



## **CHARTER**

**ADOPTED APRIL 2, 1973**

**EFFECTIVE NOVEMBER 12, 1973**

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CHARTER

CITY OF NEW BALTIMORE

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## **CHAPTER 1—BOUNDARIES OF THE CITY**

### **Section 1.**

The Municipal Corporation now existing and known as the City of New Baltimore, comprising all those tracts of land situated in the township of Chesterfield, in the County of Macomb, and in the Township of Ira, in the County of St. Clair and State of Michigan, together with all territories that may be annexed thereto, and described as follows, to-wit:

Commencing at the Northeast corner of fractional Section twelve, in township three north of range fourteen east, in the County of Macomb; thence west to the Northeast corner of the west half of the east half of section eleven, in said township; thence south in east line of said west half of the east half of said section eleven to south line of said section eleven; thence east forty rods; thence south to private claim three hundred and forty-three [343]; thence to west corner of said private claim; thence southeasterly on the line of said private claim to where it intersects the section line between fractional sections thirteen and fourteen in the aforesaid township; thence south on line between sections thirteen and fourteen and sections twenty three and twenty four, to the so-called Anchor Bay, part of Lake St. Clair; thence southeast to the deepest water or channel of said Anchor Bay; thence northeasterly; thence northerly; thence westerly by the deepest water of said Bay, to the north border of said Anchor Bay, where a line extending southeasterly through the center or private claim six hundred and twenty seven [627] intersects said border, thence northwesterly, passing through the center of said private claim six hundred and twenty seven, to the northwest line of said private claim six hundred and twenty seven; thence northeasterly on said line to the north corner of said private claim six hundred and twenty seven; thence westerly to the place of commencement.

## **WARDS**

### **Section 1.1.**

The City shall consist of one [1] ward.

## **ELECTION PRECINCTS**

### **Section 1.2.**

The City shall be divided into election precincts in the manner required by law.

## **CHAPTER 2—DEFINITIONS AND GENERAL PROVISIONS**

### **RECORDS TO BE PUBLIC**

#### **Section 2.1.**

All records of the City shall be public, unless otherwise provided by law, shall be kept in city offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available for inspection during the regular office hours of the city.

## **DEFINITIONS AND INTERPRETATIONS**

### **Section 2.2.**

Except as otherwise specifically provided or indicated by the context of this charter:

[1] The word "city" shall mean the City of New Baltimore;

[2] The word "council" shall mean the City Council of the City of New Baltimore;

[3] The word "employee" shall mean a person employed by the City of New Baltimore in any capacity, other than as an officer of the city or under contract and where duration of service is required for any reason;

[4] The word "law" shall denote applicable federal law, the Constitution and statutes of Michigan, the applicable common law, and this charter;

[5] The word "officer" shall include, but shall not be limited to, the Mayor, the members of the Council, and as hereinafter provided, the administrative officers, deputy administrative officers, the members of city boards created by or pursuant to this charter;

[6] The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;

[7] The words "printed" and "printing" shall include printing, engraving, stencil duplicating, lithographing, typewriting, photostating, or any similar method;

[8] The words "publish" or "published" shall include publication of any matter, required to be published, in the manner provided by law, or, where there is no applicable law, in one or more newspapers of general circulation in the city qualified by law for the publication of legal notices, or by posting in at least one public place in each election precinct in the city;

[9] The words "public utility" shall include all common carriers on the public streets or in the space above or beneath them, water, sewage disposal, electric light, gas, electric power, telephone and telegraph lines and systems; garbage collection, garbage disposal and reduction plants, and such other and different enterprises as the Council may from time to time determine or designate;

[10] Except in reference to signatures, the words "written" and "in writing" shall include hand written script, printing, typewriting, and teletype and telegraphic communications;

[11] All words indicating the present tense shall not be limited to the time of the adoption of this Charter; but shall extend to and include the time of the happening of any event or requirement to which the provision is applied;

[12] The singular shall include the plural, the plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter.

## **OFFICIAL PERFORMANCE**

### **Section 2.3.**

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

## **PUBLIC RECORDS AS EVIDENCE**

### **Section 2.4.**

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

## **QUORUM**

### **Section 2.5.**

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

## **SUNDAYS AND HOLIDAYS**

### **Section 2.6.**

"Except as otherwise expressly provided in this charter, whenever the date fixed by law or ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on a day in the next succeeding seven days which is not a Sunday or legal holiday."

## **ESTOPPEL**

### **Section 2.7.**

No estoppel may exist or may be created against the city.

## **PENALTIES FOR VIOLATIONS OF CHARTER**

### **Section 2.8.**

Any person found guilty of any violation of this charter may be punished by a fine, which, in addition to court costs charged to him, shall not exceed five hundred dollars or imprisonment for not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. Imprisonment for violations of this charter may be in the city or the county jail, or in any workhouse of the State which is authorized by law to receive prisoners of the city.

This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this charter.

## **CHAPTER AND SECTION HEADINGS**

### **Section 2.9.**

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

## **AMENDMENTS**

### **Section 2.10.**

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

## **SEVERABILITY OF CHARTER PROVISIONS**

### **Section 2.11.**

If any provision, section, or clause of this charter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any remaining portion or application of the charter, which can be given effect without the invalid portion or application, and, to this end, this charter is declared to be severable.

## **CHAPTER 3—MUNICIPAL POWERS AND LIABILITIES**

### **GENERAL POWERS**

#### **Section 3.1.**

[a] Unless otherwise provided or limited in this charter, the city shall possess and be vested with all the powers, privileges, and immunities, expressed or implied, which cities are, or hereafter may be, permitted by law to exercise or to include in their charters. The enumeration of particular powers, privileges, or immunities in this section or elsewhere in this charter shall not be held to be exclusive.

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

[1] To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including but not limited to the accumulation of rubbish and the growing of noxious weeds, which is or may be dangerous to the health, safety, morals, or welfare of the inhabitants of the city, and to provide that the cost of the abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located:

[2] To provide for public welfare by:

[a] Regulating trades, occupations, and amusements within the city, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;

[b] Regulating the preparation, storage, transportation, and sale of foods, drugs, and beverages for human consumption;

[c] Collecting and disposing of garbage and rubbish;

[d] Regulating and restricting the locations of oil and gasoline stations;

[e] Licensing and regulating drive-in types of business in which property is received from or sold or delivered to, or performed for the occupants of motor or other vehicles which are on the premises of such business at the time that such property is received, sold, delivered, or such services performed;

[f] Licensing and regulating vehicles which carry persons or property for hire, and regulating the number thereof, fixing the rates of fare and charges, and determining the location of stands for such vehicles;

[g] Licensing and regulating billboards and advertising signs and the locations thereof;

[h] Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;

[i] Establishing zones within the city and regulating therein the use and occupancy of lands or structures; the height, area, size and location of buildings; the required open spaces for light and ventilation of buildings, and the density of population;

[j] Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires;

[k] Regulating and controlling the use of streams, waters, and watercourses within the city;

[1] Regulating and controlling the manufacturing, storage, use and application of atomic energy, atomic devices, and atomic materials.

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

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

[b] Providing a plan of streets and alleys within the city, and for a distance of three miles beyond the limits;

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

[d] Compelling all persons to care for the untraveled portions of streets lying between the curbs and property line which abut upon premises owned, controlled, or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety, and, upon failure to do so, cutting and removing such weeds and removing such objects and assessing the cost thereof against such property as a special assessment;

[e] Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, weeds, shrubbery, or any

other object which obstructs such sidewalks, or which makes the same offensive or hazardous to the public health or safety, and upon failure to do so, to cut and remove such weeds and remove such objects and assess the cost thereof against such property as a special assessment;

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

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

[h] Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property;

[i] Preventing and abating the encumbering of streets and alleys or any part thereof;

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

[k] Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;

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

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

[n] Providing for mandatory replacement or replanting of trees and shrubbery destroyed by natural hazard, utilities or destruction to the reasonable satisfaction of the Mayor.

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

[5] To construct, provide, maintain, extend, operate, and improve:

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

[b] Either within or without the corporate limits of the city or of Macomb County and St. Clair County public parks; recreation grounds and stadiums; municipal camps; public grounds; zoological gardens; museums, airports and landing fields; cemeteries; public wharves and landings upon navigable waters or water; levees,

embankments, and structures for flood control and other purposes related to the public health, safety, and welfare; electric light and power plants and systems; gas plants and systems; public heating plants and systems; waterworks and water treatment plants and systems; storm sewers and systems; garbage collection and disposal facilities; refuse and rubbish collection and disposal facilities; facilities for the storage and parking of vehicles; hospitals, facilities for the landing of helicopters and air vehicles having like landing characteristics and any other structure or facility which is devoted to or intended for public purposes with the scope of the powers of the city.

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

[7] To join with any municipal corporation or with any other unit of government, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly, or by one or more on behalf of all, of any property, facility, or service which each would have the power to own, operate, or perform separately.

## **CHAPTER 4—OFFICERS**

### **CITY OFFICERS**

#### **Section 4.1.**

[a] The elective officers shall be the Mayor, the six councilmen, the City Clerk and the City Treasurer. Such officers shall be elected at regular city elections held on the first Tuesday after the first Monday in November in each odd numbered year in accordance with and subject to the provisions of law relating to the election of officers of cities. At each such election there shall be elected a Mayor and three members of the Council. At each such election held in a year following an even numbered year which is divisible by four there shall be elected a City Clerk and City Treasurer.

[b] The appointive officers may be the Administrative Assistant, the Assessor, the Director of Public Works, the Director of Building and Inspection, the Chief of Police, the Fire Chief and the members of the several boards and commissions created by or under the authority of this charter.

[c] All personnel employed by the city who are not elective or appointive officers, or members of a board created by this charter or declared to be officers by or under authority of this charter shall be deemed to be employees of the city.

[d] All personnel employed by the city who are not elective or appointive officers, or members of a board created by this charter or declared to be officers by or under authority of this charter shall be deemed to be employees of the city.

### **ELIGIBILITY FOR CITY OFFICE—GENERAL QUALIFICATIONS**

#### **Section 4.2.**

Except as otherwise provided in this charter, a person

is eligible to hold an elective city office if he is a resident of the city. All other city officers shall be required to become city residents within one year from appointment. The Council shall be the judge of the election and qualifications of its members, subject to the general election laws of the State and review by the Courts upon appeal.

### **CERTAIN PERSONS ELIGIBLE FOR CITY OFFICE**

#### **Section 4.3.**

[a] A person who has been convicted of violating any provisions of the election laws of the State or of the city, or who has been convicted of a felony or of an offense involving a violation of his oath of office, or who is in default to the city, shall not be eligible for any city office.

[b] No person shall simultaneously be a candidate for or hold two elected city offices or a city elective office and a city employment nor shall any person simultaneously hold an elective city office and an elective county office, or a school district office. No person who holds an elective county office, or a school district office shall be eligible to qualify for or to assume an elective city office to which he has been elected, until he first resigns from the elective county or school office held by him. Any elective officer of the city who assumes an elective county or school district office shall thereupon be deemed to have vacated the city office held by him.

[c] A person who holds or has held an elective city office shall not be eligible for appointment to a city office or employment which shall have been created or the emoluments of which have been increased during his term of office, until one year has elapsed following the term for which he was elected or appointed.

### **TERMS OF OFFICE AND APPOINTMENTS**

#### **Section 4.4.**

[a] The terms of office of the Mayor shall be two years and of all other elective officers shall be four years, commencing on and dating from the Monday following their election, unless otherwise provided in this charter.

[b] The Administrative Assistant shall be appointed by the Mayor with the approval of the Council. The City Attorney shall be appointed by the Mayor with the approval of the Council. Each other administrative and appointive officer, and as otherwise provided by this charter, shall be appointed by the Mayor subject to confirmation by the Council and shall hold office for an indefinite term subject to the removal by the Mayor with consent of the Council. The Administrative Assistant may be removed by a 2/3 majority of the Council.

[c] With the consent of the Council, and for so long as the Council shall permit, an elective officer may continue, provisionally, in the office held by him after the expiration of his term, until his successor has been elected or appointed, and has qualified for and assumed the office. If the Council shall terminate such continuance in office at any time, a vacancy shall exist in such office.

### **NOTICE OF APPOINTMENTS**

#### **Section 4.5.**

Within seven days after a person has been elected or an appointment has been made and confirmed the Clerk

shall mail to the person elected or appointed a certificate of such election or appointment.

#### COMPENSATION OF OFFICERS

##### Section 4.6.

The Council shall set the compensation for all public officers, except as otherwise provided by law. Reasonable expenses may be allowed to public officers when actually incurred and after they have been audited and approved by Council.

