and that said motion was seconded by Mayor Pro Tem Amy Shamroe.

I further certify that the following: voted for adoption of said Resolution: Mayor Jim Carruthers, Mayor Pro Tem Amy Shamroe, Commissioner Michele Howard, Commissioner Richard Lewis, Commissioner Brian McGillivray, Commissioner Roger Putman, Commissioner Tim Werner and that the following Commissioners voted against adoption of said Resolution: None.

Benjamin C. Marentette, City Clerk

CHARTER
OF THE CITY OF
TRAVERSE CITY, MICHIGAN

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April 4, 1955
November 5, 1968
August 5, 1969
November 3, 1970
April 4, 1977
November 7, 1978
April 2, 1979
April 6, 1981
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November 3, 1987
November 7, 1989
November 5, 1991
November 2, 1993
November 3, 1998
November 2, 1999
November 7, 2000
November 5, 2002
November 2, 2004
November 8, 2005
November 7, 2006
November 2, 2010
November 4, 2014
November 8, 2016
November 6, 2018
November 5, 2019

I, Benjamin Marentette, the duly qualified and appointed City Clerk for the City of Traverse City, by my official signature, certify that this is the official Charter of the City of Traverse City, located in the counties of Grand Traverse and Leelanau, State of Michigan, which has been approved by the electorate of the City of Traverse City.



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CHARTER
OF THE CITY OF
TRAVERSE CITY, MICHIGAN

PREAMBLE

The electors of the City of Traverse City, in the County of Grand Traverse and State of Michigan, pursuant to the authority granted them by the Constitution and general laws of said State, hereby revise the Charter of the City of Traverse City, to read as follows:

CHAPTER I

INCORPORATION, BOUNDARIES AND POWERS

Section 1. **Incorporation.** The municipal corporation known as the City of Traverse City, Michigan, shall be and continue to be a municipal corporation and body politic under the same name.

Section 2. **Boundaries.** The territory in the County of Grand Traverse and State of Michigan, hereinafter described, is hereby continued as, and constituted and declared to be, a city by the name of Traverse City and subject to the municipal government of said corporation, said territory being described as follows, to-wit:

All of fractional sections one, two and three; the east fractional one-half of section four; the southeast fractional quarter of the northwest fractional quarter of section four; the east one-half of fractional section nine; all of fractional sections ten, eleven and twelve; all in township twenty-seven north, range eleven west; also lots one and two in section six, in township twenty-seven north, range ten west. And the said City shall have and enjoy the full jurisdiction over the waters of Grand Traverse Bay the entire length of the water frontage of said corporate limits for one statute mile from the shore line of said waters, far enough to embrace all docks, wharves, boat houses and other structures, and boats, floats and vessels at rest and at anchor, for all proper sanitary, quarantine, police and municipal purposes within such limits.

Section 3. **Powers.** All of the powers, not inconsistent with the provisions of this Charter, possessed by the City of Traverse City by virtue of the Charter adopted by the electors of the City on April 10, 1913, and all amendments thereto, which Charter is hereby revised; and by Act 424 of the Michigan Local Acts of 1895, and amendments thereto, are hereby expressly reserved to the City of Traverse City. Further, unless otherwise provided in this Charter, said City and its officers shall be vested with any and all powers, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters, including all powers granted to cities and officers of cities of the fourth class by Act 215 of the Public Acts of 1895, as amended, and permitted to cities by Act 279 of the Public Acts of 1909, as amended, as fully and completely as though those powers were specifically incorporated into and provided for in this Charter, and in no case shall any enumeration of particular powers in this Charter be held to be exclusive.

CHAPTER II

ELECTIONS

Section 4. **Wards and Precincts.** The City of Traverse City shall constitute one (1) ward, which shall be divided into such number of election precincts as may be required by State law. Until the City Commission shall otherwise provide by resolution, the election precincts of the City shall remain as now established.

Section 5. **Nonpartisan Elections.** All elections for City officers are to be nonpartisan.

Section 6. **State Law to Apply.** Unless otherwise provided herein, the general election laws of the State shall apply to and control, as near as may be, all procedure relating to City elections and to the registration of electors within the City except as such laws relate to political parties or require more than one (1) publication of notice. In any circumstances where the application of said laws may be uncertain, the Election Commission shall construe the same and prescribe the procedure.

Section 7. **Election Commission.** The Election Commission shall consist of the City Clerk, and three (3) registered qualified voters who are not in default to the City. The Chairman shall be one of the Election Commissioners. The Election Commission shall appoint the Inspectors of Election and fix their compensation and shall perform all of the duties required of City Election Commissioners by this Charter and the laws of the State. (Amended 11-3-98.)

Section 8. **Date of Regular City Election.**

(EDITOR'S NOTE: This section was superseded by Ordinance 121, passed April 6, 1981. See Section 206.01 of the Codified Ordinances.)

Section 9. **No Primary Election.** There shall not be a primary election for city elective offices. (Amended 11-7-06)

Section 10. **Special Elections.** Special elections shall be held upon adoption of a resolution by the City Commission or when required by this Charter or the general laws of the State. Resolutions for special elections shall clearly set forth the purpose of the election, and no special election called by the City Commission shall be held within thirty (30) days of the date of the adoption of the resolution. All provisions contained herein for holding regular elections shall apply to special elections.

Section 11. **Election Notices.** The City Clerk shall give public notice of the time and places at which elections are to be held and of the offices to which candidates are to be elected pursuant to state law. (Amended 11-2-99.)

Section 12. **Voting Hours.** On the day of any election, the polls shall be open at such times as required by state law. (Amended 11-2-99).

Section 13. **Nomination Petitions.** Persons desiring to qualify as candidates for any elective office under this Charter shall file with the City Clerk nomination petitions signed by not less than 70 registered electors of the City. The City Clerk shall prepare and make available official blank nominating petitions in substantially the same form as required by state law for state and county officers, except that references to political parties shall be omitted. Whenever it shall be necessary at any city election to elect an officer to fill a vacancy for an unexpired term, such fact shall be stated in the petitions filed for the purpose of nominating candidates to fill such vacancy. (Amended 11-7-06)

Section 14. **Qualifications of Elective City Offices.** No person shall be qualified to hold, nor be eligible for election to, any elective City office unless he shall be a registered and qualified elector and shall have resided within the corporate limits of Traverse City continuously for thirty (30) days immediately preceding the date of election. No defaulter to the City shall be eligible for election to any City office. Any votes cast for any person not possessing the qualifications provided herein shall be void.

Section 15. **Affidavit of Eligibility.** No nomination petition shall be received for filing by the City Clerk unless the candidate named therein also files with the City Clerk, within the time limited for filing such petitions, a sworn affidavit containing such information as may be required by the City Clerk, to determine his eligibility as required by this Charter. Any person who shall willfully swear to any false statement in making such affidavit shall, upon conviction thereof, be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars (\$100.00) or by imprisonment in the City or County jail not to exceed ninety (90) days.

Section 16. **Time for Filing Nomination Petitions.**

(Editor's Note: This section was superseded by Public Act 276 of 2012, effective January 1, 2014.)

Section 17. **Certification of Names of Candidates.**

(EDITOR'S NOTE: This section was superseded by Ordinance 121, passed April 6, 1981. See Section 206.03 of the Codified Ordinances.)

Section 17A. **Election of Officers.** The candidate or candidates receiving the highest number of votes cast for that office or offices shall be deemed elected to that office or offices for the term designated on the ballot. (Amended 11-7-06)

Section 18. **Board of Canvassers.**

(EDITOR'S NOTE: This section was repealed by State law.)

Section 19. **Filling of Vacancies.** Whenever a vacancy shall occur in any elective City office, it shall be filled by appointment by the City Commission, and the person so appointed shall hold the office until the next regular election, or special election called by resolution for that purpose, when the vacancy shall be filled by election for the residue of the official term.

CHAPTER III

THE GOVERNING BODY

Section 20. **City Commission.** The City Commission shall consist of six (6) members and the Mayor nominated and elected at large. Six (6) members of the City Commission shall each have four-year terms of office. The Mayor shall have a two-year term of office, the Mayor shall be a member of the City Commission. At the annual organizational meeting, the City Commission shall meet and choose one of its members as Mayor Pro Tem, who shall hold such office for one year until the following organizational meeting. Effective November 11, 2019, at the odd-year organizational meeting, the City Commission shall meet and choose one of its members as Mayor Pro Tem, who shall hold such office until the organizational meeting two years later. In the event the Mayor Pro Tem vacates such office before their term as Mayor Pro Tem expires, the City Commission shall select one of its members to fill the remainder of the Mayor Pro Tem's term. (Amended 11-7-00 & 11-6-18)

Section 20A. **Seeking Other City Office.** Any Commissioner who becomes a candidate for another City elective office shall so declare and resign from the City Commission not later than twenty-one (21) days prior to the deadline for filing nominating petitions, unless the Commissioner's term expires in the same year as the election. Such resignation shall be effective at the City Commission's Organizational Meeting following the election unless an earlier date is stated. The resignation shall be submitted to the City Clerk in writing and shall be irrevocable as of the date it is submitted. Any Commissioner who does not so resign shall not be eligible to be placed on the ballot. (Amended 11-2-04 & 11-6-18)

Section 21. **Terms of Office.**

(EDITOR'S NOTE: This section was superseded by Ordinance 121, passed April 6, 1981. See Section 220.02 of the Codified Ordinances.)

Section 22. **Mayor.**

(EDITOR'S NOTE: This section was superseded by Ordinance 121, passed April 6, 1981. See Section 220.03 of the Codified Ordinances.)

Section 23. **Compensation.**

(EDITOR'S NOTE: This section was superseded by Ordinance 93, passed April 16, 1979. See Section 276.02 of the Codified Ordinances)

CHAPTER IV

LEGISLATION, POWERS AND PROCEDURE

Section 24. **Regular Meetings.**

(EDITOR'S NOTE: This section was superseded by Ordinance 121, passed April 6, 1981. See Section 220.04 of the Codified Ordinances.)

Section 25. **Special Meetings.** Special meetings shall be called by the City Clerk on the written request of the Mayor or Manager or any three (3) Commissioners to at least six (6) hours written notice to each Commissioner served personally or left at his usual place of residence; but any special meeting shall be a legal meeting for all purposes without such notice if all Commissioners are present thereat or have waived notice thereof in writing.

