

CHARTER

CITY OF THE VILLAGE OF CLARKSTON

MICHIGAN



JANUARY 13, 1992

TABLE OF CONTENTS

	<u>Section</u>	<u>Page</u>
PREAMBLE		1
CHAPTER I NAME AND BOUNDARIES		2
Name and Boundaries	1.1	2
Wards	1.2	2
CHAPTER II GENERAL MUNICIPAL POWERS		3
General Powers	2.1	3
Intergovernmental Cooperation	2.2	3
Exercise of Powers	2.3	3
CHAPTER III ELECTIONS		4
Qualification of Electors	3.1	4
Election Procedures	3.2	4
Precincts	3.3	4
Election Commission	3.4	4
Regular Elections	3.5	4
Special Elections	3.6	4
Elective Officers and Terms of Office	3.7	4
Nominations Procedure	3.8	5
Approval of Petitions	3.9	5
Form of Ballot	3.10	6
Canvass of Votes	3.11	6
Tie Vote	3.12	6
Recount	3.13	6
Recall	3.14	6
CHAPTER IV THE CITY COUNCIL		7
Council – Manager Government	4.1	7
Elected Officers and Powers	4.2	7
Qualifications	4.3	7
Term of Office	4.4	7
Notice of Election	4.5	7
Oath of Office	4.6	7
Surety Bonds	4.7	7
Qualification of Members	4.8	8
Mayor and Mayor Pro Tem	4.9	8
Regular Meetings of the Council	4.10	8
Special Meetings of the Council	4.11	8
Meetings to be Public	4.12	8
Quorum and Vote Required	4.13	9
Attendance at Meetings	4.14	9
Rules of Order	4.15	9
Publication of Council Proceedings	4.16	9
Compensation for Mayor and Councilpersons	4.17	9
Restrictions Concerning Officers	4.18	10
Investigations	4.19	11
Vacancy Defined	4.20	11
Removal from Office	4.21	11
Filling Vacancies	4.22	11
Delivery of Office to Successor	4.23	12
Advisory Committees or Boards	4.24	12
Health	4.25	12

	<u>Section</u>	<u>Page</u>
CHAPTER IV THE CITY COUNCIL (cont'd.)		
Licenses and Permits	4.26	12
Rights as to Property	4.27	12
Trusts	4.28	12
Traffic/Ordinance Violations Bureau	4.29	12
 CHAPTER V THE ADMINISTRATIVE SERVICE		 14
Administrative Officers	5.1	14
City Manager	5.2	15
City Manager – Functions and Duties	5.3	15
City Clerk	5.4	16
City Treasurer	5.5	17
City Attorney	5.6	17
Assessor	5.7	18
Finance Officer	5.8	18
City Planning Commission	5.9	19
Zoning Board of Appeals	5.10	19
Other Boards and Commissions	5.11	19
 CHAPTER VI LEGISLATION		 20
Prior Legislation	6.1	20
Legislative Powers	6.2	20
Forms of Legislation	6.3	20
Action Requiring an Ordinance	6.4	20
Ordinances	6.5	21
Emergency Ordinances	6.6	21
Ordinance Record	6.7	22
Publication of Ordinances	6.8	22
Codification	6.9	22
Penalties	6.10	22
Publication of Notices, Proceedings and Ordinances	6.11	22
Severability of Ordinances	6.12	23
Initiative & Referendum	6.13	23
Petitions	6.14	23
Council Procedure	6.15	23
Submission to Electors	6.16	23
General Provisions	6.17	24
 CHAPTER VII GENERAL FINANCE		 25
Fiscal Year	7.1	25
Finance Committee	7.2	25
Budget Procedure	7.3	25
Budget Document	7.4	25
Budget Hearing	7.5	25
Adoption of the Budget	7.6	25
Transfer of Appropriations	7.7	25
Budget Control	7.8	26
Improvement Funds	7.9	26
Withdrawal of City Moneys	7.10	26
Depository	7.11	26
Investments	7.12	26
Independent Audit	7.13	27

	<u>Section</u>	<u>Page</u>
CHAPTER VIII TAXATION		28
Power to Tax	8.1	28
Tax Limits	8.2	28
Exemptions	8.3	28
Tax Day	8.4	28
Tangible Personal Property – Jeopardy Assessment	8.5	28
Assessment Roll	8.6	28
Board of Review	8.7	29
Duties and Functions of the Board of Review	8.8	29
Notice of Sessions	8.9	29
Sessions of the Board of Review	8.10	29
Endorsement of Roll	8.11	30
Clerk to Certify Tax Levy	8.12	30
State, County and School Taxes	8.13	30
City Tax Roll	8.14	30
Tax Roll Certified for Collection	8.15	31
Tax Lien	8.16	31
Taxes Due Notification Thereof	8.17	31
Collection Charges on Late Payment Fees	8.18	31
Collection of Delinquent Taxes	8.19	32
Disposition of Real Property Held by City	8.20	32
Failure or Refusal to Pay Tangible Personal Property Tax	8.21	32
Inequitable Assessment of Tax	8.22	32
 CHAPTER IX BORROWING AUTHORITY		 34
General Borrowing	9.1	34
Limits of Borrowing Authority	9.2	35
Preparation and Record of Bonds	9.3	35
Deferred Payment Contracts	9.4	35
 CHAPTER X SPECIAL ASSESSMENT		 36
General Powers	10.1	36
Procedure Fixed by Ordinance	10.2	36
 CHAPTER XI UTILITIES AND FRANCHISES		 37
General Powers Respecting Utilities	11.1	37
Control of Utilities	11.2	37
Purchase of Utility Service	11.3	37
Disposal of Plants & Property	11.4	37
Franchises	11.5	37
Right of Regulation	11.6	38
Rates of Franchised Utilities	11.7	38
Purchase – Condemnation	11.8	38
Revocable Permits	11.9	39
Use of Streets by Utility	11.10	39