#### OATH OF OFFICE

##### Section 4.7.

Every officer, before entering upon his duties and all employees designated by the Council, before entering upon their employment, shall take and subscribe to the oath prescribed by Section 2 of Article XVI of the Constitution, and shall file the same with the Clerk. Such oath shall, in each case, be taken and subscribed before the Clerk, except that the Clerk shall do so before the Mayor.

#### SURETY BONDS

##### Section 4.8.

The Council may require any officer or employee to give a bond, to be approved by the City Attorney, in such sum as the Council determines. The bond shall be conditioned upon the faithful and proper performance of the duties of the office or employment concerned. All officers and employees who receive, distribute, or are responsible for the city funds or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or the appointment of another person to the office or employment, shall not exonerate the officer or employee or his sureties from any liability incurred by them. All official bonds shall be corporate surety bonds and the premiums thereof shall be paid by the city. No official bonds shall be issued for a term exceeding three years, except bonds which are required of officers serving terms of office which are longer than three years. No bond shall be renewed upon its expiration but a new bond shall be furnished in each case. The bonds of all officers and employees shall be filed with the Clerk, except that the Clerk's bond, unless he is covered within the scope of a blanket surety bond, shall be filed with the Treasurer. The requirements of this section may be met by the purchase by the city of one or more blanket corporate surety bonds covering all or any group or groups of the offices and employments of the city. Any officer or employee who is covered by a blanket surety bond shall not be bonded individually for the purpose of qualifying for office.

#### GIVING OF SURETY BY OFFICERS FORBIDDEN

##### Section 4.9.

No officer shall give or furnish any bail or recognizance in connection with any complaint or warrant charging the violation of a city ordinance, or be the agent of any surety or insurer in connection with any license granted by the city or with respect to which the approval of the Council or any officer of the city is required.

#### VACANCIES IN OFFICE

##### Section 4.10.

A city office shall become vacant upon the occurrence of any of the following events: [1] expiration of the term of office; [2] death of the incumbent; [3] resignation; [4] removal from office; [5] ceasing to be an inhabitant of the city; [6] conviction of an infamous crime or of an offense involving a violation of oath of office; [7] default to the city, unless such default is eliminated within thirty days after written notice thereof by the Clerk upon the direction of the Council, or unless the officer, in good faith, contests his liability for the default or shows that another person is primarily liable; [8] a decision of a competent tribunal declaring the officer's election or appointment void; [9] failure to take the oath or file the bond required for the office within ten days from the date of election or appointment or within such other times as the Council may fix; [10] in the case of Mayor and Councilmen, absence from four consecutive regular meetings of the Council; unless such absences be for confining illness or be excused by the Council at the time they occur, or from ten regular meetings in any calendar year; [11] in the case of other elective officers, absence from the city or failure to perform the duties of such office for ninety days, unless such absence from the city or failure to perform duties of office shall be excused by the Council prior to the expiration of such ninety day period; or, [12] any other event which, by law, creates a vacancy. In any case, absence from Council meetings or from the city on city business at the direction or with the approval of the Council shall not be included in the number of meetings or duration of absence set herein for creating a vacancy.

#### RESIGNATIONS

##### Section 4.11.

A resignation from office shall become effective immediately upon the filing thereof with the officer designated as the person to receive resignations from the officer concerned. Resignations of elective officers shall be made in writing and filed with the Clerk. Resignations of appointive officers shall be made in writing to the Mayor. The Mayor, or the Clerk, as the case may be, shall announce the resignation of any officer to the Council at its next meeting.

#### REMOVAL OF OFFICERS

##### Section 4.12.

With the consent of the Council, the Mayor may remove any appointive officer whose appointment was required to be approved by the Council. He may suspend any such officer pending the consent of the Council and for the purpose of the investigation of any complaint or charge against him.

#### RECALL

##### Section 4.13.

An elective officer may be recalled, and the vacancy thereby created shall be filled, in the manner prescribed by law.

## FILLING VACANCIES

### Section 4.14.

[a] If a vacancy occurs in an elective office, other than by recall, the Council shall, within thirty days thereafter, fill the vacancy until the Monday following the next regular city election, at which time, if the office extends beyond that date, the person elected at said election to fill the balance of the term in which said vacancy occurred shall assume office: Provided, that, if the vacancy occurs in the membership of the Council within forty days prior to a regular city election, it shall not be filled until after the organization of the Council following such election.

[b] Except as otherwise provided in this charter, if a vacancy occurs in an appointive office, such vacancy shall be filled within thirty days thereafter in the manner provided for making the original appointment: Provided, that, upon the request of the Mayor as to appointments made by him, such time may be extended, for not to exceed sixty days, by Council resolution setting forth the reasons therefor. The Council may, upon its own motion extend the time for filling vacancies in the office of City Attorney for so long as it deems necessary.

## DELIVERY OF OFFICE TO SUCCESSOR

### Section 4.15.

Whenever an officer or employee resigns, or is removed from office, or his tenure in office expires, he shall deliver, forthwith, to his successor in the office, or to the Mayor, all books, records, papers, moneys, and effects in his custody which were necessary to or were obtained as a part of the performance of his duties. A violation of this section shall be a violation of this charter.

## CHAPTER 5—THE CITY COUNCIL

### Section 5.1.

The Council shall consist of six members. The Mayor shall be the presiding officer of the council and have rights of vote only in breaking a deadlock. The Mayor shall be Chief Executive of the City with such powers as are provided by law, and the conservator of the peace in times of emergency. The Mayor Pro-Tem shall act in the place of the Mayor in the event of the absence or disability of the Mayor and if called to the chair by the Mayor, but retains his voting rights as a Councilman. Compensation of the Mayor and Council shall be determined by the Council, subject to the provisions of state law, and shall be pro-rated and payable semi-monthly. Such compensation shall constitute the only remuneration which may be paid for his services to the city. Actual expenses incurred by the Mayor and by the Councilmen may be reimbursed to them when itemized and approved by the Council and subject to Sections 8.10 and 8.15 of this charter. Lost wages on account of services to the city shall not be deemed to constitute expenses under the provisions of this section.

## ORGANIZATION OF THE COUNCIL

### Section 5.2.

[a] The Council shall meet and organize on the first Monday following each regular city election. At such meeting, or within two weeks thereafter, the Council

shall select one if its members as Mayor Pro-Tem and so such other acts as may be required for its organization and the conduct of its business. The Clerk shall attend all meetings of the Council and keep a permanent journal of its proceedings. Such journal shall be in the English language. The journal shall become official when approved by the Council and signed by the Mayor after such approval.

[b] The Council shall establish from its members, a "Finance or Budget Committee," a "Roads and Bridges Committee," a "Public Safety Committee," and such other committees as may be deemed necessary.

## MEETINGS OF THE COUNCIL

### Section 5.3.

[a] The Council shall meet in the established Council chambers or such other place as may be established by ordinance and shall hold at least two regular meetings in each month. All regular meetings of the Council shall be held in the evening at the time and on the days established by ordinance. If any time set for the holding of a regular meeting of the Council shall be a holiday then such regular meeting shall be held at the same time and place within the next two secular days thereafter.

[b] Special meetings of the Council shall be held at the regular meeting place of the Council. Special meetings shall be called by the Clerk on the written request of the Mayor, or any three members of the Council, on at least twelve hours written notice to each member of the Council, designating the time and purpose of such meeting, and served personally on each member of the Council, or left at his usual place of residence by the Clerk or by someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council shall be a legal special meeting if all members are present thereat, or in the event that any member or members be absent, if all absent members shall, in writing, waive the requirements that written notice be given. Proof of the service of such notices or of the waiver thereof shall be entered in the journal of the meeting to which they pertain. At the time of sending out or the delivery of notices for any special meeting, a copy thereof shall be sent out or delivered to the offices of the newspaper or newspapers in the city.

[c] No business shall be transacted at any special meeting of the Council, except that stated in the notice of the meeting.

[d] All regular and special meetings of the Council shall be public meetings and the public shall have a reasonable opportunity to be heard.

[e] Four members of the Council shall be a quorum for the transaction of business at all of its meetings. In the absence of a quorum, three members may adjourn any meeting to a later date.

[f] The Council shall determine its own rules and order of business and shall keep a journal, in the English language, of all its proceedings. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" or "No" votes and shall be entered upon the record, except that, where the vote is unanimous, it shall only be necessary to so state. The public shall have access to the minutes and records of

all regular and special meetings of the Council.

[g] The Mayor and the Clerk, or either of them, when it is not possible for both to act, shall prepare an agenda of business to be considered at each regular Council meeting, and, except when this rule is waived by the affirmative vote of five members of the Council, no item of business shall be placed on the agenda for a Council meeting, unless notice thereof was filed in the office of the Clerk by 5:00 o'clock, p.m., in the third secular day preceding such meeting. The Council shall prescribe by rule the items of routine business which shall be placed on each agenda without the necessity of giving a reasonable opportunity to be heard.

[h] No member of the Council shall vote on any question upon which he has a private interest or a financial interest contrary to the provisions of the Home Rule for Cities Act and 1968 P.A. 317 MCLA 15.321 et seq.; MSA 4.1700 [51].

[i] Except in those cases where a larger majority is required by law, no ordinance or resolution shall be adopted or passed, nor shall any other official action be taken, except by the affirmative vote of at least four members.

#### HEALTH FUNCTION OF COUNCIL

##### Section 5.4.

To the extent and for the time that the health functions of the city are joined with or absorbed by the Health Departments of the counties of Macomb and St. Clair, as provided or permitted by law, the powers normally exercised by boards of health in cities shall be exercised for the city by such Health Department. In the event that the Health Departments of Macomb and St. Clair counties shall cease to exist or to exercise and perform any of the health functions of cities which are normally exercised by the boards of health thereof, the Council shall constitute the Board of Health of the city and shall exercise and perform such functions.

#### TRUSTS

##### Section 5.5.

The Council may, in its discretion, receive and hold any property in trust for any municipal purpose and shall administer and apply the same in accordance with the provisions of the instrument creating such trust. All such trusts shall be administered, used and continued in accordance with the terms thereof, subject to the cy pres doctrine.

#### RESTRICTIONS OF POWER OF THE COUNCIL

##### Section 5.6.

The Council shall not have the power to make any contract with or give any official position to any person who is in default to the city. Except for the purpose of securing information or in the course of an investigation, neither the Council nor any of its committees or members, shall deal directly with any appointive administrative officer or department of the city, but shall conduct its affairs with such officers and departments through the office of the Mayor. Further, the Council

shall not have the power to engage in any business enterprise requiring an investment of money in excess of the maximum limit provided therefor by law, unless the proposition to do so is approved by three-fifths of the electors of the city, voting thereon at any general or special election.

### CHAPTER 6—CITY LEGISLATION

#### LEGISLATIVE POWER

##### Section 6.1.

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

#### PRIOR LEGISLATION PRESERVED

##### Section 6.2.

Except as otherwise provided by law, all ordinances, resolutions, rules and regulations of the City of New Baltimore and its predecessor, the Village of New Baltimore, and of each administrative agency of the city or village, to the extent that they are consistent with the provisions of this charter, shall continue in full force as ordinances, resolutions, rules and regulations of the city, until repealed or amended, and shall apply throughout the entire area comprising the city. In the event of the codification of the ordinances of the city, alterations in ordinances of the city, alterations in ordinances of the village to indicate the city and City Officers, instead of the village and village officers shall not be deemed to be amendments of such ordinances.

#### INTRODUCTION, CONSIDERATION, AND STYLE OF ORDINANCES

##### Section 6.3.

[a] Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be "The City of New Baltimore Ordains."

[b] Each ordinance, after adoption, shall be identified by a number.

[c] An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number only.

[d] If a section of an ordinance is amended, it shall be reenacted and published at length. In the event of the codification of the ordinances of the city, alterations in such ordinance to indicate chapter and article references in the code, instead of references to or of ordinance and section numbers as set forth in the original ordinance, shall not be deemed to be amendments of such ordinances. In any publication or codification of the ordinances, the words "village" and "Council" shall be changed to read "city" and "Council" respectively.

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

#### PUBLICATION OF ORDINANCES

##### Section 6.4.

[a] Before an ordinance may become effective, it shall be published in at least one newspaper which is of general

circulation in the city. The effective date of an ordinance shall be stated therein, but shall not be less than twenty days from the date of its adoption, unless it is declared by the affirmative vote of not less than five members of the Council, to be an emergency ordinance.

[b] In the event of the codification of the ordinance, the deposit of two hundred printed copies in the office of the Clerk, available for public inspection and sale at cost, shall constitute publication thereof.