Section 26. **Mayor and Mayor Pro Tem.** The Mayor shall preside at all meetings of the City Commission and may speak and vote as any other member of the City Commission. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor, and, if a vacancy occurs, shall act as Mayor until the next annual organizational meeting or until an elected Mayor takes office, whichever first occurs. At such an organizational meeting, a City Commissioner shall be appointed interim Mayor until the next organizational meeting or until an elected Mayor takes office, whichever first occurs. The City Commission seat vacated by the Mayor shall be filled pursuant to Section 19 of the Charter. In the absence or disability of both the Mayor and Mayor Pro Tem, the City Commission shall appoint one of its members to preside. (Amended 11-2-04.)

Section 27. **Quorum; Voting.** A majority of the Commissioners shall be a quorum for the transaction of business. The City Commission may, by a majority vote of those present, compel the attendance of its members and other officers of the City at its meetings and enforce orderly conduct therein. On all votes which are not unanimous, the yea or nay vote of each member shall be recorded by roll call, but where the vote is unanimous, it shall be necessary to so state; provided, however, that all members of the City Commission who are absent shall be so listed in either case.

Section 28. **Limitations on the Power of the City Commission.** No office shall be created or abolished, no taxes or assessment imposed, nor any contract approved, nor franchise granted, nor any street, alley or public grounds vacated, nor any real estate or interest therein acquired, sold or disposed of, nor private property taken for public use, unless five (5) members of the City Commission shall vote in favor of the same; nor shall any vote of the City Commission be rescinded or reconsidered at a special meeting, unless there be present as many members as were present when such vote was taken. Provided that no plan for urban renewal, rehabilitation or redevelopment pursuant to Act 344 of the Public Acts of 1945, as amended, of any blighted area (as defined in the Act) of the City, or pursuant to the National Housing Act of 1949, as amended, or any other plan utilizing public funds and/or controls for the same purpose, shall be adopted until submitted to and passed by a majority of the electors of the City at a regular municipal or at

a special election to be held for that purpose.

It is hereby declared that buildings over 60 feet in height are generally inconsistent with the residential and historical character of Traverse City. Therefore, any proposal for construction of a building with a height above 60 feet, shall not be approved by the City or City Commission, until after the proposal is submitted to and approved by a majority of the City electors at a regular election, or at a special election. (Amended 11-8-2016.)

Section 29. Actions of the City Commission. No money shall be appropriated, nor the expenditure thereof authorized, except by ordinance, resolution or vote of the City Commission, and no such vote, resolution or ordinance shall be passed or become of any effect except by an affirmative vote of five (5) members of the City Commission. Except as otherwise provided in this Charter, no resolution or motion shall be passed except by affirmative vote of four (4) members of the City Commission.

Section 30. Rules of the City Commission. The City Commission shall determine its own rules, and shall keep a journal of its proceedings in the English language which shall be signed by the City Clerk. All regular and special meetings of the City Commission shall be open to the public. The rules of the Commission shall provide for an opportunity for the public to be heard on any question under consideration of the Commission.

A summary of the Commission proceedings at each meeting shall be prepared by the City Clerk and published in the official newspaper. There shall not be standing committees of the City Commission, except as provided by law and this Charter. The City Commission upon request of the City Manager may establish citizen advisory committees. Not more than one City Commissioner may sit on any such advisory committee. The City Manager, or the designee of the City Manager, shall be a member of such an advisory committee with full authority of vote. The advisory committee may be advisory to the City Commission, the City Manager, or any other City official or body, as designated by the City Commission. The function of such an advisory committee is advisory only, and the committee shall not have authority other than to study and recommend. The City Commission shall determine the number and terms of the members of the advisory committee and may set a date on which the committee will be dissolved unless expressly renewed by the City Commission.

Section 31. Ordinances. Legislation shall be by ordinance. Each ordinance shall be identified by a number and short title. The style of all ordinances shall be "The City of Traverse City Ordains." The effective date of an ordinance shall be prescribed therein. At least two (2) weeks shall elapse between the introduction and enactment of an ordinance. Enactment shall require the affirmative vote of not less than four (4) Commissioners and the effective date shall be not earlier than ten (10) days after enactment; except that ordinances immediately necessary for the preservation of the public peace, health or safety may be enacted on the date of introduction and given immediate effect by the affirmative vote of not less than six (6) Commissioners. No ordinance shall be amended by reference to its title only, but the section or sections amended shall be enacted in full. An ordinance may be repealed by reference to its number and title only. Provided that no ordinance respecting standards, for the construction, repair, maintenance, improvement, occupancy, lease or sale of housing, (other than hotels, motels or that designed, built or leased to be occupied by three or more families) shall be adopted until submitted to and passed by a majority of the electors of the City at a regular municipal election or

at a special election which may be called for that purpose.

Section 32. **Ordinance Record.** All ordinances, and the dates of introduction and enactment and the vote thereon, shall be recorded by the City Clerk in a book to be called the "Ordinance Book," and it shall be the duty of the Mayor and the City Clerk to authenticate such record by their official signatures.

Section 33. **Publication; Adoption of Technical Codes.** Except as otherwise provided in this Charter, all ordinances, when enacted, shall be published forthwith by the City Clerk in the manner provided by this Charter for the publication of notices, and the City Clerk shall enter his certificate as to the manner and date of publication under each ordinance in the ordinance book; provided that, if the City Commission shall direct the Clerk to make a digest of any ordinance or amendment which, in its opinion, is not of general public application and is more than one thousand (1,000) words in length, and when the City Commission shall approve such digest and shall order its publication, such publication shall be deemed to be sufficient publication of such ordinance; provided, further, that the City Clerk shall also make available for public distribution at his office not less than twenty-five (25) mimeographed copies of the full draft of such ordinance. The City Commission may adopt any detailed technical regulation (e.g., building code, electric wiring code, food inspection ordinance, etc.) as a City ordinance by reference to any recognized standard code, official or unofficial, or if such code be written in detail for the City and adopted as an ordinance, the publication of not less than fifty (50) copies in booklet form, available for distribution at cost, shall be sufficient publication of such ordinance, and any amendment to, or revision of, such adopted code or detailed technical ordinance, may be published in the same manner.

Section 34. **Compilation and Revision.** The City Commission shall, by resolution, order a general revision and compilation of ordinances within two (2) years from the date this Charter is adopted by the electors and every ten (10) years thereafter. Such revision and compilation, when completed, shall be adopted by appropriate ordinance which shall also designate when such revised and compiled ordinances shall become effective. Such revised and compiled ordinances need not be recorded in "The Ordinance Book" or the proceedings of the City Commission. The printing and binding of not less than one hundred (100) copies in book form, available for public distribution at cost, shall be deemed sufficient publication.

CHAPTER V

ADMINISTRATIVE SERVICE

Section 35. **City Manager; Qualifications.** The City Commission shall appoint, by four or more affirmative votes, a City Manager for an indefinite term. Such City Manager shall be the administrative officer of the City and shall hold office at the pleasure of the City Commission. He shall be selected on the basis of fitness and ability alone, without regard to his political or religious preferences, and shall have had training and actual experience in municipal administration. He need not be a resident of the City or of the State at the time of his appointment, but he must be a citizen of the United States, and shall reside in the City of Traverse City during his term of office; provided, however, that any City Manager so appointed during the first three (3) years after the date upon which this Charter becomes effective, shall have had at least four (4) consecutive years of actual experience as a City Manager. During the absence or disability of the City Manager, or in the event of a vacancy in that office, the City Commission shall designate some properly qualified person to execute the functions of that office during the period of such absence or disability, or until the vacancy has been filled. The first City Manager under this Charter shall be appointed by the City Commission within ninety (90) days after this Charter becomes effective. Upon the resignation or removal of the City Manager, the vacancy in such office shall be filled by the City Commission within ninety (90) days after the effective date of said resignation or removal.

Section 36. **General Functions and Duties of City Manager.** The City Manager shall have the following functions and duties:

- a) To enforce all City laws and ordinances;
- b) To enforce all City contracts and franchises;
- c) To supervise all public utilities, improvements, works and undertakings, and the finances of the City;
- d) To appoint and remove all administrative officers and employees in the administrative service of the City, except the City Attorney, provided however, the Manager may remove the City Clerk and City Treasurer only with the consent of five (5) members of the City Commission. But the Manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Provided however, that no official holding office by virtue of appointment by the Commission at the time of this Charter becomes effective, shall be removed by the Manager without preferring charges to the City Commission, until such official shall have served the full term for which he was appointed.
- e) To attend all meetings of the City Commission, and to take part therein, but without vote;
- f) To prepare the annual itemized budget, and to keep the Commission fully advised as to the financial condition and needs of the City;
- g) To purchase all supplies, including insurance, for the City, and approve all vouchers for the payment of same;
- h) To conduct all sales of personal property which the City Commission may authorize to be sold as having become unnecessary, or unfit for City use;
- i) To recommend to the City Commission, for adoption, such measures as he may deem necessary or expedient;
- j) He shall be a member ex officio of all committees of the Commission;

- k) He shall be responsible to the City Commission for the efficient administration of all City departments and utilities;
- l) He shall be responsible to the City Commission for the proper discharge of all just obligations of the City;
- m) To perform such other duties as the City Commission may direct that naturally pertain to the general management of City affairs, and he shall execute and perform all administrative functions of the City that are not imposed by the Charter or any City ordinance upon some other official.

Section 37. Removal of City Manager. The City Manager may be removed by four or more affirmative votes of the City Commission. No Manager who has been in the service of the City for one (1) year or more shall be removed without a hearing. At least thirty (30) days before the removal of any City Manager, the City Commission shall adopt a resolution stating its intention to remove him, and the reasons therefor, a copy of which shall be served forthwith on the City Manager, who may within ten (10) days, demand a public hearing at which he may appear in person and may be represented by counsel. In such event the final resolution removing the City Manager shall not be adopted until such public hearing has been held. Upon passage of a resolution stating the intention of the City Commission to remove the Manager, the City Commission may suspend him from duty, but his pay shall continue until his removal. There shall be no appeal from the action of the City Commission in removing the Manager. No City Manager shall be removed within ninety (90) days after any regular City election, unless proceedings for his removal were commenced not less than thirty (30) days prior to such election. Neither the City Commission nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. Except for the purpose of inquiry, the City Commission and its members shall deal with the administrative service solely through the City Manager, and neither the City Commission nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a member of the City Commission shall be deemed a misdemeanor, conviction of which shall operate immediately to vacate his office.