	<u>Section</u>	<u>Page</u>
CHAPTER XII PURCHASES, SALES, AND LEASES		40
Contracting Authority of Council	12.1	40
Purchase, Sale and Lease of Property and Services	12.2	40
Limitations on Contractual Power	12.3	40
Official Interest in Contracts	12.4	41
CHAPTER XIII MUNICIPAL RIGHTS AND LIABILITIES		42
Rights, Liabilities, Remedies	13.1	42
Liability for Damages	13.2	42
Statements of City Officers	13.3	42
CHAPTER XIV GENERAL PROVISIONS AND DEFINITIONS		43
General Provisions and Definitions	14.1	43
Headings	14.2	43
Definitions and Interpretations	14.3	43
Amendments	14.4	44
Severability of Charter Provisions	14.5	44
CHAPTER XV SCHEDULE OF ADOPTION		45
Purpose and Status of Schedule Chapter	15.1	45
Election of Adopt Chapter	15.2	45
Form of Ballot	15.3	45
Effective Date	15.4	45
First Election of Officers	15.5	45
First Meeting of the City Council	15.6	46
Existing Village Legislation and Rules	15.7	46
Council Action	15.8	46
Vested Rights and Liabilities	15.9	46
Officers and Employees	15.10	47
Boards and Commissions	15.11	47
RESOLUTION OF ADOPTION		48

PREAMBLE

We, the people of the City of the Village of Clarkston, Oakland County, State of Michigan, grateful to God and mindful of the ideals and labors of our forefathers in founding and developing this community, and pursuant to the authority granted by the Constitution and laws of the State of Michigan, do hereby ordain and establish this Charter for the City, in order to secure the benefits of local self government, to provide for the public peace, health, safety and welfare of all persons and property, and to provide for the continued preservation of the character of the community.

CHAPTER I

NAME AND BOUNDARIES

NAME AND BOUNDARIES

Section 1.1

- (a) The Municipal Corporation now existing and known as the Village of Clarkston shall continue as a body corporate and shall henceforth be known as and include the territory constituting the City of the Village of Clarkston, Oakland County, State of Michigan, on the effective date of this Charter, described as follows:

All those tracts or parcels of land situated in the township of Independence, County of Oakland and State of Michigan, known and described as follows, to wit: The east half of the southwest quarter of Section 20; the west half of the southeast quarter of said Section 20; the south 20 acres of the east half of the northwest quarter of said Section 20; the south 20 acres of the west half of the northeast quarter of said Section 20 and the north half of the northwest quarter of Section 29;

AND

Part of northwest 1/4, Section 29 T4N, R9E, beginning at center of Section 29; thence westerly along the east and west 1/4 line approximately 1320 feet to the southwest corner of Clarkston Estates #1; thence northerly and westerly along the westerly line of Clarkston Estates #1, and Clarkston Estates to the south limit of the Village of Clarkston; thence easterly along said limits to the north and south 1/4 line of Section 29; thence southerly to beginning.

together with all territories that may be added thereto in the future and less any detachments therefrom that may be made in a manner prescribed by law.

- (b) The Clerk shall maintain and keep available in the clerk's office for public inspection the official description and map of the current boundaries of the City.

WARDS

Section 1.2 The City shall consist of one (1) ward.

CHAPTER II

GENERAL MUNICIPAL POWERS

GENERAL POWERS

Section 2.1 The City of the Village of Clarkston and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities are or hereafter may be permitted to exercise or provide for in their charters under the Constitution and Statutes mandated by the State of Michigan. It shall include all the powers of cities as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this Charter. In no case shall any enumeration of particular powers or immunities in this Charter be held to be exclusive.

INTERGOVERNMENTAL COOPERATION

Section 2.2 The City may join with any municipal corporation or with any other unit or agency of government, whether local, state or federal, 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.

EXERCISE OF POWERS

Section 2.3 Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, the Council may resort to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities, or in any other statute decreed by the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select the procedure which it deems to be the most expeditious and to the best advantage of the City and its inhabitants. Where no procedure for the exercise of power of the City is set forth, either in this Charter or in any statute of the State of Michigan, the Council shall prescribe by ordinance or resolution a reasonable procedure for the exercise thereof.