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

## PENALTIES

### Section 6.5.

The Council shall provide in each ordinance for the punishment of violation thereof, but, unless permitted by law, no such punishment, including the costs charged, shall exceed a fine of five hundred dollars or imprisonment for not more than ninety days, or both, in the discretion of the court. In the case of the codification of the ordinances of the city, one provision for the punishment for violations of the provisions of such code shall be sufficient, and shall apply in all cases, except as otherwise provided in such code. Such punishment may be provided specifically for any specific part or portion of an ordinance, where a limitation upon or a greater punishment is desired by the Council than that prescribed in the ordinance for the violation of other portions thereof. Imprisonment for violation of ordinances may be in the city or the county jail, or in any workhouse in the State which is authorized by law to receive prisoners from the city.

## TIME LIMIT FOR PROSECUTION OF ORDINANCE VIOLATIONS

### Section 6.6.

No prosecution for the violation of an ordinance shall be commenced more than two years after the commission of the offense.

## PROCEEDINGS FOR PROSECUTION OR ORDINANCE VIOLATIONS

### Section 6.7.

Except as may be inconsistent with or otherwise provided in Chapter 12 of this charter, all proceedings relative to the arrest, custody, and trial of persons accused of the violation of ordinances shall be governed by and conform, as nearly as may be, with the provisions of law relating to proceedings in criminal cases cognizable by justices of the peace.

## INITIATIVE OR REFERENDARY PETITION

### Section 6.8.

An initiatory or a referendary petition shall be signed by not less than fifteen per cent of the registered electors of the city. No referendum shall be permitted respecting any ordinance required to be passed by the Council by law. Before having been circulated for signatures, any

such petition may be approved as to compliance with the requirements of this charter, only, by the City Attorney.

The City Attorney shall not approve or give any opinion upon the purpose or provisions of any such petition. Such petition may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name, 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 signed in the presence of the affiant. Such petition shall be filed with Clerk who shall, within fifteen days, canvass the signatures thereon to determine the sufficiency thereof. Any signature obtained more than ninety days before the filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition, and ten days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

## SAME-COUNCIL PROCEDURE

### Section 6.9.

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

[a] If it be an initiatory petition, adopt the ordinance as submitted in the petition within thirty days after its receipt thereof, or determine to submit the proposal to the electors; or

[b] If it be a referendary petition, repeal the ordinance to which the petition refers within thirty days after its receipt thereof, or determine to submit the proposal to the electors.

## SAME-SUBMISSION TO ELECTORS

### Section 6.10.

Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any purpose, or, in the discretion of the Council, at a special election. The results shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

## SAME-STATUS OF ORDINANCES ADOPTED

### Section 6.11.

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

## SAME-ORDINANCE SUSPENDED

### Section 6.12.

The certification by the Clerk of the sufficiency of a

referendary petition within forty days after the passage of the ordinance to which petition refers shall automatically suspend the operation of the ordinance in question, pending repeal by the Council or the final determination of the electors thereon.

## **CHAPTER 7—CITY ADMINISTRATION**

### **ADMINISTRATIVE RESPONSIBILITY**

#### **Section 7.1.**

The executive or administrative powers of the city, except as herein otherwise provided, are hereby vested in and shall be exercised by the Mayor and the administrative officers, boards, and commissions prescribed or permitted to be created by this charter.

### **ELECTION AND TERM OF OFFICE**

#### **Section 7.2.**

A Mayor shall be elected at each regular city election. A Clerk and a Treasurer shall be elected at each election held in a year following an even numbered year which is divisible by four. The Mayor shall be a person who has reached his twenty fifth birthday and who has been a resident of the city for at least three years immediately prior to the filing of his nominating petition or declaration of candidacy, and who possesses the further qualifications prescribed in Chapter 4 of this charter.

### **DUTIES OF THE MAYOR**

#### **Section 7.3.**

Under the provisions of this charter, insofar as is required by law, and for all ceremonial purposes, the Mayor shall be the administrative and executive head of this city. He shall be a conservator of the peace and may exercise within the city the powers conferred upon sheriffs to suppress disorder. He shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances and regulations of the Council, and the authority of the city government. The powers and duties of the Mayor shall include the following duties and functions:

[1] Keep an office in a convenient place to be provided by the Council;

[2] See that all laws and ordinances are enforced within the city;

[3] Except as in this charter otherwise provided, [i.e. Chapter 4], have the power of appointment and removal over officers, departmental directors, and the members of commissions and boards;

[4] See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or, in any contract, are faithfully kept and performed;

[5] Authenticate by his signature such instruments and proceedings as are required to be authenticated by him by law or by the Council;

[6] Prepare the annual budget proposal and present it to the Council with an explanation thereof at the time and in the manner required by this charter;

[7] Keep the Council fully advised at all times as to the financial conditions and needs of the city;

[8] On or before the first day of October in each year, prepare and submit to the Council and the public, as of the end of the fiscal year, a complete report of the finances and administrative activities of the city during the prior fiscal year;

[9] The Mayor shall be the presiding officer of the Council and shall have the right to vote only in breaking a deadlock;

[10] Recommend to the Council for adoption such measures as he may deem necessary or expedient;

[11] Be responsible for the efficient administration of all departments of the city government;

[12] Approve the administrative rules and regulations of the several directors, commissions, or boards in charge of the departments of the city government, before such rules and regulations shall be filed with the City Clerk;

[13] Require and receive monthly reports relative to the activities of each department from the respective department heads;

[14] Act as and be the sole spokesman for the administrative service and officers of the city, except for the Clerk, Treasurer, and the Assessor in so far as their duties are provided by law;

[15] Exercise and perform all administrative functions of the city which are not imposed by law or ordinance on some other city officer or agency;

[16] Exercise such other powers and perform such other duties as may be prescribed by law, or as may be required of him by ordinance or by direction of the Council;

[17] Keep himself informed and report to the Council, either of his own accord or in answer to questions put by the Council, concerning the work of the several administrative officers and departments of the city and, to that end, secure from the officers and heads of all administrative departments such information and periodical or special reports as he or the Council may deem necessary;

[18] Perform all acts required by law, whether herein specifically enumerated, or not.

### **MAYOR PRO-TEM**

#### **Section 7.4.**

The Councilman who receives the majority vote by the other members of the Council at the organizational meeting after each city election to the Council shall be Mayor Pro-Tem. In case of a vacancy in the office of Mayor, or his inability to perform the duties of the office by reason of sickness, absence from the city, or other cause, the Mayor Pro-Tem shall be the Acting Mayor. In case there shall be a vacancy in the office of the Mayor Pro-Tem, or he shall be unable to perform the duties of his office by reason of sickness, absence from the city, or other cause, the order of succession to fill the vacancy, either temporarily or permanently, shall be according to the majority of votes cast by the remaining members of the Council. In case of a vacancy in the office of Mayor, the Mayor Pro-Tem shall succeed to the office of Mayor for the balance of the Mayor's term, and shall receive the compensation of the Mayor for that time. In the event that the Mayor Pro-Tem shall succeed to the office of Mayor, a vacancy shall be deemed to exist on the Council,

which shall be filled by appointment in the manner provided in this charter. If a Mayor Pro-Tem shall refuse to succeed to the office of Mayor, the order of succession to succeed to such office shall be as herein provided for succeeding to the office of Mayor Pro-Tem.

#### SALARY

##### Section 7.5.

The Mayor shall be paid a salary that, except as otherwise provided in this charter, shall constitute the only compensation which may be paid for his services to the city.

#### ADMINISTRATIVE APPOINTMENTS

##### Section 7.6.

[a] The Mayor shall appoint the appointive officers of the city, the directors of the departments of the city, and members of the commissions and boards of the city, whether the same be established by this charter, or by ordinance; Provided, however, that appointments are confirmed by the Council. In any case where the Council shall not act upon the Mayor's appointment of a person as City Attorney or Assessor at the regular Council meeting at which it is announced or at the next subsequent regular Council meeting, such appointment shall be deemed to have been confirmed by virtue of such failure to act. The Mayor shall certify to the Clerk, in writing, the names of each appointee to an appointive office within five days after such appointment is made and shall announce such appointment to the Council at the next regular Council meeting following the date of such appointment. The term of office of each appointee may be terminated forthwith, if the Council, at such meeting or at its next subsequent regular Council meeting shall disapprove such appointment by a resolution which shall state the reasons for such disapproval. In the event of such a disapproval, the Mayor may reappoint the person disapproved. If such appointee be again disapproved by the Council, the Mayor may not again make such appointment in the calendar year in which such disapproval occurred.

[b] The appointive administrative officers, the director of any department or member of any commission or board of the city government, and such directors and members as are appointed by the Mayor shall hold office at the discretion of the Mayor; Provided, that, if a definite term of office is specified in this charter, the person holding that office shall hold his office for the full term so specified, unless a vacancy is created in such office as in this charter provided.

#### MEMBER OF CERTAIN BOARDS

##### Section 7.7.

The Mayor shall be a non-voting member of all boards and commissions of the city.

#### SALARIES

##### Section 7.8.

Except as otherwise provided by this charter, the salaries of the directors of the city departments shall be

set in the annual city budget. The salaries and remuneration of the personnel of the departments of the city government shall be subject to budget appropriations.

#### DEPARTMENT RULES—APPOINTING AUTHORITY

##### Section 7.9.

Subject to the provisions of this charter, the director, commission, or board, in charge of each department of the city government shall formulate all rules and regulations required for the organization and conduct of his or its department and of the divisions under his or its jurisdiction which shall be approved by the Mayor and shall thereupon become effective when filed in the office of the Clerk. Unless otherwise provided in this charter, each such director, commission, or board shall be the appointing authority for his or its department and, as such, shall be responsible for the appointment of all division heads, and personnel of his or its department.

#### CITY ATTORNEY

##### Section 7.10.

[a] The City Attorney shall act as the legal advisor of and be responsible to the Mayor and the Council. He shall, in writing, advise the Council, the Mayor, Clerk, Treasurer, Assessor and other Administrative Officers and Boards concerning their official duties when so requested.

[b] He shall prosecute charter and ordinance violations and shall present the city in cases before courts and other tribunals.

[c] He shall file with the Clerk a copy of all written opinions given by him.

[d] He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments as may be required by this charter, or by the Council, and shall promptly give his opinion as to the legality thereof.

[e] He shall attend the meetings of the Council as requested.

[f] He shall represent officers and employees of the city in all cases of litigation arising out of the performance of their duties to or on behalf of the city.

[g] He shall perform such other duties as may be prescribed for him by law or by the Council.

[h] Upon the City Attorney's recommendation, or upon its own initiative, the Council may provide for one or more assistants to the City Attorney, and may retain special legal counsel to handle any matter in which the city has an interest, or to assist the City Attorney. Each appointment made as herein authorized shall be made by the Council with consideration given to recommendations made by the City Attorney.

#### DEPARTMENT OF THE CITY CLERK

##### Section 7.11.

The administrative head of the Department of the City Clerk shall be the City Clerk, in this charter called "Clerk". The compensation of the Clerk shall constitute the only compensation which may be paid for his services to the city. His duties shall be as follows:

[1] The Clerk shall be clerk of the Council. He shall

attend all meetings of the Council, and shall keep a permanent journal of its proceedings, which journal shall be in the English language.

[2] He shall certify, by his signature, all ordinances, resolutions, and other actions of the Council and shall keep a record thereof, which shall be public.

[3] He shall be clerk and secretary of each board and commission of the city, except as otherwise provided by this charter.

[4] He shall, upon request, administer any oath required for municipal purposes by law and the ordinances of the city.

[5] He shall be custodian of all papers, documents, maps, surety bonds, and records which pertain to the city, the custody of which is not otherwise provided.

[6] He shall be custodian of the city seal and shall attest such documents and instruments.

[7] He shall give ample notice to the Council of the expiration or termination of any franchise, contract, or agreement to which the city is a party, and to officers, personally, of any official bonds required of them also expiration of terms.

[8] He shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter of any ordinance of the city.

[9] He shall be the chief elections officer of the city.

[10] He shall be the custodian of the records of each board, except as otherwise provided for in this charter, but may act in such capacity by designated deputies or representatives.

[11] He shall perform all duties required of him by law and the ordinances of the city.

[12] The Clerk shall be qualified to perform duties as the general accountant of the city, shall keep the books or accounts of the assets, receipts, and expenditures, and shall keep the Council and the Mayor informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform system as may be required by law.

[13] He shall examine and audit all accounts and claims against the city. He shall not allow withdrawals from any city fund, which after deduction of withdrawals therefrom, does not have a sufficient amount therein to pay such proposed withdrawal.

[14] He shall balance all the books of account of the city quarterly in each year, and shall make a report thereon to the Council and the Mayor.