Section 38. Appointment of Administrative Officers. The City Manager shall appoint and remove, with the approval of five (5) members of the City Commission, a City Clerk and a City Treasurer. The City Manager shall appoint an Assessor, Police Chief, Fire Chief, City Engineer, and may appoint a Health Officer, and such other officers and heads of departments as may be deemed necessary, or may be created by the City Commission. The City Commission may create such additional offices as it may deem necessary for the operation of the City government upon recommendation by the City Manager, provided such offices do not invade the functions of the foregoing offices. The powers and duties of these officers and heads of the departments shall be those prescribed by State law, by this Charter and by ordinance, and such additional duties as may be required by the City Manager. The compensation of officers and employees, except that of City Manager, shall be fixed by the City Manager with the approval of the City Commission, in accordance with budget appropriations. The compensation of the City Manager shall be fixed by the Commission.

Section 39. Administrative Departments. The City Manager shall establish regulations setting forth the duties of and the procedures to be followed in each department and office of the City government, which regulations shall be compiled and shall be known as "The

Administrative Code." Pending the creation of such code the City Manager may establish temporary regulations. Each officer or director of a department of the City government shall, subject to approval by the City Manager, have supervision and control of his department and shall have power to prescribe rules and regulations, not inconsistent with this Charter and the Administrative Code.

Section 40. Purchasing Procedure. Competitive bids for all purchases and public improvements shall be obtained where practicable and contracts awarded to the lowest responsible bidders. The City Commission shall have the power to reject any or all bids if deemed by it to be to the advantage of the City. Sealed bids shall be asked for in all transactions involving expenditures of more than nine thousand dollars (\$9,000) and the transaction evidenced by written contract submitted to and approved by the City Commission; provided that, in cases where it is clearly to the City's advantage to contract without competitive bidding, the City Commission, by affirmative vote of five (5) members and upon recommendation of the City Manager, may so authorize. The City Commission may delegate to the City Manager authority to contract, solicit, award or reject bids and to expend money in conformity with the approved budget, which amount for any one transaction shall not be more than nine thousand dollars (\$9,000). Detailed purchasing and contracting procedures shall be established by the City Manager. The City Commission may authorize the making of public improvements by day labor. (Amended 11-8-05).

Section 41. Investigations. The City Commission, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department, office or officer of the City and to make investigation as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall be a misdemeanor.

Section 42. Supervisors.

(EDITOR'S NOTE: This section was repealed by State law.)

Section 43. Board of Review. The City Commission shall appoint a Board of Review of five (5) citizens who are owners of property assessed for taxes in the City, who shall hold office at the pleasure of the City Commission. The City Commission shall fix the compensation of the members of the Board of Review. The Board of Review shall elect its own clerk who may, at the pleasure of the Board, be the City Assessor.

Section 44. City Clerk. The City Clerk shall perform all such duties as are, or may be, imposed upon him by the general laws of the State or by the provisions of this Charter, and such other duties as the City Commission may prescribe.

Section 45. City Treasurer. The City Treasurer shall have the custody of all money, bonds, notes, mortgages, leases and conveyances of value belonging to the City. He shall receive all money belonging to and receivable by the corporation and shall keep account of all receipts and expenditures thereof. He shall be collector of all taxes levied by the City; he shall collect and receive all rents, rates and dues from all public utilities owned or operated by the City. He shall keep account of and be charged with all taxes and money appropriated, raised or received for each fund of the corporation, and shall keep a separate account of each fund and shall credit

thereto all money raised, paid in or appropriated therefor, and shall pay every warrant or check out of the particular fund established or raised for the purpose for which the warrant was issued as indicated thereon and endorsed thereon by the City Clerk. The City Treasurer shall render to the City Manager daily reports of money received and paid out by him, and whenever required by the City Manager, shall render a full itemized statement of all money received and credited by him to each fund, and on what account received, and the amounts of money remaining in each fund on the day of such report. The City Treasurer shall keep all money in his custody belonging to the City and to the public separate and distinct from his own money. He shall turn over to the proper receiving officer of the School District of Traverse City all funds in his hands as City Treasurer belonging to such School District, on proper warrant of such District. He is hereby prohibited from using, either directly or indirectly, the corporation money, warrants or evidences of debt or any School or Library funds in his custody or keeping for his own use or benefit or for the use and benefit of any other person. Any violation of this section shall subject him to immediate removal from office by the City Commission, which is hereby authorized to declare the office vacant for such offense and to appoint his successor. The City Treasurer shall be the collector of City and County taxes within the City. He shall also collect all other taxes and assessments levied within the City, whether the same be for general City purposes, for special improvements, or for School purposes, and he shall, in addition thereto, perform all such duties in relation to the collection of taxes as may be required by the general laws of the State. The City Treasurer shall, on the first day of each month, and at any time when so required by the City Commission or the City Manager, furnish a detailed statement of the City's finances in all of its departments.

Before entering upon the duties of his office, the City Treasurer shall, in addition to all other bonds required by law, give corporate surety bonds in such sum or sums, with such surety or sureties, and to be conditioned and approved as the City Commission shall provide.

Section 46. **City Assessor.** The Assessor shall annually estimate and assess the value of all taxable property, real and personal, in the City and make an assessment roll in the same manner as supervisors of Townships. There shall be spread upon said roll any and all taxes duly certified by the Board of Supervisors of the County or by other proper authority. He shall make all special assessments authorized by the Charter of the City and for the purpose of such special assessment that portion of the annual assessment roll applicable thereto shall be taken as the value of the property to be assessed. The Assessor shall attend all meetings of the Board of Review and shall furnish said Board information concerning the assessment roll made by him of property assessed thereon, but he shall have no vote on such Board.

Section 47. **City Attorney.** The City Commission shall appoint a City Attorney for an indefinite term who shall hold office at the pleasure of the Commission. The City Attorney shall act as the legal advisor to, and attorney and counsel for, the municipality and all its officers in matters relating to their official duties. Upon recommendation of the City Attorney, the City Commission may retain additional legal counsel. The City Attorney shall receive such salary or compensation as may be fixed by the City Commission.

Section 48. **City Engineer.** The City Engineer shall be the official surveyor of the City and shall perform such duties as are imposed upon him by the provisions of this Charter or the ordinances of the City, and such other duties as may be required of him by the City Manager. The City Engineer shall keep in his office, in addition to such other records as the City Manager

may require:

- a) A plat book of the City, showing the location, width, grade and boundaries of all streets, alleys, sidewalks and public grounds, and whenever any change is made in any street, alley, sidewalk or public ground, he shall indicate on such plat book the changes so made.
- b) A plat book showing the location, grade, size, kind and connection of every sewer, his reference points and a statement of the cost of each sewer. He shall also, in said plat book, or in one especially provided for that purpose, keep a record and plat of all water pipes, hydrants, cut-off valves and the plans of the water system in use in the City, and all artesian wells and supply pipes, which occupy any part of a street or alley. He shall make or cause to be made, all necessary plats or maps of all cemetery grounds and burial grounds within or without the City limits, owned and controlled by the City, for use in his office or in the City Clerk's office, and such other plats and records as may be required by the City Manager.

The City Engineer shall secure and preserve in his office the original notes of the surveys of the land of the City, together with his own notes and also all surveys of the burial grounds and the recorded plats thereof, and be custodian of the same in order that ready reference may be had to all such information. The City Engineer shall make or cause to be made all necessary surveys, maps, plats, diagrams, estimates, plans and specifications for all public improvements, buildings, and grounds, as directed by the City Manager and as an employee of the City he shall serve in any capacity as the City Manager may direct. The City Commission may in their discretion assign the duties of City Engineer to the City Manager.

Section 49. City Health Officer.

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

Section 50. Property to be Delivered to Successor. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, upon demand therefor by his successor or the Mayor, or City Clerk, deliver over to his successor in office, or to the City Clerk, all the books, papers, money and effects in his custody as such officer, which in any way appertain to his office; and every person willfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as are public officers generally for like offenses under the general laws of this State, now or hereafter enforced and applicable thereto; and every officer, whether elected or appointed, shall be deemed to be an officer, within the meaning of the provisions of said general laws of the State.

Section 51. Police Department. The City shall have a Police Department.

Section 52. Fire Department. The City shall have a Fire Department.

CHAPTER VI

MUNICIPAL COURT

(EDITOR'S NOTE: Former sections 51 through 68 regarding a municipal court were repealed by State law.)

Section 69. **Traffic Violations Bureau.** The City Commission shall have power and authority to establish a Traffic Violations Bureau within the Police Department by ordinance for the handling of vehicular traffic cases other than failure to stop in event of an accident, reckless driving or speeding. In such Bureau, any person who has received any notice to appear in answer to a traffic charge under the ordinance of the City may, within the time specified in the notice, answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a prescribed fine which cannot be waived by the Bureau and, in writing, pleading guilty to the charge, waiving a hearing in court and giving power of attorney to the person in charge of the Bureau to make such a plea and pay such fine in court. Acceptance of the prescribed fine and the power of attorney by the Bureau shall be deemed to be complete satisfaction for the violation and the violator shall be given a receipt which so states. The creation of such a Bureau by the City Commission shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

Section 70. **Constable.**

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

Section 71. **Bond.**

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

Section 72. **Duties of Constable.**

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

Section 73. **Compensation of Constable.**

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

Section 74. **Vacancy in Office of Constable.**

(EDITOR'S NOTE: This section was repealed on November 3, 1987.)

CHAPTER VII

GENERAL FINANCE; BUDGET PROCEDURE

Section 75. **Fiscal Year.** The fiscal year of the City shall begin on the first day of July. Such

year shall constitute the budget year of the City Government.

Section 76. **Budget Procedure.** The City Manager shall prepare a complete itemized budget proposal for the next fiscal year as provided for in this Charter, and shall submit it to the City Commission on or before the first regular meeting of the City Commission in the month of May. (Amended 11-2-99).

Section 77. **Budget Document.** The proposed budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least the following information:

- a) Detailed estimates of all proposed expenditures for each department and office of the City, showing the expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, as compared with appropriations for the current year.
- b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any.
- c) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
- d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year.
- e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, with income from other sources, will be necessary to meet the proposed expenditures.
- f) Such other supporting schedules as the City Manager may deem necessary or the City Commission may require.