CHAPTER III

ELECTIONS

QUALIFICATIONS OF ELECTORS

Section 3.1 The residents of the City of the Village of Clarkston having the qualifications of electors in the State of Michigan shall be eligible to vote in the City.

ELECTION PROCEDURE

Section 3.2 The election of all city officers shall be on a non-partisan basis. The general election statutes shall apply to and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters and voting hours. The Clerk shall give public notice of each city election in the same manner as is required by law for the giving of public notice of general elections in the State.

PRECINCTS

Section 3.3 The election precinct of the City shall remain as it existed on the effective date of this Charter unless altered by the City Election Commission in accordance with statutes.

ELECTION COMMISSION

Section 3.4 An Election Commission is hereby created, consisting of the Clerk, one (1) other appointive city officer whom the Council shall designate, and one (1) other qualified registered elector whom the Council shall designate. These appointed persons shall serve at the pleasure of the Council. The Clerk shall be the chairperson. The Election Commission shall have charge of all activities and duties required of it by state law and this Charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Election Commission, and provided for in the city budget.

REGULAR ELECTIONS

Section 3.5 A regular city election shall be held on the first Tuesday following the first Monday in November in each year.

SPECIAL ELECTIONS

Section 3.6 Special city elections shall be held when called by resolution of the Council at least sixty (60) days in advance of such election, or when required by this Charter or statute. The resolution calling a special city election shall set forth the purpose of such election.

ELECTIVE OFFICERS AND TERMS OF OFFICE

Section 3.7 Six (6) Councilpersons and a Mayor shall be elected from the City at large at regular city elections, all for two (2) year terms, except that at the first election under this Charter the Mayor and the three Council candidates receiving the highest number of votes shall be declared elected for a term beginning on July 1, 1992, and ending on the second Monday next following the date of the regular city election in 1994. The three (3) candidates for Council who receive the fourth, fifth, and sixth highest number of votes shall be declared elected for a term beginning on July 1, 1992, and ending on the second Monday following the date of the regular city election in 1993. At each succeeding annual election there shall be elected three (3) Councilpersons for terms of two (2)

years. The term of office for the Councilpersons and Mayor shall commence on the second Monday in November at 7:30 p.m. local time next following the date of the regular city election at which they were elected.

NOMINATIONS PROCEDURE

Section 3.8 Candidates for elective office shall be nominated from the City at large by nomination petitions, blanks for which shall be furnished by the Clerk. Candidates may use their own petition blanks, providing they conform substantially with state statutes. Each such petition shall be signed by not less than twenty (20) nor more than forty (40) registered electors of the City, and shall be filed at the clerk's office before 4:00 p.m., local time, on or before the first Tuesday after the first Monday in August (the August primary date).

The Clerk shall publish notice of the last day permitted for filing petitions and of the number of persons to be elected to each office at least one (1) week and not more than three (3) weeks before such last day.

Electors signing a petition shall add their residential street, number and the date of signature. Electors shall not sign petitions for more candidates for any office than the number to be elected to such office, and should an elector do so, the signature bearing the most recent date shall be invalidated, and if the elector should sign more than one (1) on the same date, none shall be validated. Petitions shall not be left for signatures in any public place unless accompanied by the circulator of the petition.

Petitions shall not be accepted for filing unless accompanied by an affidavit sworn to or affirmed by the candidate, stating that the candidate possesses the legal qualifications for the office and requesting that the candidate's name be printed on the ballot.

The Clerk may accept petitions for the election of any candidate for more than one (1) office, which petitions shall be subject to statute.

APPROVAL OF PETITIONS

Section 3.9 The Clerk shall accept only petitions which conform substantially with the forms provided and maintained by the Clerk, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by the Charter. Within five (5) days after the last date of filing petitions, the Clerk shall make determinations as to the validity and sufficiency of each petition and whether or not the candidate has the qualifications required for that candidate's respective elective city office by this Charter and shall write the clerk's determinations thereof on the face of the petition and shall notify in writing the candidate whose name appears thereon of the clerk's determinations. Such notice to any candidate whose petitions are found invalid or insufficient shall be delivered by certified mail to the address shown on the petitions unless delivered personally. The names of the candidates for the respective elective city offices who file valid and sufficient petitions shall be certified by the Clerk to the Election Commission to be placed upon the ballot for the next subsequent regular city election.

All petitions filed shall be open to public inspection in the office of the Clerk.

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

FORM OF BALLOT

Section 3.10 The ballots for all elections under this Charter shall conform to the printing and numbering of ballots as required by statute, except that no party designation or emblem shall appear on any city ballot.

CANVASS OF VOTES

Section 3.11 The Board of Canvassers designated by statute as being permitted to cities for canvass of votes on candidates and issues shall canvass the votes of all city elections in accordance with statute.

TIE VOTE

Section 3.12 If in any city election there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the determination of the election of such candidate by lot will be as provided by statute.