[15] He shall at any time, upon direction of the Council, or the Mayor, examine and audit all books of account kept by any official or department of the city.

[16] Maintain an inventory of city owned property.

[17] With each agenda notice of a regular meeting, present to the Council for audit the schedule of bills to be paid.

## DEPARTMENT OF THE TREASURY

### Section 7.12.

[1] The head of the Department of the Treasury shall be the Treasurer. The compensation of the Treasurer shall constitute the only compensation which may be paid for his services to the city.

[2] He shall receive all moneys belonging to and receivable by the city, that may be collected by any official or employee, including license fees, taxes, assessments, and all other charges belonging to and payable to the city and also moneys available to the city from the state, county, or federal government, or any court, and shall have custody of all public funds belonging to or under the control of the city. He shall deposit all such funds in such depositories as may be designated by the Council in accordance with law and shall pay no money out of the treasury, except pursuant to authority of the Council.

[3] He shall have custody of all investments and invested funds of the city or in its possession in a fiduciary capacity and shall have and be responsible for the safekeeping of all bonds and notes of the city and for the receipt and delivery of city bonds and notes for transfer, registration, or exchange.

[4] He shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and moneys as are conferred by law.

## UNCLASSIFIED ASSISTANTS

### Section 7.13.

The Clerk and Treasurer and such other Administrative Officers as the Council shall permit, shall appoint and remove their own unclassified assistants.

## DEPARTMENT OF ASSESSMENT

### Section 7.14.

[a] The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by law.

[b] He shall make and prepare all regular assessment rolls in the manner prescribed by law and all special assessment rolls in the manner prescribed by law.

[c] He shall perform such other duties as may be prescribed by law or ordinance.

## PUBLIC SAFETY

### Section 7.15.

For the purpose of maintaining peace and order in the city and for protecting persons and property, both a police department and a fire department shall be maintained.

## DEPARTMENT HEADS OF THE POLICE AND FIRE DEPARTMENTS

### Section 7.16.

The executive head of the police department shall be the Police Chief and the executive head of the fire department shall be the Fire Chief. Subject to the provisions of Section 4.1. [c], of this charter, both of these department heads shall be appointed by the Mayor and shall be under his supervision and control, and shall be responsible to him in all respects. Each of the said executive heads shall, subject to the approval of the Mayor, organize and conduct the department under him in a manner consistent with good practices for cities.

## POLICE AND FIRE DEPARTMENT PERSONNEL

### Section 7.17.

[a] Each member of the police and fire departments shall, before entering upon the duties of his office or employment, take an oath similar to that required to officers of the city and shall file a copy thereof which is subscribed by him with the Clerk.

[b] No officer or employee of the city shall require any officer or employee of the police department to be on duty in such employment for more than eight consecutive hours out of any twenty-four hour period or more than forty hours out of each week: Provided, that this requirement shall not apply:

[1] To the head of the police department, or

[2] To any of said employees when required to remain on duty by the head of his department or proper subordinate officers or employees in case of public necessity arising out of riot or emergency or for disciplinary reasons.

[c] In the event of a full time Fire Department, no officer or employee of the city shall require any person in the fire department who is employed in fire fighting or subject to the hazards thereof to be on duty in such employment more than twenty-four hours, or to be off duty less than twenty-four consecutive hours out of any forty-eight hour period. Each employee shall be entitled to an additional twenty-four hours off duty in every eight day period, thereby requiring firemen to work not more than an average of sixty-three hours per week: Provided, that this requirement shall not apply:

[1] To the chief officer or to his chief assistant;

[2] To the employees of the department who are subject to call; or

[3] To employees when required to remain on duty by the chief officer of the fire department or his aides and assistants in cases of public necessity arising from great conflagration, riot, flood, epidemic of pestilence or disease, necessary absence of regularly employed men due to military service, or for disciplinary reasons.

## FUNCTIONS OF THE POLICE DEPARTMENT

### Section 7.18.

[a] The police force shall have and exercise all the immunities, privileges, and powers of peace officers and sheriffs granted by law, for the safety of persons and property therein. The officers and employees of the department shall possess and exercise the powers of arrest granted to peace officers by law and shall promptly take any person who is arrested before the proper magistrate or court to be dealt with according to law.

[b] It shall be the duty of the police force of the city to see that all ordinances and regulations of the Council made for the preservation of peace and good order and for the safety and protection of the inhabitants of the city are promptly enforced.

[c] For the preservation of peace and good order, and as a peace officer, each policeman shall be and is hereby vested, within the territorial limits of the city, with all the powers conferred by law upon sheriffs, and shall have and is hereby vested with all the powers given by law to constables for such purposes.

[d] Members of the police department shall have

power to serve and execute all processes, directed or delivered to them, in all proceedings for violations of the ordinances of the city. Such process may be served by such police officers anywhere as provided by law.

[e] When any person has committed or is suspected of having committed any crime or misdemeanor within the city or has escaped from the city jail, the members of the police department of the city shall have the same right, and immunities within respect thereto, to pursue, arrest, and detain such person outside the city limits as the sheriff of the county. Violations of city ordinances shall be deemed to be misdemeanors for the purpose of establishing the power of police officers in making arrests therefor.

[f] The Council shall have authority to vest the police department with such further powers as may be necessary for the preservation of peace and good order within the city.

[g] The Chief of Police shall appoint and maintain special patrolmen to be known as "Volunteer Police Auxiliary".

## FUNCTIONS OF THE FIRE FIGHTING AND PREVENTING FORCE

### Section 7.19.

[a] The firefighting and prevention forces shall be responsible for the use, care, and management of the city's fire fighting apparatus and property. They shall conduct such supervisory and educational programs within the city and with its inhabitants and industrial and business interests as will diminish the risk of fire. The Fire Chief, or any person lawfully acting in his stead or under his authority may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of property thereat. If any person shall willfully disobey any such lawful requirement or other lawful order of any such officer, he shall be deemed guilty of a violation of this charter.

[b] Whenever any building in the city shall be on fire the Fire Chief may, with the consent of the Mayor or any two Councilmen, order the building, or any building which they may deem likely to communicate fire to other buildings, or any part of such building, to be pulled down and destroyed. No action shall be maintained against any person, or against the city therefor. Any person having an interest in a building or the contents thereof, so destroyed or injured may, within three months thereafter, apply to the Council, in writing, to estimate and pay the damages he has sustained, provided he has no other recourse for the value thereof. If any such application shall have been made, the Council shall either pay to the applicant such sum as shall be agreed upon by them and the applicant for such damages, or if no agreement shall be effected, shall proceed to ascertain the amount of such damages, and shall provide for the appraisal, assessment, collection, and payment thereof, in such manner as may be prescribed by the Council.

[c] In appraising and assessing the damages incurred by an applicant, on account of the pulling down or destroying of any building, as above provided, there shall be taken into account the probability of the same having been destroyed or injured by fire, if it had not been so pulled down or destroyed. Whenever the proceedings for

appraising and assessing such damages have been completed, and have been finally confirmed, in accordance with the methods prescribed by the Council, the tender by the Council of payment of the value as so appraised or assessed, shall be deemed as full satisfaction of all said damages of the claimant.

## DEPARTMENT OF BUILDINGS AND INSPECTION

### Section 7.20.

There shall be a Department of Buildings and Inspection which shall be under the charge and direction of the Director of Buildings and Inspection. The Director shall be one of the inspectors of the department. The said Director shall be appointed by the Mayor, subject to the approval of the Council. The said Director shall be responsible for the conduct of the functions of the department. The department shall be responsible for all inspections required to be made under the building, electrical and plumbing codes of the city, the zoning ordinances, and such other ordinances as are adopted by the city requiring inspections to be made, other than such as are made under authority of law by the health authorities of the city or the Counties of Macomb and St. Clair.

## DIVISION OF ENGINEERING

### Section 7.21.

The Division of Engineering, if there be one, shall be responsible for all engineering work and building inspection required in the administration of the functions of the city government. The division shall be charged with the preparation of all necessary plats, plans, blue prints, maps, surveys, diagrams, and estimates of costs required by the Council, or the administrative service of the city relating to the buildings, grounds, streets, parks, and public improvements of the city. The administrative head of the Division of Engineering shall be the City Engineer, who shall be a Registered Engineer of the State of Michigan. He shall have and exercise within the city the powers and duties as are prescribed by law, the ordinances of the city, and the rules and regulations of the Director of Public Service. No member of this division shall do any private work in the city which requires the approval of any city officer or department.

## PLANNING DEPARTMENT

### Section 7.22.

[a] There is hereby created a Planning Commission, the administrative head of which shall be the Planning Director. The voting members of the Planning Commission shall be nine in number and shall be appointed by the Mayor, subject to the approval of the Council. The term of office of such members of the Planning Commission shall be for three years and the terms of the members will expire in each year. The membership of the Commission shall represent different professions and occupations having an interest in the growth and development of the city. Two members of the Council, to be selected by the Council annually in the month of April, shall serve as non-voting members of the Planning Commission, for terms of one year each,

beginning on the first day of May following their appointment.

[b] The Planning Commission shall possess and exercise all of the powers and functions of planning commissions under the provisions of Act. 285 of the Public Act. 285 of the Public Acts of 1931, and such amendments and superseding acts as may be enacted. Commencing with the year of the Charter adoption, the Department shall, in collaboration with the other officers and boards, prepare its recommendations for a program for capital improvement expenditures for public structures and improvements during the ensuing six years and submit the same to the Mayor and Council not later than the first day of February of each year. Proposed improvements listed in such program shall be set forth for each year in the general order of their priority and recommendations shall be made for the financing thereof.

[c] The master plan of the City of New Baltimore as in effect on the effective date of this charter shall constitute the master plan of the city, subject to the provisions of Act. No. 285 of the Public Acts of 1931.

[d] At each annual organizational meeting, the Commission shall elect from among its members the Planning Director.

[e] The Director shall furnish the Mayor and Council with minutes of all Planning Commission meetings within ten days of said meeting.

## OTHER DEPARTMENTS

### Section 7.23.

Except as may be otherwise provided by statute of this charter, the Council shall establish by ordinance the Departments of Public Works, Water and Sewers, and such other departments as it deems necessary or advisable, and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department.

## LIBRARY COMMISSION

### Section 7.24.

[a] There shall be a Library Commission [consisting of five] qualified electors having the qualifications required of city officers. The members of the Library Commission shall be appointed by the Mayor. The terms of members of the Library Commission shall be five years and the terms of the members first appointed shall be such that the term of one member will expire in each year on the first day of July.

[b] Members of the Library Commission shall not receive any compensation for their services on, or in connection with, the affairs of the Commission.

[c] The Library Commission shall have the power and authority to make such rules and regulations as may be necessary for the control of the New Baltimore Public Library and shall approve and appoint the City Librarian.

[d] The Library Commission shall have the power to authorize expenditures for the operation of the Library; Provided, That such expenditures do not exceed the allowances or appropriations made therefor by the Council.

[e] On or before the first day of February of each

year, the Library Commission shall submit to the Mayor an estimate in detail of the expenditures of said Commission for the ensuing year, to be included in the yearly budget.

[f] The Council shall provide in each annual budget of the city for the operation and conduct of the New Baltimore Public Library, and shall appropriate for such purpose such amounts which, in addition to revenues received from the State of Michigan and other sources, will assure the conduct of the library in a manner consistent with the needs of the community.

[g] In the conduct of the New Baltimore Public Library, the Library Commission shall be subject to the same accounting procedures and controls in the administration of the affairs of the library and the annual budget therefor as are other departments of the city.

#### DEPARTMENT OF PARKS AND RECREATION

##### Section 7.25.

The administrative head of the Department of Parks and Recreation, if there be one, shall be the Director of Recreation. The Director of Recreation shall be responsible to the Mayor for the conduct of the administration of the affairs of its departments and shall organize and conduct the affairs of the recreation facilities and programs of the city in a manner consistent with the best practices therefor.

#### CITIZENS COMMITTEE

##### Section 7.26.

The Council may create citizens advisory committees for the purpose of studying specific problems or needs of any department, function, or interest of the city, and shall specify the scope of study to be made and the time in which a report shall be made by any such committee. Members of such advisory committees shall serve without compensation but may be reimbursed for expenses incurred as in the case of officers of the city.

#### ADDITIONAL ADMINISTRATIVE POWERS AND DUTIES

##### Section 7.27.

From time to time, the Council may, by ordinance prescribe additional powers and duties, not inconsistent with this charter, to be exercised by appropriate administrative officers, departments, and boards or commissions.