Section 78. **Budget Hearing.** A public hearing on the proposed budget shall be held before its final adoption, at such time and place as the City Commission shall direct, and notice of such public hearing shall be published at least one week in advance by the City Clerk. A copy of the proposed budget shall be on file and available to the public during office hours at the City Clerk's office for a period of not less than one week prior to such public hearing.

Section 79. **Review of Budget.** The City Commission shall review the proposed budget document submitted by the City Manager and may make such changes therein as it shall deem necessary.

Section 80. **Adoption of Budget; Tax Limit.** Not earlier than the third Monday in May and not later than the first Monday in June of each year the City Commission shall, by resolution, adopt the budget for the next fiscal year and shall provide in such resolution for a levy of the amount necessary to be raised by taxation for municipal purpose, which shall not exceed one and one-half percent (1-1/2%) of the assessed valuation of all real and personal property subject to taxation in the City. (Amended 11-2-99).

Section 81. **Disbursement of Funds.** No funds of the City other than petty cash shall be disbursed except by check. The City Commission shall, within ninety (90) days after the effective date of this Charter, by ordinance or resolution, establish a procedure for making all disbursements.

Section 82. **Transfer of Appropriations.** After the budget has been adopted, no money shall be drawn from the treasury of the City during the fiscal year to which such budget applies, nor shall any obligation for the expenditure of money be incurred during such year except pursuant to the budget appropriation. The City Commission may transfer any unencumbered appropriation balance or any portion thereof from one department, fund or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund and be reappropriated during the next fiscal year.

Section 83. **Budget Control.** At the beginning of each quarter period during the fiscal year, and more often if required by the City Commission, the City Manager shall submit to the City Commission data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the City Commission may reduce appropriations except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. If the revenues exceed the amounts estimated in the budget, the City Commission may make supplemental appropriations, after a public hearing as hereinbefore provided.

Section 84. **Depository.** The City Commission shall designate the depository or depositories for City funds and shall provide for the regular deposit of all City moneys. The City Commission shall provide for such security for City deposits as is authorized and permitted by the general laws of the State, except that personal surety bonds shall not be deemed proper security.

Section 85. **Independent Audit.** An independent audit shall be made of all accounts of the City government at least annually and more frequently if deemed necessary by the City Commission. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the City Commission may determine. An annual report of the City business shall be made available to the public by publication in the official newspaper, in such form as will disclose pertinent facts concerning the activities and finance of the City government.

CHAPTER VIII GENERAL FINANCE; BORROWING POWER

Section 86. **General Borrowing.** Subject to the applicable provisions of State law and the Constitution of the State of Michigan, the City Commission, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit and resources of the City for the payment of the obligation created thereby.

Section 87. **Special Assessment Bonds.** The City Commission shall, subject to the applicable provisions of the general laws of the State, have authority to borrow money in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and to issue bonds or other legal obligations therefor. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund and in a separate bank account for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

Section 88. **Mortgage Bonds.** When the City is authorized to acquire, own or operate any public utility in accordance with the provisions of Section 23, 24 and 25 of Article VIII of the Michigan Constitution of 1908, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law in accordance with the provisions of the Michigan Constitution of 1908 pertaining thereto.

Section 89. **Other Bonds.** The City shall have power to issue revenue or other types of bonds in the manner and for the purposes permitted by the Constitution of the State of Michigan or by State law.

Section 90. **Preparation and Records.** Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of a misdemeanor. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the City Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and City Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the City Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled."

CHAPTER IX

GENERAL FINANCE; TAXATION

Section 91. **Subjects of Taxation.** An assessment of all property in the City which is subject to taxation shall be made annually by the Assessor, and shall be completed before the second Monday in March, and, except as otherwise provided by State law, the subjects of taxation for municipal purposes shall be the same as for State, County and School purposes under the general law and the City shall have all the rights, liens, powers and remedies accorded by State law to all political subdivisions of the State in connection with the collection of taxes. (Amended 11-8-05)

Section 92. **Taxation Procedure.** Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by State law. All personal property shall be assessed to the owner thereof on the first Monday of February of the year in which the assessment is made.

Section 93. **Meeting of Board of Review.** The Board of Review shall convene in the City office building at nine (9) o'clock in the forenoon on the second Monday in March to review and correct the assessment roll and shall remain in session not less than six (6) hours in each day for at least two (2) and not more than six (6) successive business days. The Board of Review shall choose one of its members to act as chairman and one of its members or the Assessor to act as Clerk and a majority of the members of the Board shall constitute a quorum. The Board of Review shall have the same powers and perform like duties in all respects as are, by general law, conferred upon and required of boards of review in townships. A copy of the proceedings of the Board of Review shall be filed with the City Clerk on or before the 15th day of July following each meeting thereof. (Amended 11-8-05)

Section 94. **Notice of Meetings.** Notice of the time and place of the sessions of the Board of Review shall be published by the City Clerk at least ten (10) days prior to the second Monday in March and also by posting the same in one (1) public place in the City. (Amended 11-8-05)

Section 95. **Endorsement of Assessment Roll.** On or before the second Tuesday in March the Board of Review shall endorse the assessment roll as provided by general law. Such roll shall be the assessment roll for all tax purposes within the City. (Amended 11-8-05)

Section 96. **Certification of Tax Levy to Assessor.** Within three (3) days after the adoption by the City Commission of the budget for the next fiscal year, the City Clerk shall certify to the Assessor the amount of the tax levied fixed by the City Commission which the Assessor shall proceed to rateably assess to each person and piece of property on the assessment roll, together with all special assessments as well as any other amounts which the City Commission may require under authority of State law or this Charter to determine to be assessed or reassessed against any property or person.

Section 97. **Collection by Treasurer.** After extending the taxes on the assessment roll and certifying to such roll in the manner required of assessing officers by State law, the Assessor shall, on or before the 10th day of June, deliver such assessment roll to the City Clerk, together with a copy or duplicate thereof, and the City Clerk shall forthwith annex his warrant to the original roll, directing and requiring the City Treasurer to collect from the several persons named in such roll the several sums, or the total thereof, opposite their respective names. The taxes thus assessed shall become at once a debt to the City from the persons to whom they are assessed, and the amount assessed, together with all charges thereon, shall, on the 1st day of July, become a lien until paid, on the property of the taxpayer of the same character and effect as the lien created by general law for State and County taxes. The City Treasurer shall have like power and duty to collect City taxes as is granted to or required of township treasurers in the collection of State and County taxes.

Section 98. **Taxes; When Due.** City taxes shall be due and payable on the 1st day of July of each year. All taxes paid on or before the 31st day of July of the same year shall be collected

without additional charge. From and after said 31st day of July, there shall be added one-half of one percent (1/2%) per month or fraction thereof, to taxes remaining unpaid, together with a penalty of two percent (2%).

Section 99. Partial Payment of Taxes. The City Commission may, by resolution, authorize the City Treasurer, for a period not extending beyond the next March 1st, to accept partial payment on taxes and special assessments together with interest and penalties in such manner as the City Commission may determine.

Section 100. Return to County Treasurer. If the City Treasurer has been unable to collect any of the City taxes on said roll on real property before the first day of March following the date when said roll was received by him, then it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as similar returns made by township treasurers. Such returns shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such County Treasurer are collected under the provisions of the general tax laws of the State, and the same rate of interest and all charges shall be collected thereon, and all taxes upon lands so returned as delinquent shall be and remain a lien thereon until paid. At the time of making said return, the City Treasurer shall make and file in his office a copy thereof upon which he shall record subsequent collections or reassessments as returned to him by the County Treasurer. The City shall have power to purchase any premises within the City of Traverse City at any tax or other public sale that may hereafter be held when such purchase is necessary to protect the lien of the City for taxes on said premises.

Section 101. State, County, School and Library Taxes. For the purpose of assessing and levying taxes in the City for State, County, Library and School purposes, the City shall be considered the same as a township, and, except as otherwise provided in this Charter, all provisions of State law relative to the collection of such taxes, the accounting therefor to the appropriate taxing units and the returning of property to the County Treasurer for nonpayment thereof shall apply to the performance thereof by the City Treasurer who shall perform the same duties and have the same powers in connection therewith as township treasurers.

CHAPTER X

SPECIAL ASSESSMENTS

Section 102. General. The City Commission shall have power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessment upon the property especially benefited.

Section 103. Resolution of City Commission. Whenever the City Commission shall determine that the whole or any part of the expense of any public improvement shall be defrayed

by special assessments upon the property especially benefited, it shall so declare by resolution, and such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessments, and what part, if any, shall be paid from the general funds of the City, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Section 104. Special Assessment Roll. Within twenty-one (21) days after the City Commission shall have determined by resolution that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property specifically benefited, the Assessor shall make an assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement.

Section 105. Review. The assessment roll shall be open to public inspection for a period of seven (7) days before the City Commission meets as a Board of Review to review the roll and to hear complaints.

Section 106. Notice. Notice of the opening of the roll for public inspection and of the time and place of the meeting of the City Commission, acting as the Board of Review, to hear complaints shall be published by the City Clerk at least one (1) week before the opening of the roll for public inspection.

Section 107. Objections to Improvement. If, at or prior to the meeting of the Board of Review, the owners of more than one-half (1/2) of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without an affirmative vote of six members of the City Commission. Every special assessment roll ratified and confirmed by the City Commission, acting as the Board of Review, shall be final and conclusive.

Section 108. Additional Assessment; Refunds. When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the City Commission may make an additional pro rata assessment, which additional assessment shall not, in any case, exceed thirty percent (30%) of the original assessment. Should the assessment prove larger than necessary by five percent (5%) or less, the City Commission may place the excess in the City treasury. If more than five percent (5%), the excess shall be refunded pro rata according to assessments.

Section 109. Collection of Special Assessments. Special assessments and all interest and charges thereon from the date of confirmation of the roll shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for State and County taxes, until paid. Interest at a rate not to exceed six percent (6%) per annum shall be collected on deferred installments; and from such date after confirmation as shall be fixed by the City Commission the same penalties and collection fee shall be paid on delinquent installments of such special assessments as are provided by this Charter to be paid on delinquent general City taxes. Such delinquent special assessments shall be returned to the County Treasurer for collection and shall be handled in the same manner as are delinquent general City taxes; provided, that no such delinquent special assessments, nor any delinquent installment thereof, shall be returned to the County Treasurer for collection unless and until such delinquency has continued for a period of six (6) months, nor until the first day of March next following such six (6) months delinquency.