RECOUNT

Section 3.13 A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with statute.

RECALL

Section 3.14 Any elected official may be removed from office by the electors of the City in the manner provided by statute. A vacancy created by the recall of any elected official shall be filled in the manner prescribed by statute.

CHAPTER IV
THE CITY COUNCIL

COUNCIL-MANAGER GOVERNMENT

Section 4.1 The City of the Village of Clarkston shall have the Council-Manager form of government.

ELECTED OFFICERS AND POWERS

Section 4.2 The legislative power of the City, except as reserved by this Charter, shall be vested in a Council consisting of a mayor and six (6) councilpersons elected at large on a nonpartisan basis. The Council shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers. The Council shall determine all matters of policy of the City and adopt ordinances and necessary rules and regulations to make the same effective. Further the Council shall, subject to the limitations of law, raise revenues and make appropriations for the operation of the city government and provide for the public peace, health, safety and welfare of persons and property.

QUALIFICATIONS

Section 4.3 Each candidate for city office shall be a duly-registered elector in the City, and shall have been a resident of the City for one (1) year immediately prior to the election at which he/she is a candidate for office. A person appointed to fill a vacancy in an elected office shall have such qualifications at the time of such appointment. No person who is in default to the City shall be eligible for elected office.

TERM OF OFFICE

Section 4.4 Term of office shall be as set forth in Section 3.7 of this Charter.

NOTICE OF ELECTION

Section 4.5 Notice of the election of any officer of the City shall be given such officer by the Clerk, in writing, within seven (7) days after the canvass of the vote determining election. If within ten (10) days from the date of notice, such officer shall not take, subscribe, and file with the Clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the Council shall, for good cause, extend the time in which such officer may qualify as above set forth.

OATH OF OFFICE

Section 4.6 Each elected or appointed officer of the City, before entering upon the duties of the office and within the time specified in this Charter, shall take and subscribe to the oath of office prescribed by the State Constitution, which oath shall be filed and kept in the office of the Clerk.

SURETY BONDS

Section 4.7 Any city officer may be required to give a bond to be approved by the Council for the faithful performance of the duties of office in such sum as the Council shall determine, but all officers receiving or disbursing city funds shall be bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. All official bonds shall be filed with

the Clerk, except that of the Clerk, which shall be filed with the Treasurer.

QUALIFICATION OF MEMBERS

Section 4.8 The Council shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of office and for that purpose shall have power to subpoena witnesses, administer oaths and require production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the City at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the appropriate court of law.

MAYOR AND MAYOR PRO TEM

Section 4.9 The Mayor shall preside at all meetings of the Council, shall speak and vote at such meetings as any other Council member, shall be recognized as the Chief Executive Officer of the City and as head of the city government for all ceremonial purposes but shall have no administrative duties. The Mayor shall be a conservator of the peace, may exercise within the City the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City and to suppress riot and disorder. The Mayor or his/her designee shall be empowered as the conservator of public health, safety and welfare in cases of natural or manmade calamity as provided hereinafter by ordinance. The Council at its first meeting following each regular city election shall elect one (1) of its members as Mayor Pro Tem by an affirmative vote of a majority of its members. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor.

REGULAR MEETINGS OF THE COUNCIL

Section 4.10 Regular meetings of the Council shall be held at least twice in each calendar month at the usual place of holding meetings of the Council. If any time set by resolution of the Council for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held on the next following secular day which is not a holiday or on such other day as may be set by the Council. The Clerk shall prepare an agenda of the business to be considered at each regular council meeting.

SPECIAL MEETINGS OF THE COUNCIL

Section 4.11 Special meetings of the Council may be called by the Clerk on the written request of the Mayor or any two (2) members of the Council or the City Manager on eighteen (18) hours written notice to each member of the Council, designating the purpose of such meeting and served personally or left at the councilperson's usual place of residence by the Clerk or someone designated by the Clerk. Public notice of any special meeting must be given pursuant to statute. No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

MEETINGS TO BE PUBLIC

Section 4.12 All regular and special meetings of the Council shall be open to the public and subject to the Open Meeting Act except when closed meetings are authorized by statute. The rules of order of the Council shall provide that the citizens shall have a reasonable opportunity to be heard at any such meeting on matters within the jurisdiction of the Council. All records shall be made available to the general public in compliance with the Freedom of Information Act.

QUORUM AND VOTE REQUIRED

Section 4.13 Four (4) members of the Council shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn a meeting to a later date. The vote of at least four (4) members shall be required for official action by the Council, unless a larger majority is required by statute or this Charter.

ATTENDANCE AT MEETINGS

Section 4.14 The Council may compel the attendance of absent members at a duly called meeting by a majority vote of the council members present whether or not a quorum is present. The Council may by ordinance provide penalties for non-attendance, including the penalty of forfeiture of office.