#### ADDITIONAL DEPARTMENTS AND AGENCIES

##### Section 7.28.

The Council may create and maintain such additional administrative agencies and boards or commissions as it shall deem necessary for the conduct of the administrative affairs of the city: Provided, That no such board or commission or agency shall be given any powers and duties which overlap or interfere with the powers and duties imposed upon any office or department created by this charter. Each such board or agency shall be created by ordinance which ordinance shall conform to the provisions of this charter relating thereto and shall

clearly set forth the powers and duties thereof and the standards for the acts to be performed. Each such administrative agency, board or commission shall be responsible to the Mayor for the conduct of the affairs of the city entrusted to it and to the Council for the carrying out of its general policies pertaining thereto.

#### NEPOTISM

##### Section 7.29.

Except and unless relatives by blood or marriage of any officer of the city, within the second degree of consanguinity or affinity, and bona fide appointive officers or employees of the city at the time of the election or appointment of such officers, such relatives shall be disqualified from holding any appointive office or from being employed by the city, during the term for which such officer was elected or appointed. If the status of relationship between any officer or employee of the city and any other officer of the city changes to a relationship prohibited hereby after one year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply. No two or more persons who are within the second degree of consanguinity or affinity shall be employed with the same department of the city.

#### EMPLOYEES' GROUP BENEFITS

##### Section 7.30.

The Council shall have the power to make available to the elective and appointive officers and employees of the city, Federal Social Security, and recognized standard plans of group life, hospital, medical and surgical, health, accident, and other forms of group insurance and this shall not constitute or be considered as additional compensation.

### CHAPTER 8—BUDGET PROCEDURE AND GENERAL FINANCE

#### FISCAL YEAR

##### Section 8.1.

The fiscal year of the city shall begin on the first day of July of each year.

#### BUDGET PROCEDURE

##### Section 8.2.

On or before the first day of February of each year, each officer, department head, and board or commission of the city shall submit to the Mayor a complete statement of the financial needs and expected revenues of his office or department for the next fiscal year. The Mayor shall assemble the statements so submitted and prepare for the Council a budget proposal for the next fiscal year. Such budget proposal shall be presented to the Council at its second regular meeting in April. The proposed expenditures set forth in such budget proposal shall not exceed the expected revenues of the city for the next fiscal year by an amount greater than the expected unencumbered funds remaining at the end of the current fiscal year.

## BUDGET STATEMENT OF THE MAYOR

### Section 8.3.

The mayor shall submit to the Council with each budget proposal, a budget statement, which shall explain the budget proposal and contain an outline and explanation of the proposed financial policies of the city relating to its operations for the next fiscal year.

## BUDGET PROPOSAL

### Section 8.4.

The budget proposal shall present a complete financial plan for the next fiscal year. It shall include the following:

[1] Detailed estimates of all proposed expenditures for each department, board, commission, and office, showing in parallel columns: [a] expenditures for corresponding items for the last preceding fiscal year; [b] appropriations and expenditures therefor of the current fiscal year to the last day of December, with estimates of the expenditures therefor to the end of the current fiscal year; [c] requests therefor of the several officers, department heads, boards, and commissions, and [d] budget recommendations of the Mayor:

[2] Statements by the Mayor giving reasons for and recommendations concerning increases and decreases as compared with appropriations for the current fiscal year;

[3] 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;

[4] Detailed estimates of all anticipated revenue from sources other than taxes and borrowing, with a comparative statement of the amounts received from the same or similar sources for [a] the last preceding fiscal year, and [b] the actual receipts of the current fiscal year to the last day of December, and an estimate thereof for the balance of the year;

[5] A statement of the estimated amount of unexpended and unencumbered funds or deficit for the end of the current fiscal year;

[6] An estimate of the amount of revenue from the current and delinquent taxes and the amount to be raised by borrowing, which, together with revenue from other sources, will be necessary to meet the proposed expenditures;

[7] Such other supporting information and schedules as the Council or the Mayor may deem necessary.

## BUDGET PROPOSAL A PUBLIC RECORD

### Section 8.5.

Each budget proposal, together with all supporting schedules and the Mayor's budget statement, shall be a matter of public record after it is filed with the Council. A copy thereof shall be available for public inspection in the office of the Clerk at all reasonable times.

## BUDGET HEARING

### Section 8.6

A public hearing on the budget shall be held not less than one week before its final adoption at such time as the Council shall direct. Notice of the public hearing shall be published by the Clerk at least one week in advance

thereof.

## ADOPTION OF BUDGET

### Section 8.7.

On or before the first regular meeting in June, the Council shall, by resolution, adopt a budget for the next fiscal year, and in such resolution, shall make an appropriation of the money budgeted for municipal purposes during the next fiscal year, and determine the amount to be raised by taxation.

## FAILURE OF COUNCIL TO ADOPT BUDGET

### Section 8.8

Should the Council fail to adopt a budget for the next fiscal year on or before the first regular meeting in June, the budget proposal, as recommended to the Council by the Mayor, shall be deemed to have been finally adopted by the Council and, without further action by the Council, shall constitute an appropriation of the money needed for municipal purposes during the next fiscal year. It shall be deemed due and legal authority for a levy of the amount to be raised by taxes upon property in accordance with the limitation provided in Section 9.1. hereof, the budget and appropriations and each item thereof shall be adjusted by the Mayor to conform to such limitation.

## EFFECT OF ADOPTION OF BUDGET

### Section 8.9.

Upon the adoption of any budget, the several amounts stated therein as proposed expenditures shall be appropriated to the several and respective objects and purposes named therein. A copy of the budget so adopted, certified by the Clerk, shall be filed in his office. Copies of the budget, as adopted, or of appropriate portions thereof, shall be furnished by the Clerk to each officer, department head, board, and commission of the city, and upon request, shall be furnished, at cost of reproduction, to interested citizens and civic organizations. No transfer shall be made from one fund to another, except by the Council.

## TRANSFER OF OPERATING APPROPRIATIONS

### Section 8.10.

After the budget has been adopted, no money shall be drawn from the treasury, nor shall any obligation for the expenditure of moneys be incurred for payment during the fiscal year to which budget applies, except pursuant to an appropriation therefor. The Council may, however, transfer any unencumbered operating appropriation balance, or any portion thereof, from one operating fund or account to another. At the end of each fiscal year, the Council may transfer any unencumbered balance or any part thereof in any budget appropriation into one or more public improvement funds created under authority of Section 8.17. of this charter. If not so transferred such balance shall revert to the general fund.

## DEPOSITORY

### Section 8.11.

The Council shall designate the depository or

depositories for city funds, and shall provide for the regular deposit of all city money.

## BUDGET CONTROL

### Section 8.12.

[a] Except for purposes which are to be financed by the issuance of bonds or by special assessments, or for the other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city, except in accordance with an appropriation for such purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payment which will be due under such obligation during the fiscal year. The Council only, by resolution adopted by the affirmative vote of not less than six of its members, may appropriate funds in the hands of the Treasurer or transfer any unencumbered appropriation balance, including the contingent account of the general fund of the city or any portion thereof from any account, department, or agency to another.

[b] Expenditures shall not be charged directly to the contingent account. Instead, the necessary part of the appropriation from such account shall be transferred to the appropriate account and the expenditure then charged thereto.

[c] During each month, the Mayor shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to the end of the preceding month, and if it shall appear that the revenues are other than anticipated, the Council may, by resolution, reduce or increase appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

[d] Within thirty days following the end of the fiscal year, the Mayor shall file with the Council a schedule of all encumbrances upon the budget appropriations existing at the end of the fiscal year, with his recommendations as to whether such encumbrances shall be paid from such budget appropriations or from the budget of the next fiscal year. The Council shall determine from which appropriations such encumbrances shall be paid. The remaining balance in any budget appropriation, at the end of each fiscal year, except for the payment of indebtedness evidenced by bonds or notes of the city and interest thereon, shall revert to the contingent account of the general fund.

## NON-DAMAGE CLAIMS AGAINST THE CITY

### Section 8.13.

All non-damage claims against the city shall be filed with the Clerk, who shall transmit them to the Mayor. The Mayor shall verify the correctness of each claim and determine whether it is a proper charge against the city. The Council shall provide by ordinance, the procedure for the payment of contractual and other non-damage claims against the city.

## DAMAGE CLAIMS AGAINST THE CITY

### Section 8.14.

If any person intends to hold the city liable for any injury to person or property, he shall within sixty days

after such injury occurred, serve or cause to be served upon the Clerk, a written notice, stating that such person intends to hold the city liable for such damage. Such notice shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act of defect complained of, the then known extent of the injury, and the names and addresses of witnesses known to the claimant. No person shall bring action against the city for damages to person or property, unless brought within the period prescribed by law. It shall be a sufficient bar to any action upon any such claim that the notice of injury required by this section was not filed within the time and in the manner herein provided.

## WITHDRAWAL OF CITY FUNDS

### Section 8.15.

All moneys of the city drawn from the treasury shall be drawn pursuant to an appropriation by the Council and by checks signed and counter-signed by such persons as shall be designated by the Council. Each check shall specify the fund or funds from which it is payable. A schedule of payment shall be presented to the Council for review as stated in Section 7.11. Item [17.]

## INDEPENDENT AUDIT

### Section 8.16.

An independent audit shall be made of all accounts of the city government at the close of each fiscal year, and shall be completed within four months thereafter. Special independent audits may be made at any time that the Council may designate. All such audits shall be made by a Certified Public Accountant designated by the Council. The results of each such audit shall be made public in the manner that the Council determines and copies thereof shall be placed in the office of the Clerk, and of the Mayor.

## FUNDS FOR PUBLIC IMPROVEMENTS

### Section 8.17.

The Council may establish and maintain a fund or funds, including a revolving fund for special assessment projects, for the purpose of accumulating moneys to be used for making, acquiring, extending, altering, or repairing public improvements. Moneys so accumulated may be transferred, encumbered, or otherwise disposed of only for the purpose for which they were accumulated, unless the proposition to do so is approved by a majority of the electors of the city voting thereon at a regular or special election.

## MUNICIPAL BORROWING POWER

### Section 8.18.

[a] Subject to the applicable provisions of law including the powers permitted by and the limitations set forth in Section 4 [a], 4 [b], 4 [c], 4 [d], and 5 of Act No. 279 of the Public Acts of 1909, as amended, and the city may borrow money for any purpose within the scope of its powers, and may issue bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include, but not limited to:

[1] General obligation bonds, the principal and interest of which are payable from taxes levied upon the taxable real and personal property in the city and for the

payment of which the full faith and credit of the city are pledged;

[2] Special assessment bonds may be issued in anticipation of the payment of special assessments, which bonds may be solely an obligation of the special assessment district or districts or may be secured by the secondary obligation of the full faith and credit of the city to advance moneys from the general fund should special assessment collections be insufficient for debt service; general obligation bonds of the city may also be issued as a primary obligation of the city for the city's share of the improvement assessed on an at-large basis.

[3] Revenue bonds, as authorized by law, which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city:

[4] Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by law to finance in this manner:

[5] Tax anticipation notes, which may be issued in anticipation of the collection of taxes in or during the current or next succeeding fiscal years of the city or any other years permitted by law:

[6] Calamity bonds, issued in case of fire, flood, or other calamity, for the relief of the inhabitants of the city and for preservation of municipal property, in a sum not to exceed three-eighths of one percent of the assessed value of all the real and personal property in the city, and due in not more than five years:

[7] Bonds for the city's share of the cost of local improvements, which bonds may be issued as a part of, or independently of, any issue of special assessment bonds which are issued for the same improvement or improvements:

[8] Loans from accumulated reserves of the city when evidenced in writing and a definite plan for the repayment thereof and of interest thereon as provided by the Council.

[b] All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund and shall be used for the purpose for which levied and for the payment of the principal of and interest on bonds issued in anticipation of such special assessments. If there is any deficiency in a special assessment fund to meet the payment of the principal or interest to be paid thereon, moneys shall be advanced from the general fund of the city to meet such deficiency and shall be replaced in the general fund when the special assessment fund shall be sufficient therefor.

[c] Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and no officer of the city shall use the proceeds thereof for any other purpose, except that, whenever the proceeds of any bond issue, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of such unexpended and unencumbered funds:

[1] For the retirement of such bond issue, or

[2] If such bond issue has been fully retired, then for the retirement of other bonds or obligations of the city or

[3] If there is no other indebtedness, then for such other bonds or obligations of the city.

[d] No bond or other evidences of indebtedness of the city, regardless of type or purpose, shall bear interest at

a rate exceeding the maximum permitted by law.

[e] All bonds and other evidences or indebtedness of the city shall be signed by the Mayor and counter-signed by the Clerk, under the seal of the city. Interest coupons may be executed with the facsimile signature of the clerk.