Section 110. **Procedure.** To make effective the provisions of this Charter, the assessment procedure concerning plans and specifications, estimate of costs, the making of the assessment roll and correction of errors, the collection of special assessments and any other matters concerning the making of improvements by the special assessment method outlined in Chapter XXIV of Act 215 of the Public Acts of 1895, same being Sections 2032 to 2059 inclusive of the Compiled Laws of 1929, which, insofar as not inconsistent with the provisions of this Charter, and except that no more than one (1) publication shall be required in any case, is hereby adopted into and made a part of this Charter. All acts required therein to be performed by a "Board of Special Assessors" shall be performed by the City Assessor.

CHAPTER XI

UTILITIES; FRANCHISES; PERMITS

Section 111. **Franchises.** All franchises heretofore granted by the City of Traverse City and now in operation shall continue until the expiration of such franchises. All irrevocable public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the City Commission, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by three-fifths (3/5) of the electors voting thereon. No such ordinance shall be submitted to the electors at an election to be held less than sixty (60) days after the grantee

named therein has filed its unconditional acceptance of such franchise, and it shall not be submitted to a special election unless the expense of holding the election as determined by the City Commission shall have been paid to the City Treasurer by the grantee. No exclusive franchise shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No franchise shall be transferable, directly or indirectly, except with the approval of the City Commission expressed by ordinance.

Section 112. **Right of Regulation.** All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City: (a) to repeal the same for misuse or nonuse, or for failure to comply therewith; (b) to require proper and adequate extension of plant and service and the 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 make independent audit and examination of accounts at any time, and to require reports annually; (e) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (f) to impose such other regulations as may be determined by the City Commission to be conducive to the safety, welfare and accommodation of the public.

Section 113. **Regulation of Rates.** All public utility franchises shall make provision for fixing rates, fares and charges, and for readjustments thereof at periodic intervals of not more than five (5) years, either by arbitration upon terms to be specifically set forth in the franchise, or by any State agency, at the election of the City. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Section 114. **Purchase; Condemnation.** The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the State, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill or prospective profits.

Section 115. **Revocable Permits.** Temporary permits for public utilities, revocable at any time at the will of the City Commission, may be granted by the City Commission by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. Any such resolution shall be subject to the referendum provided for by this Charter.

Section 116. **Joint Use.** Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and public places of the City by the City of Traverse City or by other public utilities, insofar as such joint use may be reasonably practicable, upon payment of reasonable rental therefor; provided that in the absence of agreement upon application of any public utility, the City Commission shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, which award shall be final.

Section 117. **Use of Streets and Public Places.** The right to use, control and regulate use of its streets, alleys, bridges and public places, and the space above and beneath them, is hereby reserved to the City, and every public utility franchise shall be subject thereto. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places as shall arise from its use thereof and shall protect and save the City harmless

from all damages arising from said use.

CHAPTER XII

MUNICIPALLY OWNED UTILITIES

Section 118. **Operation for Benefit of City.** The several municipally owned utilities: i.e. The Sewage Treatment Plant (including the entire sewer system), The Traverse City Light and Power Department, The City Water Works Department, together with any utilities hereafter acquired, shall be operated for the benefit of the City of Traverse City.

Section 119. **Administration by City Manager.** The City Manager of the City of Traverse City shall be the chief administrative officer of each of these utilities or utility departments and shall have power to appoint and remove a superintendent for each or any of them and all officers and employees thereof; but the City Manager may authorize the head of a utility or utility department or office responsible to him to appoint and remove subordinates, such appointments

or removals shall be in accordance with the provisions of this Charter and of any ordinances enacted in conformity therewith. The appointments made by or under authority of the City Manager shall be on the basis of the fitness, training and experience of such appointees for the work they are to perform. All such appointments shall be without definite term unless for provisional, temporary or emergency service not to exceed the maximum periods which may be prescribed by personnel regulations.

Section 120. Separate Utility Funds. The funds of each of the utilities or utility departments shall be kept separate from the general fund of the City of Traverse City.

Section 121. Municipal Utility Emergency Reserve. An emergency reserve account shall be created for each utility or utility department to meet any emergencies which may occur in connection with such utility or utility department. Municipal utilities shall be deemed to include the water supply and distribution system, the sewage collection and disposal system, the light and power system, and any other public improvement in the nature of a utility which is hereafter established or acquired. The emergency reserve fund shall be established annually in the budget. The purpose of such fund is to meet any emergencies which occur in connection with such utility or utility department. Funding of the emergency reserve shall come from retained earnings of the utility or utility department, or, if such is insufficient in the estimation of the City Commission, shall come from the general fund. Withdrawals from the emergency reserve fund shall be replaced.

Section 122. Use of Utility Revenues. All further net profits shall revert to the general fund of the City of Traverse City and shall be used for the purpose of: (a) reducing the indebtedness as such indebtedness matures, of the particular utility or utility department from which such profits are derived; (b) making normal plant improvements and expansions; (c) reducing the current indebtedness of the City; and (d) supplementing the tax revenues of the City by using this money to defray the usual expenses of City government.

Section 123. Mortgage Bonds. The City Commission may borrow money to acquire or operate any public utility. It may issue mortgage bonds therefor beyond the general limit of bonded indebtedness herein prescribed; provided, that the indebtedness created by such mortgage bonds shall not impose any liability upon the City, but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which in case of foreclosure the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty (20) years from the date of the sale of such utility and franchise on foreclosure.

Section 124. Rules and Regulations. Insofar as they are consistent with the provisions of this Charter, the present regulations of the various utilities and utility departments relative to rates, charges, operation, etc., shall continue in full force and effect under this Charter until changed by proper ordinance or resolution of the City Commission. In addition to the powers, privileges and rights possessed by the several utilities and utility departments of the City under the State Constitution, the general laws of the State, this Charter and the City ordinances, such utilities and utility departments of the City shall have the power to render all such services to their customers as are rendered by public utilities of similar type operating in the City.

Section 125. Accounts and Reports. Accounts shall be kept for each public utility owned or

operated by the City, distinct from other City accounts, and in such a manner as to show the true and complete financial result of such City ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. These accounts shall show the actual cost to the City of each public utility owned, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and all operating expenses of every description. They shall show, as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other City department. It shall be the duty of the superintendent of each utility or utility department to make an annual report to the City Manager on or before the tenth day of March of each year of all the works under his supervision. The report shall also provide a proper allowance for City taxes, for which due allowance shall be made for services rendered to the City, insurance, and for depreciation and obsolescence. The report shall show the condition of all reserve accounts. The City Manager shall annually cause to be made and published for public distribution, a report showing the financial results of such ownership, or ownership and operation, which report shall give the information specified in this section, and such further information as the City Manager shall deem expedient or the City Commission shall require.

Section 126. **Disposal of Plants.** The City shall not sell, exchange, lease or in any way alien or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, or its parks, unless and except the proposition for such purpose shall first have been submitted, at a regular or special election held for the purpose in the manner provided in this Charter, to the qualified voters of the City and approved by them by a three-fifths (3/5) majority vote of the electors voting thereon. All contracts, negotiations, grants, leases or other forms of transfer in violation of this provision shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange of any real estate which is not necessary to the operation of any utility or utility department or any articles or equipment of any City owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER XIII

STREETS, PUBLIC GROUNDS AND PROPERTY, CEMETERIES, PARKS, TRUSTS

Section 127. **General.** The City shall possess and hereby reserves to itself the right to use and to control and regulate the use of its streets, alleys, bridges and public places, and the space above and beneath them, and shall have the power to acquire, own, establish, maintain, operate and administer, either within or without its corporate limits, parks, boulevards, cemeteries, hospitals, almshouses, buildings and all works which involve the public health or safety.

Section 128. **Perpetual Dedication.** All grants or dedications heretofore made shall continue without change. All cemeteries and parks now owned or hereafter acquired by the City of Traverse City either within or without its corporate limits shall be dedicated solely to cemetery or park purposes respectively, provided, however, that the electors by a three-fifths (3/5) majority vote may approve subsequently disposal of such cemeteries and parks or portions thereof.

Section 129. **Trusts.** All trusts heretofore established for cemetery, park or other purposes shall be used and continued in accordance with the terms of the trusts. The City of Traverse City may, in its discretion, receive and hold any property in trust for cemetery, park or other public purposes and shall apply the same to the execution of such trusts and for no other purposes whatsoever.

All money to be derived from the rights to explore for oil, gas and/or minerals on the Brown Bridge or other property of the City of Traverse City, together with production money (royalties), shall be placed in a perpetual trust fund in one or more banking institutions designated by the City Commission. This fund shall be known as the Brown Bridge Trust Fund, all portions of which shall be invested in obligations of the United States of America. The income from said Trust shall be used to supplement City taxes as a credit against the General Fund levy as established yearly by the City Commission. Said funds shall remain in a perpetual trust, the principal of which shall not be used except by a three fifths (3/5) majority vote of the qualified electors voting thereon. However, any amount of the principal in the Brown Bridge Trust Fund that is over twelve million dollars (\$12,000,000) may be placed in a separate trust fund for a period of five years beginning November 4, 2014, and ending November 5, 2019, and used for City parks capital improvements when matching funds can be secured from outside sources. (Amended 11-4-14) However, any amount of the principal in the Brown Bridge Trust Fund that is over twelve million dollars (\$12,000,000) may be placed in a separate trust fund for a period of five years beginning November 5, 2019, and ending November 4, 2024, and used for City park capital improvements and/or acquisition of property to be designated and used as City parkland; provided that no single allocation to a City park capital improvement or City parkland acquisition will be in excess of \$250,000. (Amended 11-5-19)

Section 130. **Cemetery Care Funds.** The amount now standing to the credit of the Perpetual Care Fund, together with all additions thereto, shall be kept in a separate fund known as the Perpetual Care Fund, which shall constitute a trust fund, the income of which shall be used as occasion may require for the general care and maintenance of those lots for the benefit of which said funds shall have been deposited. Said fund shall never, under any pretext or evasion, be diverted from its declared purpose. All moneys received by the City for the perpetual care of lots or graves may be invested only in bonds of either the City of Traverse City, School District of Traverse City, County of Grand Traverse, or bonds or other full faith obligations of the United States of America, as the City Commission may direct. All portions of said Perpetual Care Fund not so invested in bonds shall be kept in a separate checking account in some banking institution to be designated by the City Commission. There shall also be created a fund known as the Cemetery Care Fund, and fifty percent (50%) of all moneys which shall from time to time be received from the sale of lots and graves and crypts shall be placed in said Fund, the income of which shall be used as occasion may require for the general care and maintenance of the entire City cemetery property. Said Cemetery Care Fund shall also constitute a trust fund, the moneys of which shall never under any pretext be diverted. This Fund or portions of this Fund may be invested only in bonds of the City of Traverse City, School District of the City of Traverse City, County of Grand Traverse, or bonds or other full faith obligations of the United States of America. Any moneys in said funds not so invested shall be placed in a separate checking account in such banking institution as the City Commission may designate.