RULES OF ORDER

Section 4.15 The Council shall determine its own rules and order of business and shall keep a written or printed journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state in such record. Each member of the Council, who shall be recorded as present at any meeting shall be required to vote on all questions decided by the Council at such meeting, unless excused by four (4-) of the members present or in any case where the matter personally affects the member not voting. A member not excused can be considered in violation of this Charter when so determined by the Council. The presiding officer shall enforce orderly conduct at meetings. Any member of the Council or other officer who shall fail to maintain conduct in an orderly manner at any meeting shall be deemed guilty of misconduct in office. Any person designated by the presiding officer of the meeting shall serve as the Sergeant at Arms of the Council in the enforcement of the provisions of this section.

PUBLICATION OF COUNCIL PROCEEDINGS

Section 4.16 The minutes of the Council shall be published within twenty (20) days after the passage thereof. A synopsis of such minutes, prepared by the Clerk and approved by the Mayor, showing the substance of each separate proceeding of the Council shall be sufficient compliance with the requirements of this section.

COMPENSATION FOR MAYOR AND COUNCILPERSONS

Section 4.17 The compensation of the Mayor and Councilpersons shall be as herein set forth until otherwise changed by ordinance, provided that no change in such compensation shall be effective during the term of office for which any member of the Council making the change was elected. All votes on this question shall be by roll call. Until otherwise provided by ordinance, such compensation shall be as follows: Each Councilperson other than the Mayor shall receive \$25 per meeting. The Mayor shall receive \$3,850 per year, pro rated for each month served.

Such compensation shall be paid annually and except as otherwise provided in this Charter shall constitute the only compensation which may be paid the Mayor or Councilpersons for the discharge of any official duty for or on behalf of the City during their tenure of office. However, the Mayor and Councilpersons may, upon order of the Council, be paid such necessary bona fide expenses incurred in service in behalf of the City as are authorized and itemized.

The Council may by ordinance establish a compensation commission for review of

compensation under the provisions of this section.

RESTRICTIONS CONCERNING OFFICERS

Section 4.18 Except where authorized by law or five (5) members of the Council, elected officers shall not hold any appointed city office or city employment during the term for which they were elected, and former elected officers shall not hold any compensated appointed city office or city employment until one (1) year after the expiration of their term of office. The application of this provision shall not apply to appointed city boards or commissions, or volunteer firemen.

Individual members of the Council shall not in any manner dictate the appointment or removal of any city administrative officers or employees, but a Councilperson may express views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

Except for the purpose of inquiries and investigations, the Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give direction to any such officer or employee, either publicly or privately.

An incumbent elective city officer shall not become a candidate for any elective city office, except to succeed oneself, without first resigning from city office, provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which the incumbent is to be a candidate for another elective city office. An appointed city officer or employee shall not seek an elective office of the City unless first resigning from the incumbent's position with the City.

Members of the Council or of any board or commission of the City shall not vote on any issue or matter in which they or a relative (as defined in the following paragraph) shall have a proprietary or financial interest or as the result of which they may receive or gain a financial benefit, subject to state statute. If a question is raised under this section at any council, board or commission meeting, such specific question shall be resolved before the main question shall be voted on, but the Council, board or commission member concerning whom the question was raised shall not vote on such determination.

Unless the Council shall by an affirmative vote of five (5) members, which vote shall be recorded as part of the official proceedings, determine that the best interests of the City shall be served, the following relatives of any elected or appointed officer are disqualified from holding any appointed office or city employment during the term for which the officer was elected or appointed: Spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them.

All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the City at the time of the election or appointment of said official or employed by the City at the time of adoption of this charter.

The provisions of this relationship, above, specifically applies to the prohibition of the employment of relatives to be directly under the supervision of another relative. Employment in another department than that of the relatives' supervision is permissible subject to review by the Council.

INVESTIGATIONS

Section 4.19 The Council or its duly-appointed representatives may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence to conduct formal investigation into the conduct of any department, office, or officer of the City and make investigations as to malfeasance, misfeasance, nonfeasance, or irregularities in municipal affairs. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. The Council shall give a reasonable time for such action.

VACANCY DEFINED

Section 4.20 In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any elective office on the day when the officer dies, files a resignation with the Clerk, is removed from office, moves from the City, is convicted of a felony, or of misconduct in office under this Charter, is judicially declared to be mentally incompetent, or is absent from four (4) consecutive regular meetings of the Council, unless excused by the Council for cause to be stated in the record of council proceedings.

REMOVAL FROM OFFICE

Section 4.21 Removals by the Council of elective officers or of members of boards or commissions shall be made for either of the following reasons:

- (a) For any reason specified by statute for removal of city officers by the Governor;
- (b) For any act declared by this Charter to constitute misconduct in office. Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten (10) days in advance, either personally or by delivering the same at the officer's last known place of residence, Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard, to cross-examine witnesses and to present testimony.

If such officer shall neglect to appear at such hearing and answer such charges, the failure to do so may be deemed cause for removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal.