[f] A complete and detailed record of all bonds and other evidences of indebtedness shall be kept by the Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled."

[g] The City Council may enter into contracts or agreements for the purchase of lands, property or equipment for public purposes, to be paid for in installments, the outstanding balance of such purchases however not to exceed \$75,000, nor the installment payments to exceed a ten year period.

Purchases in excess of the foregoing limitation shall be authorized upon approval of the electors. All sums necessary to meet annual installment payment shall be included in each year annual budget period.

[9] The City Council may enter into contracts or agreements for the purchase of lands, property or equipment for public purposes, to be paid for in installments, the outstanding balance of such purchases; however not to exceed \$75,000, nor the installment payments to exceed a ten year period.

Purchases in excess of the foregoing limitation shall be authorized upon approval of the electors. All sums necessary to meet annual installment payment shall be included in each year annual budget period.

## LIMITATIONS UPON BORROWING POWER

### Section 8.19.

[a] The issuance and sale of bonds and other obligations, the limit of bonded indebtedness of the city, and the limitations on borrowing in anticipation of taxes or delinquent taxes shall be governed by state law.

[b] No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized.

[c] If any bonds are not sold within three years after authorization such authorizations shall be null and void as to such unsold bonds.

## ANNUAL REPORT

### Section 8.20.

The Mayor shall prepare an annual report of the affairs of the city, after the completion of the annual audit. The report shall include condensed financial statements showing the results of all city operations, including statements for each public utility owned or operated by the city. Copies of such report shall be made available for public inspection and distribution at the office of the Clerk and by such other method as the Council and the Mayor may determine.

## CHAPTER 9—TAXATION

### POWER TO TAX—TAX LIMIT

#### Section 9.1.

The city shall have the power to assess taxes and to lay

and collect rents, tolls, and excises: The annual general ad valorem tax levy for municipal purposes shall not exceed one and one-half per cent of the assessed value of all real and personal property in the city.

## SUBJECT OF TAXATION - TAX PROCEDURE

### Section 9.2.

[a] The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law.

[b] Except as otherwise provided by this charter, city taxes shall be levied and collected in the manner provided by law.

## EXEMPTIONS

### Section 9.3.

The power of taxation shall never be surrendered or suspended by any grant or contract to which the city shall be a party. No exemptions from taxation shall be allowed, except as are expressly required or permitted by law.

## TAX DAY

### Section 9.4.

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day. The taxable status of persons and property on the tax day shall apply to and be used as the basis of the assessment roll for city and other taxes on property which is reviewed by the Board of Review during the month of March, or other date set by law, next subsequent to the said tax day.

## PERSONAL PROPERTY - JEOPARDY ASSESSMENT

### Section 9.5.

If the treasurer finds or reasonably believes that any person who is, or may be, liable for taxes upon personal property, the taxable situs of which was in the city on tax day, intends to depart from the city, or to remove therefrom personal property which is, or may be, liable for taxation; or to conceal himself of his property; or to do any other act tending to be prejudice, or to render wholly or partly ineffectual the proceedings to collect such tax, unless proceedings therefor be brought without delay, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

## PREPARATION OF THE ASSESSMENT ROLL

### Section 9.6.

Prior to the third Monday in April, in each year, or such other date as may subsequently be required by law, the Assessor shall prepare and certify an assessment roll of all property in the city. Three weeks prior to the annual meeting of the Board of Review, the Assessor shall notify every property owner of any increase in the

assessed value of his property.

Such roll shall be prepared in accordance with law and may be divided into volumes, which shall be identified by the Assessor, for purposes of convenience in handling the assessment roll and for locating properties assessed therein. The attachment of any certificate or warrant required by this Chapter to any volume of the roll, either as an assessment roll or as a tax roll, shall constitute the attachment thereof to the entire roll, provided that several volumes are identified in such certificate or warrant. Values of property set forth on the assessment roll shall be determined according to recognized methods of systematic assessment.

**BOARD OF REVIEW:** Composition, Term  
Compensation

### Section 9.7.

The Board of Review shall be composed of five freeholders of the city who shall meet the eligibility requirements for elective officers contained in Section 4.2. and 4.3. and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the Board of Review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. In January, 1974, there shall be appointed five members of the Board, three members for two year terms and two members for one year terms. Thereafter, two members of the Board shall be appointed in January of each even numbered year for a term of two years and three members shall be appointed in January of each odd numbered year for a term of two years. Each appointment to the Board shall be made by the Mayor subject to the approval of the Council. The Council shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year and the assessor shall be the clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

## DUTIES AND FUNCTIONS OF BOARD OF REVIEW

### Section 9.8.

For the purpose of revising and correcting assessments the Board of Review shall have the same powers and perform like duties, in all respects, as are, by law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter. At the time, and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessments. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll the Board shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the Board of Review shall make any change upon, or addition or correction to, the assessment roll. The Assessor shall keep a permanent record of all

proceedings of the Board and enter therein in its resolutions and decisions. Such record shall be filed with the Clerk on or before the first day of May following the meeting of the Board of Review.

#### MEETINGS OF BOARD OF REVIEW

##### Section 9.9.

[a] The Board of Review shall convene in the City Hall on the third Monday in March in each year, or on such other date as may subsequently be required by law for the meeting of Boards of Review in cities, and shall sit for not less than three consecutive days.

[b] The Board of Review may examine on oath any person appearing before it respecting the assessment of property on the assessment roll. Any member of the Board may administer such oath.

#### NOTICE OF MEETINGS

##### Section 9.10.

Notice of the time and place of the annual meeting of the Board of Review shall be published by the City Clerk not less than one week nor more than three weeks prior thereto.

#### ENDORSEMENT OF ROLL

##### Section 9.11.

After the Board of Review has completed its review of the assessment roll, and not later than the Tuesday following the fourth Monday in April, or such other date as may subsequently be required by law, the majority of its members shall sign a certificate to the effect that the same is the assessment roll of the city for the year in which it has been prepared, as approved by the Board of Review. This certificate when attached to any volume of the roll, shall constitute a conclusive presumption of the validity of the entire roll, as provided in Section 9.6. Any copy of the roll then so certified, shall be equally valid. The omission of such certificate shall not affect the validity of the roll.

#### VALIDITY OF ASSESSMENT ROLL

##### Section 9.12.

Upon the completion of the roll, and from and after midnight ending the last day of the meeting of the Board of Review, it shall be the assessment roll of the city for county, school, and city taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all courts and tribunals to be valid, and shall not be set aside, except for cause set forth by law.

#### CLERK TO CERTIFY LEVY

##### Section 9.13.

Within three days after the Council has made the appropriations for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem

tax, together with such other assessments and lawful charges and amounts which the Council requires to be assessed, reassessed, or charged against the property and persons appearing upon such roll.

#### CITY TAX ROLL

##### Section 9.14.

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a tax roll, or a combined assessment and tax roll, to be known as the "City Tax Roll". Upon receiving the certification of the several amounts to be raised, assessed, and charged for city taxes, as provided in the preceding section, the Assessor shall proceed forthwith [1] to spread the amounts of the general ad valorem tax according to and in proportion to the several valuations set forth in said assessment roll, except exempted property, and [2] to place such other assessments and charges upon the roll as are required and authorized by the Council.

#### TAX ROLL CERTIFIED FOR COLLECTION

##### Section 9.15.

After spreading the taxes placing other assessments and charges upon the roll, the Assessor shall certify the tax bill, and attach his warrant thereto directing and requiring the Treasurer to collect, prior to March first of the following year, from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax, charge, or assessment. Said warrant shall grant to and vest in the Treasurer, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. The tax roll shall be delivered to the Treasurer on or before the thirtieth of June.

#### TAX LIEN ON PROPERTY

##### Section 9.16.

[a] All city taxes on real and personal property shall become a debt to the city from the owner or person otherwise to be assessed on the tax day provided by law. The amounts assessed on any interest in real property shall then become a lien upon such real property on the first day of July next subsequent to the said tax day, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof.

[b] All personal property taxes shall also, from and after the first day of July next subsequent to the said day, be a first lien, prior, superior, and paramount, on all the personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens, to the extent provided by law for county and school district taxes, and shall so remain until such taxes and all interest and charges thereon are paid.

#### TAXES DUE-NOTIFICATION THEREOF

##### Section 9.17.

City taxes on real and personal property shall be due for payment on the first day of July in each year. The Treasurer shall not be required to make personal demand

for the payment of taxes, but, upon receipt of the city tax roll, he shall forthwith mail a tax statement to each person named in the tax roll and shall give notice, by publication in a newspaper of the city, of the date upon which city taxes are due, which notice shall be sufficient demand for the payment of all taxes assessed. Neither the failure on the part of the Treasurer to give such notice, nor the failure of any person to receive the notice or the tax statement, shall invalidate the taxes on the tax roll or release any person or property assessed from the penalty provided in this chapter in case of non-payment.

#### **TAX COLLECTION FEES**

##### **Section 9.18.**

No collection fee shall be added to taxes paid during the months of July and August. A collection fee of one-half of one per cent per calendar month or fraction of a calendar month shall be added to all taxes, charges and assessments on each city tax roll; which following the due date thereof, remain unpaid on and after the first day of September. Such fee, when paid, shall be for the use of the city. All city taxes, special assessments, and charges on the city tax roll and collection fees which remain unpaid on the first day of October shall be entered on the December tax roll, and collected with the county and school taxes on such roll.

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

##### **Section 9.19.**

If any person shall neglect or refuse to pay any tax on personal property assessed to him, the Treasurer shall collect the same by seizing any personal property of such person, to an amount sufficient to pay such tax, together with any fees and charges added thereto, wherever the same may be found in the State. No property shall be exempt from such seizure. He may sell the property seized to an amount sufficient to pay the taxes and all charges, fees, penalties, and interest in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue the person to whom it is assessed, in accordance with powers granted to him by law.

#### **STATE, COUNTY, AND SCHOOL TAX**

##### **Section 9.20.**

For the purpose of assessing and collecting taxes for state, county, and school purposes, the city shall be considered the same as a township and all provisions of law relative to the collection of, and accounting for such taxes and the penalties and interest thereon shall apply. For the purpose of collecting state, county, and school taxes, the Treasurer shall perform the same duties and have the same powers as township treasurers under state law.

#### **PROTECTION OF CITY LIEN**

##### **Section 9.21.**

The city shall have the power, insofar as the exercise thereof shall not conflict with or contravene the

provisions of law, to acquire such an interest in any premises within the city, by purchase at any tax or other public sale, or by direct purchase from or negotiation with the State of Michigan or the fee owner, as may be necessary to assure to the city the collection of its taxes, special assessments, or charges which are spread or levied on any tax roll against any lot or parcel of real property or to protect the lien of the city therefor, and may hold, lease, sell, or exchange the same. Any such procedure exercised by the city to assure the collection of its taxes, special assessments, and other charges which have been spread or levied on any tax roll, or the protection of its tax or other liens shall be deemed to be for a public purpose. The Council may adopt any ordinance which may be necessary to make this section effective.

#### **COLLECTION OF DELINQUENT TAXES**

##### **Section 9.22.**

All taxes, special assessments, and charges, together with collection fees, penalties, and interest upon real property on the tax roll, remaining uncollected by the Treasurer on the first day of March following the date when the roll was received by him shall be subject to one of the following procedures:

[1] The real property against which such taxes, special assessments, and charges are assessed shall be subject to disposition, sale, and redemption for the enforcement and collection of the tax lien against the same in the method and manner which may be provided by ordinance. The Council may provide by ordinance the procedure for the sale and redemption of real property for such unpaid taxes, special assessments, and charges, together with collection fees, penalties, and interest, by judicial sale on petition filed in behalf of the city. Such procedure shall correspond substantially to the procedure provided by law for the sale by the State of tax delinquent real property and redemption therefrom, except that the acts performed by state and county officers shall be performed by appropriate city officers and that city tax sales shall be held not less than thirty nor more than ninety days prior to the dates or corresponding tax sales under the general law.

[2] If no ordinance is in effect pursuant to sub-section [1] of this section, such taxes, special assessments, and charges, together with collection fees added thereto shall be returned to the County Treasurer, to the extent and in the same manner and with like effect as provided by law for returns by township treasurers of township and county taxes. Such returns shall include all the special assessments, charges, collection fees, penalties, and interest hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes, special assessments, and charges, together with the collection fees added thereto, thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

#### **DISPOSITION OF REAL PROPERTY HELD BY CITY**

##### **Section 9.23.**

When the city has acquired any interest in property to

protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract shall have the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, collection fees, penalties, interest, and costs, paid by the city to protect its title in such property. After the lapse of ninety days after the date that the city acquires title to any such property, the Council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the Council by the Assessor.