Section 131. **Platting and Sale.** The City Commission shall cause cemeteries to be laid out into lots, avenues and walks, the plats thereof to be recorded in the office of the City Clerk. The

City Commission shall fix the price of such lots and manner of conveyance and recording.

Section 132. **Protection; Establishment; Maintenance.** The City Commission shall have power to enact all ordinances deemed necessary for the establishment, maintenance and protection of all cemeteries and parks (together with the improvements thereon and appurtenances thereto) now owned or hereafter acquired by the City of Traverse City either within or without its corporate limits and like power with reference to all cemeteries within the City belonging to, or under the control of, any church, religious society, corporation, company or association; and the City shall have power to condemn property for cemetery purposes in accord with the general statutes of the State.

CHAPTER XIV

PUBLIC LIBRARIES

Section 133. **Board of Library Trustees.** The City Commission may appoint a Board of Library Trustees consisting of three members whose terms of office shall be three years and whose terms shall be staggered so that the term of not more than one trustee expires in any year. The City may participate with any other municipality in the establishment and operation of a District Library in the manner provided by law.

Section 134. **Control of Grounds and Buildings.** The Board of Library Trustees shall have control and management of the grounds and buildings and the care and government of the public

library and reading rooms, subject to the ordinances of the Commission and the provisions of this Charter.

Section 135. **Power to Maintain.** The Commission shall have power to establish and maintain a public library and reading room for the use and benefit of the inhabitants of said City and levy a tax of not to exceed one mill on the dollar annually on all the taxable property in the City, such tax to be levied and collected in like manner as other general City taxes, and to be known as the Library Fund; provided, that whenever the City Commission shall determine by resolution that it is expedient to acquire by purchase grounds and buildings for the construction of a suitable building in which to establish free library reading rooms they shall have the power to and may raise by tax not to exceed three mills on the dollar annually on all the taxable property in the City, to be levied and collected the same as other general City taxes, and to be known as the Library Fund.

Section 136. **Organization.** Said Board of Library Trustees shall, immediately after appointment, and annually thereafter, meet and organize by the election of one of their number president. The City Clerk shall be Clerk of said Board.

Section 137. **Government of Library.** Said Board shall make and adopt such rules, by-laws and regulations for their own guidance and for the government of the library and reading rooms as may be expedient. They shall have exclusive control of the expenditures of all moneys collected to the credit of the Library Fund, and supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose; provided, that the construction of any building for that purpose shall be under the supervision of the City Commission; and, provided further, that all moneys received for such Library Fund shall be deposited in the City treasury to the credit of the Library Fund, and shall be kept separate and apart from all other moneys of the City, and be drawn upon by the City Clerk, countersigned by the Mayor, upon the properly authenticated vouchers of the Board of Library Trustees.

Section 138. **Employees and Compensation.** Said Board may appoint a suitable librarian and necessary assistants and recommend to the Commission their compensation, and the Commission shall fix the same and provide for the payment thereof.

Section 139. **Injury to Library or Books.** The Commission shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury to said library or the grounds or other property thereof, or for willful injury to or failure to return any book belonging to such library, or for violation of any of the rules or regulations governing the same.

Section 140. **Reports.** The Board shall make and report to the City Commission on or before the 10th day of March in each year, and oftener when required so to do by the City Commission, a statement of the conditions of their trust at the date of their report, including the various sums of money received from the Library Fund and from other sources, and what sums of money have been expended and for what purpose; the number of books and periodicals on hand; the number lost or missing; the number procured by purchase, gifts or otherwise during the year; the number of visitors attending; the number of books loaned out and the general character and kind of such books, with such other statistics, information and suggestions as they may deem of general interest. All such portions of such report as relates to the receipt and expenditure of moneys, as

well as the number of books on hand, books lost or missing and books purchased, shall be verified by affidavit.

Section 141. **Donations.** Any persons desiring to make donations of money, personal property or real estate for the benefit of such library and reading room shall have the right to vest the title to the money or other personal property or real estate so donated in said Board of Library Trustees, to be held and controlled by such Board, when accepted according to the terms of the deed, gift, devise or bequest of such property, and as to such property said Board shall be held and considered to be special trustees.

CHAPTER XV

RECALL; INITIATIVE; REFERENDUM

Section 142. **Recall.** Any elective officer may be removed from office by the electors in the manner provided by the general laws of the State of Michigan. A vacancy created by the recall of any elective officer shall be filled by election in the manner prescribed by law. No person who has been removed from office by recall, or who has resigned from such office while recall proceedings are pending against him, shall be appointed to any office within one (1) year after such recall or resignation.

Section 143. **Initiative and Referendum.** An ordinance may be initiated by petition or a referendum on an ordinance enacted by the City Commission or on any decision to build or acquire a power generation facility may be had by a petition as hereinafter provided. An

ordinance sought to be initiated by petition shall be fully set forth on the petition or as an attachment thereto. If the ordinance is more than three pages, it may be incorporated by reference and filed with the City Clerk at all times while the petition is being circulated. (Amended 11-2-1999 and 11-2-2010.)

Section 144. **Petitions.** An initiatory or a referendary petition shall be signed by registered qualified electors of the City in number equal to twenty-five percent (25%) of the highest vote for any Commissioner at the last regular City Election prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the City Attorney. No such petition need be on one paper, but may be the aggregate of two or more petition papers. Each signer of a petition paper shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. At the time of filing the petition papers, the City Clerk shall provide a receipt on a form supplied by the City Clerk, indicating the total number of petition papers filed with the City Clerk and the total number of signatures submitted on the petitions; such form shall indicate that it shall not be construed as certification by the City Clerk as to the sufficiency of any signature on the petitions nor the sufficiency of the petition papers themselves and it shall be countersigned by the filer of the petition papers. Any such petition shall be filed with the City Clerk who shall, within ten (10) days, determine the sufficiency thereof and so certify. If found to contain an insufficient number of names of qualified electors of the City, or to be improper as to form or compliance with the provisions of this section, ten (10) days shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the City Clerk shall present the petition to the City Commission at its next regular meeting. A referendum petition on any decision to build or acquire a power generation facility shall be filed within 45 days from the decision. (Amended 11-2-1999, 11-2-2010 and 11-8-2016).

Section 145. **Commission Procedure.** Upon receiving a certified initiatory or referendary petition from the City Clerk, the City Commission shall, within thirty (30) days, either (a) if it be an initiatory petition, adopt the ordinance; (b) if it be a referendary petition, repeal the ordinance; or (c) in either case, determine to submit the proposal to the electors.

Section 146. **Submission to Electors.** Should the City Commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose or, in the discretion of the City Commission, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

Section 147. **General Provisions.** The certification by the City Clerk of the sufficiency of a referendary petition within twenty (20) days after the passage of the ordinance to which such petition refers shall automatically suspend the ordinance in question pending repeal by the City Commission or final determination of the electors, as the case may be. No referendum shall be had on any ordinance based on a franchise or a contract unless referendary petitions are filed within twenty (20) days after the passage of such ordinance, unless a provision therefor is specifically provided for therein. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the City Commission for a period of two (2)

years, and then only by the affirmative vote of not less than five (5) Commissioners. Should two or more ordinances adopted at the same election have conflicting provisions the one receiving the highest vote shall prevail as to those provisions.

CHAPTER XVI

MISCELLANEOUS PROVISIONS

Section 148. **Peace, Health and Safety.** The City Commission shall provide, by ordinance, for the public peace and health and for the safety of persons and property.

Section 149. **House Trailers.** The City Commission may, by ordinance, provide for the regulation of the use, occupancy, sanitation and parking of house trailers and temporary structures within the City, and the licensing or taxation thereof, provided, that the right of the City Commission to regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any other manner whatsoever.

Section 150. **Water and Watercourses.** For the benefit of the public morals, peace, health and welfare, the City shall have and possess the power to use and control and regulate the use of all

streams, waters and watercourses within its limits; which power shall include, but not be limited to, the licensing of motor driven watercraft, including outboard motor boats, and the prohibition of any type of motor driven craft which constitutes a public nuisance; the regulation of the mooring of boats for hire; the regulation of the speed of, and of the lights to be used on, all watercraft operating within the City; provided, that the provisions of this section shall not be construed so as to conflict with the general laws of the State or nation nor to interfere with any riparian or littoral rights without the corporate limits of the City.

Section 151. Wharves and Dockage. The City Commission shall have the power to establish, construct, maintain and control public wharves, docks, piers, landing places and basins upon any lands or property belonging to or under the control of the City.

Section 152. Restrictions as to Contracts and Official Positions. Neither the City Commission nor any City official shall have the power to make any contract with, or to give any official position to one who is in default to the City, and any contract made with, or any appointment to any official position, in violation of the provisions of this section shall be void and of no effect.

Section 153. Vacancy Defined. In addition to other provisions in this Charter a vacancy shall be deemed to exist in any office when an officer dies, resigns, is removed from office, moves from the City, is convicted of a felony or judicially declared to be mentally incompetent.

Section 154. Official Interest in Contracts.

- a) **Contractual Conflicts of Interest.** The conduct of City officials and employees in relation to conflicts of interest involving contracts shall be as established by State law.
- b) **Dual Fiduciary Duties.** A City Commissioner having a dual fiduciary duty, which is not a financial conflict of interest as defined by law or this Charter, shall vote unless, upon request of that Commissioner, a majority of the remaining eligible Commissioners allows abstention.
- c) **Financial Conflict of Interest.** An official or employee who has a financial interest, direct or indirect, in any matter to be decided by the City, other than with respect to a contract, shall make that interest known and shall refrain from voting upon or otherwise participating in the making of the decision. Violation of this subsection with the knowledge, express or implied, of the person or corporation dealing with the City shall render the decision voidable by the City Manager or the City Commission. Any official or employee violating the provisions of this subsection shall be deemed guilty of a misdemeanor, and upon conviction shall forfeit office. A financial conflict of interest may be waived by the City Commission after full disclosure of such conflict to the Commission. Unless otherwise provided by law or ordinance, the remaining members of the Commission in a unanimous vote may rule that the best interests of the City are to be served by removing the prohibition on voting and participating in the matter.