FILLING VACANCIES

Section 4.22 Except as otherwise provided in this Charter, any vacancy occurring in any elective office shall be filled not sooner than fourteen (14) days nor later than thirty (30) days after such vacancy shall have occurred by the concurring vote of the majority of the remaining members of the Council. The person appointed by the Council shall serve until the next general city election at which time a successor shall be elected and installed to fill the office for the remainder of the term, if any.

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

DELIVERY OF OFFICE TO SUCCESSOR

Section 4.23 Whenever an officer or employee leaves an office or employment for any reason, that person shall deliver forthwith to a successor or supervisor in the office of employment or to the Mayor, all property of the City, such as books, working papers, moneys, and effects, which are in that person's custody, possession, or control.

ADVISORY COMMITTEES OR BOARDS

Section 4.24 The Mayor, with the advice and consent of the Council may, from time to time, appoint such committees or boards as are deemed appropriate to advise and consult with them, and with appropriate departments, regarding any municipal activity. Such committees or boards shall be advisory, serve temporarily and without compensation unless otherwise provided by the Council.

HEALTH

Section 4.25 The Council shall have and exercise within and for the City all the powers, privileges and immunities conferred upon boards of health and may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the city's inhabitants.

LICENSES AND PERMITS

Section 4.26 The Council shall by ordinance prescribe the terms and conditions upon which licenses and permits may be granted, suspended, or revoked; and may require an exact payment of such reasonable sums for any licenses and permits as it may deem proper.

RIGHTS AS TO PROPERTY

Section 4.27 The Council shall have the power to acquire for the City by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Oakland, private property, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not; and shall have the power to maintain and operate the same to promote the public health, safety and welfare.

TRUSTS

Section 4.28 The Council may, in its discretion receive and hold any property in trust for cemetery, park, or other municipal purposes. Any trust now existing for the benefit of the Village of Clarkston shall be continued in full force and in accordance with the cy-pres doctrine.

TRAFFIC/ORDINANCE VIOLATIONS BUREAU

Section 4.29 The Council shall have the power and authority to establish by ordinance a Traffic/Ordinance Violations Bureau, as provided by law, for the handling of such violations of ordinances and regulations of the City, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any of such ordinances may within the time specified in the notice of such charge answer at the Traffic/Ordinance Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge and waiving a hearing in court. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given a receipt which so states. The creation of such a bureau shall not operate as to deprive any

person of a full and impartial hearing in court, should a person so choose.

CHAPTER V

THE ADMINISTRATIVE SERVICE

ADMINISTRATIVE OFFICERS

Section 5.1

- (a) The administrative officers of the City of the Village of Clarkston shall be the City Manager, the clerk, the Treasurer, the City Attorney, the Assessor, and the Financial Officer. The Council may, by ordinance or by resolution, establish such additional administrative officers or departments, or combine any administrative officers or departments, in any manner not inconsistent with law or this Charter, and prescribe the duties thereof as it may deem necessary for the proper operation of the city government.
- (b) The City Manager and the City Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council.
- (c) All administrative officers of the City, except the City Manager and the City Attorney shall be appointed by the Council after consultation with the City Manager. Such officers may be discharged for cause by the Council after consultation with the City Manager. Such officers shall have their compensation fixed by the Council.
- (d) In making appointments of administrative officers, the appointing authority shall consider only the qualifications of the appointee and that person's ability to discharge the duties of the office to which he/she is appointed.
- (e) There shall be no residency requirements for the city administrative officers.
- (f) Except as may be otherwise required by statute or this Charter, the Council shall establish by ordinance such departments of the City 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. However, the Council may not diminish the duties or responsibilities of the City Manager. The City Manager may prescribe such duties and responsibilities of the officers of those departments responsible to the City Manager which are not inconsistent with this Charter or with any ordinance or resolution.
- (g) The head of each department shall have the power to hire, suspend, or discharge the employees of that department with confirmation by the City Manager. Any employee who has been discharged may within ten days thereafter petition the Council to hear the facts regarding such discharge, and in any such case the Council may, in its own discretion, hold a hearing and inquire into such facts and may make such decisions as it considers proper.
- (h) In the event of a vacancy in an administrative office the Council shall appoint a replacement within one hundred twenty (120) days or may appoint an acting officer during the period of a vacancy in the office. The City Manager, with the consent and approval of the Council may designate an administrative officer or employee of the City to temporarily fill the vacancy.

CITY MANAGER

Section 5.2

- (a) The City Manager shall be the chief administrative officer of the city government, in conformity with the provisions of this Charter. The City Manager shall serve at the pleasure of, and be subject to removal by the Council, but shall not be removed from office during a period of ninety (90) days following any regular city election except by the affirmative vote of five (5) members of the Council.
- (b) The Council may remove the City Manager from office in accordance with the following procedures:
 - 1) The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the City Manager from duty for a period not to exceed forty five (45) days. A copy of the resolution shall be delivered promptly to the City Manager.
 - 2) Within five (5) days after a copy of the resolution is delivered to the City Manager, the City Manager may file with the Council a written request for a public hearing. This hearing shall be held at the council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The City Manager may file with the Council a written reply not later than five (5) days prior to the hearing.
 - 3) The Council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager, if a hearing has not been requested, or at any time after a public hearing if one has been requested.