## **CHAPTER 10—SPECIAL ASSESSMENTS**

### **GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS**

#### **Section 10.1.**

The Council shall have the power to make public improvements within the city and, as to public improvements which are of such nature as to benefit especially any property or properties within a district, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon the property in an amount which is in proportion to and shall not exceed the benefits derived or to be derived.

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

#### **Section 10.2.**

The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of special assessment districts, notices and hearings, making and confirming of special assessment rolls, correction of errors in such rolls, the number of installments in which special assessments may be paid, collection of special assessments, refunds of excess moneys collected, and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall provide for the following:

[1] The procedure for filing petitions for public improvements;

[2] A survey and report by the Mayor concerning the need for, desirable extent of, and probable cost of each proposed public improvement, before any other action shall be taken thereon;

[3] A public hearing by the Council on the making of such public improvement, at which all persons within the proposed special assessment district therefor or who own property therein may be heard;

[4] A resolution of the Council determining to proceed with the proposed public improvement, determining the

probable life of the improvement, finally fixing the special assessment district therefor, and ordering the Assessor to prepare a special assessment roll therefor; Provided, That, if prior to the adoption of the resolution authorizing the making of the public improvement, written objections thereto have been filed by the owners of property in the district, which, according to estimates, will be required to bear more than fifty per cent of the cost thereof, or by a majority of the owners of property, to be assessed, no resolution determining to proceed with the improvement shall be adopted, except by the affirmative vote of five members of the Council:

[5] A public hearing by the Board of Review on the special assessment roll for the projects;

[6] Publication of notice of each hearing required by this section to be given in a newspaper published within the city not less than ten days prior to the date of the hearing;

[7] A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefor, or the first installment thereof, if installment payments be allowed, shall be due and payable; the number of annual installments in which the special assessment may be paid; and the rate of interest to be charged upon each deferred installment;

[8] That whenever any property is acquired by condemnation, or otherwise, for the purpose of any public improvement, the cost thereof, exclusive of that part of such cost representing damages for injury to improvements to such property and the cost of the proceedings required to acquire such property, may be added to the cost of such improvement; and

[9] That no contract or expenditure, except for the cost of preparing necessary legal procedures and engineering plans and estimates, shall be made for the improvement, until special assessments to defray the costs of the same shall have been levied. This provision shall not apply in any case where the owners of all of the property in the assessment district petition for the public improvement proposed to be made.

### **ADDITIONAL ASSESSMENTS AND CORRECTION OF INVALID SPECIAL ASSESSMENTS**

#### **Section 10.3.**

[a] Additional pro rata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incidental thereto, or insufficient to pay the principal and interest on bonds issued in anticipation of such assessment roll: Provided, That the additional pro rata assessment shall not exceed twenty-five per cent of the assessment as originally confirmed unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published as provided in the case of review of the original special assessment roll.

[b] Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid for or not, have power to

cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for in original assessment except as to corrections in the proceedings required to make the assessment legal. Whenever any sum or part thereof levied upon any property in the assessment so set aside, has been paid and not refunded, the payment so made shall be applied upon the reassessment. If the payments exceed the amount of the reassessment, refunds shall be made.

#### LIMITATION ON SUITS AND ACTIONS

##### Section 10.4.

No suit or action of any kind shall be maintained for the purpose of contesting or enjoying the collection of any special assessment unless, [1] within thirty days after the confirmation of the special assessment roll, written notice is given to the Council of intention to file such suit or action, stating the grounds on which it is claimed such assessment is illegal, and [2] such suit or action shall be commenced within ninety days after the confirmation of the roll.

#### LIEN AND COLLECTION OF SPECIAL ASSESSMENTS

##### Section 10.5.

[a] Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed, for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effects as created by this charter for city taxes.

[b] The Council may provide by ordinance, for fees, penalties, and interest for late payment or non-payment of special assessments, which fees, penalties, and interest shall be a lien and shall be collectible as are similar charges upon city taxes. The Council may provide that delinquent special assessments be placed upon the tax roll, together with any accrued fees, penalties, and interest thereon, to be collected in all respects as are city taxes on such roll or may make other provisions for the enforcement of the lien created by such special assessment.

#### SPECIAL ASSESSMENT ACCOUNTS

##### Section 10.6.

Moneys raised by special assessment for any public improvements shall be credited to a special assessment account and shall be used to pay for the costs of the improvements for which the assessment was levied and of expenses incidental thereto, to repay any principal or interest on money borrowed therefor, and to refund excessive assessments.

#### SPECIAL ASSESSMENT REVOLVING FUND

##### Section 10.7.

The Council may create and maintain a special

assessment revolving fund, from which payment may be made for the cost of special assessment projects, and into which the special assessments therefor any interest thereon shall be paid when collected.

#### CERTAIN POSTPONEMENTS OF PAYMENTS

##### Section 10.8.

The Council may provide that any person who, in the opinion of the Assessor and Council, by reason of poverty, is unable to contribute toward the cost of the making of a public improvement may execute to the city a deed conveying to the city such title as to create a lien for the benefit of the city on all or any part of the real property owned by him and benefited by any public improvement for the amount of the special assessment levied for such public improvements, plus interest at six per cent per annum. Such lien shall mature and be effective from and after the execution of such instrument and shall be enforceable by the city only in the event that title to such property is thereafter transferred in any manner whatsoever. Such deed shall recite that the lien created may be extinguished by the grantor of the deed by payment of the amount of special assessments covered by such lien at any time and shall be extinguished by any grantee, heir, or devisee of the said grantor within one year after title becomes vested in such grantee, heir, or devisee to so extinguish the said lien within the said one year period shall operate to vest title to the real property to which such deed pertains in the city in fee absolute. The Council shall establish by ordinance the procedure for making this section effective.

#### ALL PROPERTY LIABLE FOR SPECIAL ASSESSMENTS

##### Section 10.9.

All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefiting such property unless specifically exempted from special assessments by law, and special assessments shall be levied thereon and collected in the manner provided by ordinance. Unpaid special assessments shall be returned to the County Treasurer and the said premises against which unpaid special assessments are assessed may be sold or forfeited in the same manner as for non-payment of city taxes.

### CHAPTER II—CONTRACTS

#### CONTRACTUAL AUTHORITY OF COUNCIL

##### Section 11.1.

[a] The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law.

[b] All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 11.2. hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the Clerk.

#### PURCHASE AND SALE OF PERSONAL PROPERTY

##### Section 11.2.

The Council shall establish, by ordinance, the

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

#### LIMITATION ON CONTRACTURAL POWER

##### Section 11.3.

[a] The Council shall not purchase any real estate or any interest therein except by resolution concurred in by at least five of its members.

[b] The city shall not enter into a contract which will not be fully executed within a period of ten years, without the approval of a majority of the electors voting thereon at a regular or special election, unless such contract is with a public utility or one or more governmental units.

[c] Except in cases of exchanges of property, or when the assessed value of the property to be sold, leased, or disposed of is less than \$1,000.00, the city shall not sell, lease, or dispose of any real estate owned by it, unless:

[1] The Council has first secured appraisals of the value thereof from two disinterested persons who are competent real estate appraisers, and

[2] After securing such appraisals, has advertised for public bids on such real estate in a newspaper of general circulation in the city not less than ten days before the time set for publicly opening such bids, and

[3] A resolution authorizing the sale of the property, in the form in which it is to be finally passed, shall have been published as part of the Council proceedings not less than twenty days before the final adoption or passage thereof and have been on file with Clerk for public inspection for thirty days before the final adoption or passage thereof, and

[4] The resolution has been approved by affirmative roll call vote of five or more members of the Council. When the proposition is to sell any park, cemetery, or any part thereof, such sale shall be subject to and in accordance with the further procedures established and required by law.

[d] In the event of any exchange of property owned by the City for other property, the appraisals required by this section shall be secured for both parcels of property. In such event, there shall be no advertisement for public bids.

[e] Except as provided by ordinance authorized by Section 11.2. of this chapter, each contract for public improvements or purchase of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public in the Council Room by the Clerk or the Purchasing Officer at the time designated in the notice of letting and shall be reported by him to the Council at its next meeting. The Council may reject any or all bids or parts of bids if deemed advisable. When one or more parts of a bid are rejected, the Council may accept any part or parts which are not rejected. If after two or more opportunities for competitive bidding have been had, with like notice and opportunity for bidding in each case, no bids have been received or the bids that have been received were not satisfactory to the Council,

the Council may endeavor to obtain new bids or may authorize the proper official of the city to negotiate in the open market for a contract. If the Council shall accept any bid, other than the lowest bid according to specifications, the reason for such action shall be set forth in the resolution, accepting such bid.

[f] No contract shall be made with any person who is in default to the city.

[g] No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

#### BUSINESS DEALINGS WITH CITY

##### Section 11.4.

An officer who intends to have business dealings with the city whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties, shall file with the Clerk a statement, under oath, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the Clerk not less than ten days before the date when action may be taken by the Council upon the matter involved. The statement shall be spread upon the proceedings of the Council and published in full therewith. Approval of any such business dealings shall require a concurring vote of at least five members of the Council, not including any member who is disqualified under Section 5.3. [1] of this charter. Any business dealing made in violation of this section shall be void.

### CHAPTER 12—PUBLIC UTILITY SERVICES

#### GENERAL POWERS RESPECTING MUNICIPAL UTILITIES

##### Section 12.1.

The city shall have all the powers granted by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities, either within or without its corporate limits and either within or without the corporate limits of Macomb and St. Clair Counties. Such powers shall include and extend to, but not by way of limitation, the public utilities for supplying water and water treatment which were owned and operated by the City of New Baltimore on the effective date of this charter and utilities for supplying sewage disposal and treatment, electric light, and power, gas, steam, heat, atomic power, or any of them, to the municipality and the inhabitants thereof. The city may also sell utility services beyond its corporate limits as authorized by law.

#### CITY'S WATER SUPPLY SYSTEM

##### Section 12.2.

The water supply system of the city shall be under the general control of the Council and shall be managed by the Superintendent of the Water Department, who shall be responsible and accountable to the Mayor for the operation of the water works and system of the city.

#### CITY'S WASTEWATER TREATMENT SYSTEM

##### Section 12.3.

The Wastewater Treatment system of the City shall be

under the general control of the Council and shall be managed by the Superintendent of the Wastewater Department, who shall be responsible and accountable to the Mayor for the Wastewater Treatment Plant and System of the City of New Baltimore.

## RATES

### Section 12.4.

[a] The Council shall fix just and reasonable rates and such other charges as may be deemed advisable for supplying water and other municipal utility services. Discrimination in rates by the Council, within any classification of users, shall not be permitted. Increased rates, approved by the Council, may be charged for service rendered or furnished to persons residing outside the corporate limits of the city.

[b] Transactions pertaining to the ownership and operation of each municipal utility shall be recorded in a separate group of accounts, which shall be classified in accordance with generally accepted accounting practices. Charges for all services furnished to, or rendered by, other city departments or administrative units shall be recorded, whether collected or not. An annual report shall be prepared to show the financial position of each utility and the results of its operation. A copy of such report shall be available for inspection at the office of the City Clerk.

## COLLECTION OF MUNICIPAL UTILITY RATES AND CHARGES

### Section 12.5.

[a] There shall be provision, by ordinance, for the collection of rates and charges, when imposed, for public utility services furnished by the city. When any person fails or refuses to pay any sums due on utility bills, the service upon which such delinquency exists may be discontinued and suit may be brought for the collection thereof.

[b] Except as otherwise provided by law, the city shall have a lien upon the premises to which water and sewer services were supplied. For such purposes, the city shall have all the powers granted to cities by law. The lien shall become effective immediately on the distribution or supplying of these services to such premises.

[c] Except as otherwise provided by law, all unpaid charges for utility services furnished to any such premises, which, on the thirty-first day of March of each year, have remained unpaid for a period of three months or more, shall be reported to the Council by the Mayor at the first meeting thereof in the month of April. The Council thereupon shall order the publication in a newspaper of general circulation in the city of notice that all such unpaid utility charges not paid by the thirtieth day of April will be spread upon the city's tax roll, to be collected in the same manner as the city taxes.

## DISPOSAL OF MUNICIPAL UTILITY PLANTS AND PROPERTY

### Section 12.6.

The city shall not sell, exchange, lease, or in any way dispose of any municipal public utility or any property,

or any right, privilege, or asset needed to continue the operation of any utility, unless the proposition to do so is approved by the electors or the Council, as the case may be, in the same manner as was required to acquire the utility. All contracts, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of any utility, which are no longer useful or which are replaced by new machinery or equipment, or to the sale or leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other property needed for the utility.