Section 155. Civil Service. The City Commission may provide, by ordinance, for a merit system of personnel management and may establish by ordinance a pension and retirement system for any or all groups of employees in the service of the City. The cost of any such pension and retirement system shall be determined on actuarially sound mortality and service tables.

Effective July 1, 1971, pensions and retirement for all policemen and firemen shall be subject to

the provisions of Act 345 of the Public Acts of 1937, as amended.

Section 156. **Private Use of Public Property.** No officer or employee shall devote any City property or labor to his own personal use.

Section 157. **Misdemeanors Under Charter and Violations of Ordinances.** All offenses in this Charter declared to be misdemeanors and all violations of City ordinances shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a period not exceeding ninety (90) days, or both, in the discretion of the court.

Section 158. **Notice of Publication.** Notices or proceedings requiring publication, and all ordinances passed by the City Commission, shall, unless otherwise provided by this Charter, be published once in the official newspaper. The City Commission shall annually in May designate the official newspaper for the next fiscal year which shall be a newspaper printed and published in the City of Traverse City. Provided, however that the City Commission may, at any time, prescribe by ordinance for such publication by posting or otherwise.

Section 159. **Damage Claims.** The City shall not be liable for unliquidated damages for injuries to persons or property unless the person claiming such damages, or someone in his, her or their behalf, shall file a claim in writing with the City Clerk within sixty (60) days after such claim for damages shall have accrued. Such claim shall be verified by the claimant, or some person having knowledge of the facts, and shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the specific grounds upon which the claim of liability on the part of the City shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amounts claimed. Upon filing such claim, the City shall have a reasonable time in which to investigate the same and may require the claimant to produce all witnesses for examination under oath. Failure to file a claim or produce witnesses in the manner required in this section shall forever bar any action or proceeding in any court for the collection of such claim. No action shall be maintained in any case unless the same be brought within the statutory period after such injury or damages shall have been received. On trial or action on such claim, no witness shall be competent to testify for the claimant, who was known and not named in the claim filed with the City, or not produced upon demand. If such claim shall arise from or is claimed to have been received by reason of any defect in any sidewalk, crosswalk, pavement, alley or street, the claimant who alleges such injury shall, in said written notice, specify the location of said defect and the character and a detailed description of the alleged defect claimed to have existed.

Section 160. **City Planning Commission.** The City Commission shall by ordinance establish and maintain a City Planning Commission having the powers and duties prescribed by State law.

Section 161. **Uniform Accounting.** The City Commission shall provide for an accounting system which shall conform to State law.

Section 162. **Public Records.** All records in the City shall be public.

Section 163. **Amendments.** This Charter may be amended at any time in the manner provided in Act 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall

prevail as to those provisions.

Section 164. **Headings.** Chapter and section headings are for convenience only and shall not be considered to be part of the Charter.

Section 165. **Severability.** The sections of this Charter and the parts thereof are severable, and in the event of any provisions being declared unconstitutional or contrary to State law, it is hereby declared the intent of the Charter Commission and the electors voting thereon that such unconstitutionality or illegality shall not affect the validity of any other provision of this Charter.

Section 166. **Submission of Charter.** This Charter shall be submitted to a vote of the electorate of the City of Traverse City, for adoption or rejection, at the general City election to be held November 5, 1940.

Section 167. **First Election.** If this Charter shall be adopted at said election, the first City Commission to serve under this Charter shall be composed of the two (2) hold-over City Commissioners elected for a term of four (4) years at the general City election held November 8, 1938, under the prior Charter of the City of Traverse City who shall continue in office until their successors are elected at the regular City election held under this Charter in April, 1943, and assume the duties of their office on the second Monday following their election; the person elected to the office of Mayor at the general City election to be held November 5, 1940, who shall serve as Mayor under this Charter for the full term of two (2) years to which he was elected and until the second Monday following the regular City election to be held in April, 1943, at which time his successor shall be selected in the manner provided in this Charter; the two (2) persons elected as City Commissioners at said election to be held November 5, 1940; and two (2) other persons to be elected to the office of City Commission on a ballot which shall constitute a part of the sheet at the top of which shall be located the ballot by which the question of the adoption or rejection of this

Charter shall be submitted to the electorate of the City of Traverse City, the two (2) persons receiving the highest number of votes on such ballot shall be deemed to be elected and the ballot on which such City Commissioners shall be elected shall specify that persons voted for thereon shall be deemed to be elected only if this Charter shall be adopted. The name of no person shall appear on said ballot whose name appears on the ballot to elect persons to the office of City Commissioner at the general election to be held November 5, 1940, in accordance with the provisions of the prior Charter of the City of Traverse City. The last two (2) members of the City Commission to be elected to the office of City Commissioner as herein prescribed shall be nominated as prescribed in this Charter, except that the primary election shall be omitted in so far as candidates for such office are concerned and the last day and time for filing nomination petitions for such office shall be twelve (12) o'clock, noon, October 25, 1940.

CHAPTER XVII

SCHEDULE

Section 168. **Submission of Charter; Terms of Office of First Commission.** The last four (4) persons elected to the office of City Commissioner as provided in the preceding section shall hold office under this Charter until the second Monday following the regular City election to be held in April, 1945.

Section 169. **First Commission Meeting.** The first City Commission, as established hereunder, shall assemble in the official City Commission chambers at seven-thirty (7:30) p.m. on the second Monday following its election, and when it shall have been called to order by the City Clerk, the City Commission existing under the previous Charter of the City of Traverse City shall cease to be and the office and term of the Mayor and of each and every member of the City Commission holding office by virtue of such previous Charter of the City of Traverse City shall, except as otherwise provided herein, terminate, and this Charter shall become operative and the new City Commission as constituted herein shall assume its duties.

Section 170. **Hold-Over Offices.** All officers holding office under the previous Charter,

except the Mayor and members of the City Commission, holding office under and by virtue of such previous Charter, shall continue in office until their successors shall be chosen and shall qualify, or the office be abolished in accordance with the provisions of this Charter. All offices not named in this Charter shall be abolished and cease to be at midnight December 31, 1940. Where questions arise concerning the responsibility and authority of officers, pending the appointment of a City Manager, the City Commission shall temporarily fix such responsibility and grant such authority as is necessary to maintain the services of the City.

Section 171. **Budget Adjustments.** The first City Commission elected under this Charter shall have authority, on recommendation of the City Manager, to make any necessary adjustments in the budget then in force.

Section 172. **Ordinance and Resolutions; Contracts; Franchises.** All by-laws, ordinances, contracts, franchises, resolutions, rules and regulations of the City, not inconsistent with this Charter, in force at the time this Charter becomes effective shall continue in full force until repealed or amended by action of the proper authorities.

Section 173. **Taxes and Assessments.** All taxes and assessments levied or assessed and all charges thereon and all fines and penalties imposed, which remain uncollected at the time this Charter becomes effective, shall be collected as if such change had not been made. If a different remedy is provided by this Charter, or any ordinance adopted pursuant thereto, which can be made applicable to any rights existing when this Charter becomes effective, such remedy shall be deemed to be accumulative to the remedies before provided.

Section 174. **Vested Rights Continued.** After the adoption of this Charter, the City shall continue to be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of the previous Charter, and with any additional property and rights as herein prescribed. No right or liability, either in favor of or against the City, existing at the time this Charter becomes effective, and no suit or prosecution of any character, shall in any manner be affected by any change, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be its debts and liabilities, and all fines and penalties imposed at the time of such change shall be collected, and all licenses issued by the City shall be and remain the same as if such change had not been made.

CHAPTER XVIII

LIGHT AND POWER BOARD

Section 175. **Light and Power Department.** There is hereby created the Light and Power Department of the City of Traverse City, which shall be responsible for the development, production, purchase and distribution of all electricity, heat, steam, light and power services by the City.

Section 176. **Light and Power Board.** There is hereby created the Light and Power Board of the City, which shall have exclusive jurisdiction, control and management of the Light and Power Department and all its operations and facilities, except as herein provided. Unless specifically allocated to the City Commission or to a City official, the Board shall have all the powers and duties possessed by the City to construct, acquire, expand and operate the light and power system and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve or promote an orderly, economic and business-like administration of the Light and Power Department. The Board shall operate as a separate unit of City government. The Board may sue or be sued in the name of the Light and Power Department of the City of Traverse City. All damage claims arising from the operations of the Board and the Department shall be the responsibility of and be liquidated by the Board from the appropriate funds of the Department.

Section 177. Organization of Board.

- a) Number of Board Members. The Board shall consist of seven (7) members who shall be nominated and appointed by the City Commission. Not less than one (1) and not more than two (2) of these members shall be City Commissioners selected by the City Commission and shall be ex officio members with full voting authority. In addition to these seven (7) members, the City Manager or the City Manager's designee shall be an ex officio member without voting authority and shall not be counted for purposes of establishing a quorum.
- b) Term of Office. The non-Commissioner Board members shall be appointed to serve terms of five (5) years from the first Monday of April. The Commission Board members shall be appointed for a two-year term bi-annually at the City Commission organizational meeting. Any Board member may continue beyond the appointed term of office until that Board member's successor is appointed and has qualified, unless the Board member has been removed from office as provided in subsection (d) of this section.
- c) Vacancies. Vacancies shall be filled by the Mayor, with the approval of the City Commission, for the unexpired term.
- d) Qualifications and Removal. No person shall be a Board member unless the person is a resident elector of the City, except that one (1) Board member may be a nonresident of the City if that Board member resides within the current actual service area of the Department. No person who holds any other City office or who is an employee of the City shall be a member of the Board. A Board member ceasing to possess any of these qualifications or a Board member who has engaged in official misconduct, the unfaithful performance of duties, or who has failed to diligently attend meetings, shall be suspended for not more than thirty (30) days by the Mayor and shall be removed from office upon approval of two-thirds (2/3) of the City Commission.
- e) Compensation. No Board member shall be compensated for serving on the Light and Power Board. Board members may be reimbursed for actual out-of-pocket expenses incurred in the carrying out of duties as a member of the Light and Power Board upon approval of the majority of the Board.
- f) Officers. The Board by majority vote shall elect from among its members a chairman who shall preside over the meetings of the Board and a vice-chairman who shall act for the chairman during the chairman's absence. The Board shall appoint a secretary to the Board who shall be responsible for maintenance of records. An election of officers of the Board shall be held annually at the first regular meeting following the appointment of a new Board member after the end of a regular term of office. No member shall serve as chairman for more than two (2) consecutive terms.
- g) Board Meetings. The Board shall establish a regular monthly schedule of meetings. Special meetings may be held as required following appropriate notice. The Board shall adopt rules for the conduct of its meetings. No action shall be taken by the Board except by the concurring vote of at least four (4) members. A quorum shall consist of four (4) members of the Board. (Amended 11-2-99.)
- h) Subcommittees. The chairman with the approval of the Board shall have the authority to appoint ad hoc subcommittees, but there shall be no standing subcommittees of the Board. (Amended Nov. 5, 1991)

Section 178. Organization of Department.