The City Manager shall continue to receive a salary until the effective date of the final resolution of removal.

CITY MANAGER - FUNCTIONS AND DUTIES

Section 5.3 The City Manager shall be vested with all administrative powers of the City not inconsistent with provisions of this Charter. The City Manager shall perform the duties of the office under the authority of and be accountable to the Council. It shall be the duty of the City Manager to:

- (a) See that all laws and ordinances are enforced;
- (b) Supervise and coordinate the work of the administrative officers and departments of the City, except as otherwise provided in this Charter, and except the work of the Clerk in keeping the council records and as the clerical official of the Council;
- (c) Prepare and administer the annual budget under policies formulated by the Council and keep the Council advised as to the financial condition and needs of the City;
- (d) Establish and maintain a central purchasing service for the City;
- (e) Employ or be responsible for the employment of all city employees, establish, supervise and coordinate the personnel policies, compensation and practices of the City in

- accordance with any employment ordinance of the City;
- (f) Keep informed and report to the Council the work of the officers and departments of the City and secure from the officers and heads of administrative departments such information and special reports as the City Manager or the Council may deem necessary;
 - (g) Furnish the Council an annual report which shall consolidate the reports of all city departments;
 - (h) Resolve conflicts of authority between officers and administrative departments or, in the absence of administrative authority occasioned by inadequacy of charter/ordinance provisions, supply the necessary authority so far as may be consistent with law and the ordinances of the City, and direct necessary action to be taken in conformance therewith, making a full report immediately to the Council;
 - (i) Attend all meetings of the Council, with the right to be heard in all council proceedings, but without the right to vote;
 - (j) Recommend to the Council, from time to time, such measures as the City Manager may deem necessary or appropriate for the improvement of the City or its services;
 - (k) Prepare and maintain an administrative code defining the duties and functions of the officers and departments of the City which, when adopted by the Council, shall supplement this Charter in establishing the duties and functions of each officer and department of the City;
 - (l) See that the terms and conditions of any public utility franchise, or in any contract, are faithfully kept and performed;
 - (m) Perform such additional duties as may be granted to or required of the City Manager from time to time by the Council so far as may be consistent with the provisions of law;
 - (n) Establish any procedures necessary to carry out any of the foregoing duties; and
 - (o) Preserve all city property and equipment.

CITY CLERK

Section 5.4 The Clerk shall:

- (a) Be the clerical officer of the Council;
- (b) Attend all meetings of the Council, and keep its journal;
- (c) Keep a record of all actions of the Council at its regular and special meetings;
- (d) Have the power to administer all oaths required by law and by the ordinances of the City;
- (e) Be the custodian of the city seal, and affix the same to documents required to be sealed, also be custodian of this Charter, all city ordinances, resolutions, papers, documents, treasurer's bond, and records pertaining to the City, the custody of which is not otherwise provided by this charter;

- (f) Give to the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the City is a part;
- (g) Notify the Council of the failure of any officer or employee required to take an oath of office or to furnish any bond required;
- (h) Certify all ordinances and resolutions adopted by the Council;
- (i) Perform all duties required of clerks by law and the ordinances of the City;
- (j) Be responsible for the conduct of elections in the City as required by law;
- (k) Perform such other duties in connection with the office as may be required by law, the ordinances or resolutions of the Council;
- (l) Maintain a current inventory of city owned property; and
- (m) Provide and maintain a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter.

CITY TREASURER

Section 5.5 The Treasurer shall:

- (a) Have the custody of all monies of the City, the clerk's bond and all evidences of value or indebtedness belonging to or held in trust by the City;
- (b) Keep and deposit all monies or funds in such manner and only in such places as the Council may determine, and report the same in detail to the Council;
- (c) Have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and monies as are provided by law;
- (d) Disburse all city funds in accordance with the provisions of statute, this Charter and procedures to be established by the Council; and
- (e) Perform such Duties in connection with the office as may be required by law, the ordinances or resolutions of the council, or by the City Manager.

CITY ATTORNEY

Section 5.6

(a) The City Attorney shall:

- 1) Advise the Council on all matters of law and changes or developments therein, affecting the City;
- 2) Act as legal advisor and be responsible to the Council.
- 3) Advise the City Manager concerning legal problems affecting the city administration and any officer or department head of the City in matters relating to official duties when so requested in writing, and file with the Clerk a copy of all

written opinions;

- 4) Prosecute ordinance violations and represent the City in cases before the Courts and other tribunals;
 - 5) Prepare or review all ordinances, regulations, deeds, contracts, bonds, and such other instruments as may be required by this Charter or by the Council, and promptly give an opinion as to the legality thereof;
 - 6) Upon request of the Council, attend meetings of the Council or any other meeting;
 - 7) Defend all city officers and employees in all actions arising out of the performance of their official duties as directed by the Council;
 - 8) Obtain the Council's approval to commence or conclude any civil litigation; and
 - 9) Perform such other duties as may be prescribed by this Charter or the Council;
- (b) Upon the City Attorney's recommendation, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist the City Attorney.