## PUBLIC UTILITY FRANCHISES

### Section 12.7.

The city may grant a franchise to any person for the use of the streets, alleys, bridges, and other public places of the city, and the space above and beneath them for the furnishing of any public utility service to the city and its inhabitants. Franchises and renewals, amendments, and extensions thereof shall be granted only by ordinance. Public utility franchises shall include provisions for fixing rates and charges, and may provide for readjustment thereof at periodic intervals. The city may, with respect to any public utility franchise granted after the effective date of this charter, whether or not so provided in the granting ordinance:

[1] Revoke the same for the violation of any of its provisions, for the misuse or non-use thereof, for failure to comply with any provision thereof, or any regulation imposed under authority of this section;

[2] Require proper and adequate extension of plant and the maintenance thereof at the highest practicable standard of efficiency;

[3] Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;

[4] Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

[5] Impose other regulations determined by the Council to be conducive to the health, safety, welfare and convenience of the public;

[6] Require the public utility to permit joint use of its property and appurtenances located on, under, or above the streets, alleys, bridges, and public places, by the city and other utilities insofar as such joint use may be reasonable; practicable and upon payment of reasonable rental therefor, and, in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;

[7] Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, that arises from its use thereof, and to protect and save the city harmless from all damages arising from such use.

## LIMITATIONS ON THE GRANTING OF FRANCHISES

### Section 12.8.

No franchise shall be granted by the city for a term

exceeding thirty years and no exclusive franchise shall ever be granted. Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of an existing franchise. Neither an irrevocable franchise or any extension or amendment of such a franchise nor any franchise for any utility service in competition with a utility service furnished by the city shall be granted by the city, unless it has first received the affirmative vote of at least three-fifths of the electors of the city voting thereon at a regular or special city election. An irrevocable franchise ordinance may be approved by the Council, for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with Clerk his unconditional acceptance of all the terms of the franchise. No special election for such purpose may be ordered by the Council, unless the expense of holding such election has first been paid to the Treasurer by the grantee.

#### PROCEDURE FOR GRANTING FRANCHISES

##### Section 12.9.

Every ordinance granting a franchise, license, or right to occupy or use streets, alleys, bridges, or public places shall remain on file with the Clerk for public inspection in its final form for at least thirty days before the final adoption thereof, or the approval thereof for referral to the electorate.

#### SALE OR ASSIGNMENT OF FRANCHISES

##### Section 12.10.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless such act is first approved by the Michigan Public Service Commission, or its successor. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this chapter.

### CHAPTER 13—ELECTIONS

#### MICHIGAN ELECTION LAW

##### Section 13.1.

Insofar as the same shall be applicable and not inconsistent with the provisions of this chapter, the provisions of chapters 1, 2, 23, 24, 28, 29, 33, 34, and 35 of the Michigan Election Law, being Act. No. 116 of the Public Acts of 1954, and the similar or comparable provisions of any future general law of the State governing the conduct of elections, shall govern and control the conduct of city elections regarding the definitions of terms, the qualifications and registration of electors, the nomination of candidates, the preparation of ballots for, the holding of city elections, and the counting

and canvassing of ballots cast thereat, the holding and conduct of recounts, the accounting for election expenses, and the violation of the provisions of law governing the conduct of city elections.

#### NOMINATING PETITIONS

##### Section 13.2.

A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk a properly executed petition or group of nominating petitions therefor. Official blank nominating petitions shall be in substantially the form required by law for the nomination of nonpartisan judicial officers. Such petitions shall be prepared and furnished by the Clerk. No other petitions shall be used for the nomination of persons for city offices. Each such petition shall be signed by not less than seventy-five nor more than one hundred and twenty-five of the registered electors of the city. Such petitions shall be filed with the Clerk not later than 5:00 o'clock in the afternoon on the seventh Monday preceding the primary election date. Before the Clerk shall furnish official blank nominating petitions to any person, he shall enter thereon with typewriter or in ink the name of the person who is to be nominated as a candidate, and the name of the office for which they are to be used. If any person signs his name to a greater number of petitions for any office than there will be persons elected to that office, his signature shall be disregarded on all petitions filed for that office. Each candidate for an elective city office shall make a public declaration of his qualifications, intent of purpose and record of achievements. This shall be published in an area newspaper within seven days after filing nominating petitions with the City Clerk.

#### APPROVAL OF PETITIONS

##### Section 13.3.

The Clerk shall accept for filing only properly executed nominating petitions on official blanks furnished by him. At the time of, and as a prerequisite for filing any nominating petition there shall also be filed a properly executed affidavit, signed by the person named as a candidate in the petition, or by someone on his behalf, stating under oath that the person named in the petition as a nominee possesses the qualifications required by this charter for eligibility to assume and hold an elective city office. Such affidavit shall be on a form provided by the Clerk. Within five days after the filing of a nominating petition, the Clerk shall determine the sufficiency of the number of genuine signatures on the petition. Signatures appearing on the registration rolls of the city shall be used to determine the genuineness of signatures on nominating petitions. If he finds that any petition does not contain the required number of genuine signatures, he shall immediately notify the candidate, in writing, of the insufficiency of his petition. No additional signatures on any petition shall be received by the Clerk after the final date and time fixed for filing petition. Each petition which is found by the Clerk to contain the required number of genuine signatures shall be marked "Valid", with the date thereof.

## FORM OF BALLOT

### Section 13.4.

The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in a manner prescribed by statute for rotation of names. If two or more candidates or nominees for the same office have the same or similar surnames, the Election Commission shall print the occupation and residence address under the respective names of each of such candidates or nominees on the ballots [or on labels or slips to be placed on voting machines when used], provided that for any of such candidates who is an incumbent of such office, the occupation shall be designated as "Incumbent." Except as provided in this section there shall be no supplementary identification of candidates or nominees on the ballot.

## TIE VOTE

### Section 13.5.

If, at any city primary or election, the outcome of an election to a city office cannot be determined because two or more persons received an equal number of votes, the Election Commission shall name a date for the appearance of such persons for the purpose of determining the election of one of them by lot. Should any person fail or refuse to appear, in person or by representative, to determine the result of any tie at the time and place named, such determination shall be made by lot in his absence, at the direction and under the supervision of the Election Commission. Such determination shall be final.

## CHAPTER 14—SCHEDULE

### ELECTION ON ADOPTION OF CHARTER

#### Section 14.1.

[1] **Date.** This charter shall be submitted to a vote of the registered electors of the City of New Baltimore at an election to be held on Monday, April 2, 1973. The charter shall be adopted if a majority of the ballots cast thereon are in favor of adoption.

[2] **Form of Ballot.** The form of the ballot for the submission of this charter shall be as follows:

Instructions: a cross [X] in the square before the word "Yes" is in favor of the proposed charter, and a cross [X] in the square before the word "No" is against the proposed charter.

Shall the proposed charter for the City of New Baltimore drafted by the Charter Commission elected on June 1, 1971 be adopted?

- Yes  
 No

[3] **Precincts:** For the purpose of this election the

entire city shall constitute three voting precincts notwithstanding other provisions of this charter. The polling place for such precincts shall be the Municipal Building of the city located at 36535 Green Street, Anchor Bay Junior High School, 51880 Washington, and 36270 Front Street.

[4] **Election Commission:** The Election Commission shall consist of qualified electors of the city as designated by the City Council for the April 2, 1973 election.

The Clerk of the City of New Baltimore shall do and provide all such things in connection with said election and the qualifications of officials elected, which are provided in the charter to be done by the City Clerk at the regular April 2, 1973 General Election.

[5] **Procedure Governing Election:** In all respects not otherwise provided for in Chapter 13 of this Charter, the election procedure shall be in accordance with the provisions of the other chapters of this charter.

## FIRST ELECTION OF CITY OFFICERS

### Section 14.2.

[1] **Election.** The first election of officers provided for in this charter shall be held on Tuesday, November 6, 1973. At this election the voters shall be entitled to vote for not more than six candidates for Council; not more than one candidate for Mayor; not more than one candidate for Clerk; and not more than one candidate for Treasurer. The names of all qualified candidates for each office shall be listed under a separate heading and shall be rotated systematically on the ballot in the manner prescribed by statute.

[2] **Terms.** The candidate for Mayor who receives the highest number of votes shall be declared elected for a term beginning Monday, November 12, 1973 and ending on the Thursday next following the regular city Fall election in 1975 as provided for in this charter. The three candidates for Council who receive the highest number of votes shall be declared elected for a term beginning Monday, November 12, 1973 and ending on the Monday next following the date of the regular city Fall election in 1977. The candidates for Council who receive the fourth, fifth and sixth highest number of votes shall be declared elected for a term beginning on Monday, November 12, 1973, and ending on the Thursday next following the date of the regular city Fall election in 1975. The candidate for Clerk who receives the highest number of votes shall be declared elected for a term beginning on Monday, November 12, 1973, and ending on the Thursday next following the date of the regular city Fall election in 1977. The candidate for Treasurer who receives the highest number of votes shall be declared elected for a term beginning on Monday, November 12, 1973, and ending on the Thursday next following the date of the regular city Fall election in 1977. After this election, the provisions contained in this charter relating to elections and terms of elective officers shall govern.

[3] **Nominations:** Candidates for the first election of city officers under this charter shall be the nominee winners at the August 7, 1973 Primary Election, provided they qualify under Section 4.2. and 4.3.

**EFFECTIVE DATE OF CHARTER**

**Section 14.3.**

This charter shall take effect on Monday, November 12, 1973 at 8:00 P.M. Eastern Standard Time. At such time the officers first elected under this charter shall assemble in the Municipal Building Council Chambers at 36535 Green Street. The meeting shall be called to order by a member of the Charter Commission designated by it for the purpose. Each elective officer shall take and subscribe to his oath of office and shall thereupon be qualified and shall assume the duties of his office.

**CONTINUATION OF APPOINTED OFFICERS AND EMPLOYEES**

**Section 14.4.**

After the effective date of this charter all appointive officers and all employees of the City shall continue from the effective date of this charter as though they had been appointed in that city office or employment which they held prior to the election and they shall in all respects be subject to the provisions of this charter, except that the terms of office of all members of the City Board of Review shall terminate on November 12, 1973, and except that any officer or employee who holds a position which this charter provides to be held at the pleasure of the appointing officer or body shall hold position only at such pleasure of the term for which originally appointed.

**FIRST BOARD OF REVIEW**

**Section 14.5.**

Before January 1, 1974, the Mayor shall appoint a Board of Review of five freeholders who meet the qualifications for such office as provided in Section 9.7. of this charter, and the Council shall fix their compensation.

**INTERIM FINANCIAL PROVISION**

**Section 14.6.**

The Council shall, at the first meeting on November 12, 1973, by resolution continue as city appropriations the unencumbered balance of the appropriations made by the previous City Council of New Baltimore for the fiscal year ending June 30, 1974, and these appropriations shall then be deemed to be city appropriations and the fiscal year of the city shall be completed by the city as though no governmental change had been made.

**STATUS OF SCHEDULE CHAPTER**

**Section 14.7.**

The purpose of this schedule chapter is to inaugurate the government of the city under this charter and it shall constitute a part of this charter only to the extent, and for the time required to accomplish this end.

**RESOLUTION OF ADOPTION**

At a regular meeting of the Charter Commission of the City of New Baltimore held on the 30th day of October, 1972, the following resolution was offered by Commissioner Albert LeFevre:

RESOLVED, that the Charter Commission of the City of New Baltimore does hereby adopt the foregoing proposed charter for the City of New Baltimore, and the Secretary of this Commission is directed to transmit a copy of this charter to the Governor of the State of Michigan for his approval in accordance with statute, and to cause this proposed charter to be published in the Anchor Bay Beacon March 7, 1973.

The resolution was seconded by Commissioner Phyllis Weimer and adopted by the following vote:

YES: Commissioners: LeFevre, Weimer, Schnoor, Marsh, Dudzinski, Reinhard.

NO: Wisney, Aurand, Maskey.

Absent: None.

The Chairman requested the members of the Charter Commission to authenticate said resolution and also the copy of the charter to be presented to the Governor. The members thereupon authenticated said resolution and the copy of the charter to be presented to the Governor by subscribing their names as follows:

Albert P. LeFevre	Edward E. Reinhard
Max Aurand	Dorothy E. Schnoor
Edmund P. Dudzinski	Phyllis K. Weimer
John M. Marsh	Bruno B. Wisney
Frank Maskey	

The meeting then adjourned subject to the call of the Chairman.

Subscribed and sworn to before me this 20th day of November, 1972.

**THERESE ORCZYKOWSKI  
CITY CLERK**