- a) Executive Director. The Board shall appoint and employ an Executive Director who shall

be qualified by training and experience for the overall management of the Department. Salary shall be fixed by the Board and the Executive Director shall have such authority as delegated by the Board. The Executive Director shall determine the number of employees necessary for the operation of the utility, and fix their duties and compensation subject to the approval of the Board. The Executive Director shall have control of all actual construction and repairs, the immediate management of operation of the Department and the enforcement and execution of all rules and regulations, programs, plans and decisions made or adopted by the Board. The Executive Director shall maintain suitable permanent records regarding his or her actions. The Executive Director shall prepare plans and specifications, take bids and let contracts, subject to the approval of the Board.

- b) Employees. There shall be such other officers and employees of the Department as may be provided by the Board. The officers and employees shall be appointed and removed by the Executive Director subject to the provisions of this article. The Executive Director may hire an assistant with the advice and consent of the Board. The Executive Director shall adopt an organizational structure for management of the Department subject to the approval of the Board. The Executive Director shall negotiate all labor contracts, but all such contracts shall be executed by the chairman and secretary of the Board upon approval by the Board.
- c) Attorney. The Board shall appoint legal counsel who shall hold office at the pleasure of the Board. Legal counsel shall act as advisor to and attorney and counsel for the Board and the Department and shall approve in writing all contracts, bonds and other instruments in which the Board or the Department is concerned. Legal counsel shall represent the Board and the Department in all courts in any litigation and shall perform such other duties as the Board may authorize. With the consent of the City Commission, the City Attorney may act as legal counsel for the Light and Power Department and Board.
- d) Surety Bonds. The Board may require surety bonds for any of the officers and employees of the Department in such amounts as the Board deems necessary. The premiums for the bonds shall be paid by the Department in the same manner as any other operating expense.

Section 179. **Powers and Duties of Board.**

- a) Purchase and Sale of Personal Property. The Board shall have the power to acquire and dispose of personal property by sale, purchase, exchange or lease under procedures established by the Board which may provide a monetary limit within which such transactions involving personal property may be made by the Executive Director without Board approval and without necessity of securing competitive bids.
- b) Purchase and Sale of Real Property. No later than the effective date of this article, the City Commission shall clearly designate all light and power real property which appertains to the Light and Power Department operations, except general utility easements. The Light and Power Department may use any utility or roadway easement for utility purposes. The Board shall have the power to acquire real property or any interest therein in the name of the City for Light and Power Department purposes. The Board may sell or lease any Light and Power Department real property or interest therein in the name of the City, but the Board shall not sell, exchange, lease or in any way alien or dispose of the real property belonging to and appertaining to the Light and Power utility which it now owns or may hereafter acquire unless the proposition for such

disposal shall first have been submitted to the qualified voters of the City and approved by them by a majority vote of the electors voting thereon. The provision of this section regarding approval of the electors shall not, however, apply to the sale, lease or exchange of any real property which is not necessary for the operation of the Light and Power Department and which is certified as not necessary by the Light and Power Board and which is also certified as not necessary by the City Commission. The proceeds from the sale, lease or exchange of any real property certified as not necessary shall accrue to the Light and Power Department.

- c) Contracts. The Board shall have the following powers both inside and outside the City limits:
 - i. To sell its products and services to public and private corporations and to other consumers.
 - ii. To construct plants, transmission lines and other facilities;
 - iii. To purchase franchises; and
 - iv. To enter into all contracts and agreements in furtherance hereof.
- d) Extensions of Services. The Board may adopt regulations governing extensions of services of the Department both inside and outside the City limits. The regulations shall provide the conditions under which the extension shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the City whether on public or private property.
- e) Eminent Domain. The Board shall have no authority to exercise powers of eminent domain, but may recommend such actions be taken by the City.
- f) Use of Right of Way. The Board may use the grounds over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or water way in the operations of the Department, but shall in all cases be subject to the applicable general regulations of the City, and cause the surface of the public way to be restored to its usual condition.
- g) Joint Operations. The Board may enter into contracts and agreements with any public or private corporation or an individual, both inside and outside the boundaries of the City and State (1) for the joint use of property belonging either to the City in use for Light and Power Department purposes or to the other contracting party or jointly to both parties, and (2) subject to the approval of the City Commission, either for acquisition of real property or the issuance of bond obligations for the joint acquisition, financing, construction and operation of plants, buildings, transmission lines and other facilities.
- h) Rates. After a public hearing and public notice the Board shall fix rates to be charged for electricity, heat, steam and other utilities sold and services rendered by the Department. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class; but different rate schedules may be applied to different classes of consumers as determined by the Board. Rates within the City limits may be less but shall be no greater than for the same class of consumers outside the City limits. Rates shall be sufficient to pay all operating and maintenance expenses of the utility's operation and all bond interest and redemption costs of the utility operations. The Board may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of deposits when satisfactory consumer credit has been established. The Board shall also provide for the collection of payments for charges of the utility. (Corrected to eliminate typographical error 4-19-04).
- i) Budget. The Board shall submit to the City Commission on or before the last regular meeting of the City Commission in the month of April of each year an itemized budget conforming to the system of accounts required by the State of Michigan. The City

Commission shall approve or reject this budget, but shall not have authority to change any of its provisions. The Board may amend its budget following the same procedure for budget adoption. (Amended 11-2-99).

- j) Authority for Expenditures. No moneys shall be drawn from the funds of the Department nor shall any obligation for the expenditure of money be incurred except in conformity with the approved budget and after authorization by the Board. No claim against the Department shall be paid unless evidenced by a voucher approved by the Executive Director or by some other employee to be designated by the Executive Director.
- k) Bonds. Subject to applicable laws, the Board may recommend to the City Commission and the Commission may authorize the issuance and sale of revenue bonds necessary to finance the acquisition, construction, improvement and extension of any utility facilities owned by the City for Light and Power purposes including facilities owned or operated jointly with others.
- l) Short Term Indebtedness. Notwithstanding subsection (k) hereof and subject to applicable laws, the Board may borrow money for periods not to exceed three (3) years and may issue negotiable notes payable from the revenues of the Department as evidence of the indebtedness. However, such notes must be fully paid within three (3) years from their date of issuance and may not be renewed or converted to other short term indebtedness.
- m) Fee. No later than June 30 of each year, the Board shall pay to the City five percent (5%) of its gross revenue for the fiscal year ending on that same June 30. Such payment shall be the annual fee of the Light and Power Department to the City. Other than the annual fee, no other payment shall be made to the City except upon concurrent resolution duly adopted by a majority of the Board and a majority of the City Commission. No free service of electricity or any other service or product of the Light and Power Department shall be furnished by the Light and Power Department to any person, public or private, or to any political subdivision or any public agency or instrumentality of the State or Federal government.
- n) Accounting Reports. The Board, in addition to the reports and accounting that it may otherwise be required by law to make shall furnish to the City Commission a monthly financial statement on an accrual basis comparative with the budget. The City Commission shall conduct not less than annually an audit by a certified public accountant in accordance with generally accepted auditing standards showing the funds and accounts of the Department, which audit shall be open to public inspection.
- o) Capital Planning and Expansion. The Board shall conduct necessary studies and planning for the electricity, heat, steam, light and generating transmission facilities and related improvements and shall have the authority to include in its budget for each fiscal year up to five percent (5%) of the gross revenues or five percent (5%) of the undepreciated costs of existing facilities to provide for the financing of such expansion and improvements. The Board shall submit to the City Commission annually with its budget a capital improvements plan for the next six (6) years. The City Commission, after submitting this plan to the Planning Commission for its review and after the Planning Commission has held a public hearing on the plan, may approve or reject this plan, and once approved it may not be rejected by the City Commission except to the extent of the annual revisions of the plan adopted by the Board. If not approved or rejected by the City Commission by its first meeting in June, immediately following, the capital improvements plan shall be deemed approved. The Board's annual revisions shall include, as a minimum, a plan for the sixth year of the capital improvements plan. (Amended 11-2-93; 11-2-99, 11-7-06.)

- p) Rules and Policies. The Board shall have the power to adopt such rules, regulations and policies governing its conduct in the operation of the Light and Power Department as it deems advisable. The Board may also from time to time recommend to the City Commission the adoption of ordinances regarding the operation of the Light and Power Department, and specifically for the collection of payments for services rendered by the Light and Power Department.

Section 180. General Provisions.

- a) Existing Obligations. Contracts and obligations relating to the Light and Power Department of the City incurred prior to the taking effect of this chapter shall not be impaired and shall be binding upon the Board insofar as they apply to the Department.
- b) Repeal of Existing Charter Provisions. All existing provisions of the Charter of the City of Traverse City and parts of said provisions inconsistent with any provision of this chapter are hereby repealed including reference to the Traverse City Light and Power Department in Section 118 of said Charter.
- c) Severability of Provisions. The sections and subsections of this chapter are declared to be severable and in the event any one or more sections, subsections or parts thereof be declared void or illegal, it shall not affect the validity of the other provisions of this chapter.
- d) Effective Date of Chapter. For the purpose of creation, appointment, qualification and organization of the Board, and for the purpose of designating light and power real property, this chapter shall take effect from and after its passage, and for all other purposes of this chapter, shall take effect sixty (60) days from its passage.