ASSESSOR:

Section 5.7

(a) The Assessor shall:

- 1) Possess all the power vested in and be charged with the duties imposed upon assessing officers by law;
- 2) Make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the City;
- 3) Perform such other duties as may be prescribed by law or the ordinances of the City or by the City Manager; and
- 4) Meet all qualifications required by the State of Michigan.

(b) The duties of the Assessor may be contracted for pursuant to statute.

FINANCE OFFICER

Section 5.8

(a) The City Manager shall designate a person to act as a Finance Officer from among the administrative officers of the City. However, when the Council feels that a separate official is required, it may so designate by ordinance and the official shall be appointed by the Council after consultation with the City Manager and be under the supervision of the City Manager.

(b) The Finance Officer shall:

- 1) Be the general accountant of the City, keep the books of accounts of the assets, receipts, and expenditures of the City, and keep the Council and City Manager informed as to the financial affairs of the City. The system of accounts shall conform to such uniform systems as may be required by law;
- 2) Balance all the books of account of the City at the end of each calendar month, and make a report thereon to the City Manager as soon as practical; and
- 3) Upon direction of the City Manager, examine and audit all books of account kept by any official or department of the City.

CITY PLANNING COMMISSION

Section 5.9 The Council shall provide for and maintain a City Planning Commission which shall possess all of the powers and perform the functions of planning commissions as set forth by statute and city ordinance. The members of the City Planning Commission shall be appointed by the Mayor subject to confirmation by the Council and shall be residents of the City.

ZONING BOARD OF APPEALS

Section 5.10 The members of the Zoning Board of Appeals shall be appointed by the Mayor subject to confirmation by the Council and shall be residents of the City. Their functions and duties shall be in accordance with statute and city ordinance.

OTHER BOARDS AND COMMISSIONS:

Section 5.11 The Council may appoint any other boards or commissions by ordinance or resolution.

CHAPTER VI
LEGISLATION

PRIOR LEGISLATION

Section 6.1 All valid ordinances, resolutions, rules and regulations of the City of the Village of Clarkston which are not inconsistent with this Charter and which are in force and in effect on the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective, valid ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed to the extent of such inconsistency.

LEGISLATIVE POWERS

Section 6.2 The legislative power of the City of Clarkston is vested exclusively with the Council, except as otherwise provided by law.

FORMS OF LEGISLATION

Section 6.3

- (a) All city legislation shall be by ordinance or resolution.
- (b) A resolution is the official council action in the form of a motion adopted by a majority vote of the council members present.
- (c) The council's power to act by resolution is limited to matters required or permitted by law, this Charter, and to matters pertaining to the city's internal concerns.
- (d) An ordinance is an official Council action by a majority vote of the council members present in the nature of a legislative act establishing a more permanent influence on the City than a resolution and requiring greater formalities in its adoption.
- (e) The Council shall act by ordinance when establishing a rule or regulation which provides for a penalty, when amending or repealing an ordinance previously adopted, or when required by law or this Charter.

ACTION REQUIRING AN ORDINANCE

Section 6.4

- (a) In addition to other acts required by law or by specific charter provisions to be done by ordinance, those council acts shall be by ordinance which:
 - 1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;
 - 2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - 3) Levy taxes, except as otherwise provided in Chapter VIII, with respect to the property tax levied by budget adoption;

- 4) Grant, renew or extend a franchise;
- 5) Authorize borrowing money;
- 6) Convey, lease or authorize the conveyance or lease of any city lands;
- 7) Adopt, with or without amendment, ordinances proposed under the initiative power; and
- 8) Amend or repeal any ordinance previously adopted, except as otherwise provided by this Charter with respect to repealing ordinances reconsidered under the referendum power.

(b) Acts other than those referred to in Section 6.4 (a) may be done either by ordinance or resolution.

ORDINANCES

Section 6.5 Except in the case of an ordinance declared by the Council to be an emergency ordinance, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. The style of an ordinance shall be, "the City of the Village of Clarkston ordains." No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance shall be revised, altered, and published in full, except as otherwise provided in this Charter. An ordinance may be repealed by reference to its number and title only. The effective date of any ordinance shall be prescribed therein, and shall not be less than twenty (20) days after its adoption and publication.

EMERGENCY ORDINANCES

Section 6.6 An emergency ordinance shall:

- (a) Be enacted only to meet a public emergency affecting public peace, health, safety or welfare of all persons or property;
- (b) Not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; make or amend a grant; or other special privilege;
- (c) Be introduced in the form and manner required for ordinances generally, except that it shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms;
- (d) Be adopted at the meeting it is introduced by an affirmative vote of two-thirds (2/3) of council members present. An emergency ordinance may be given effect earlier than twenty (20) days after enactment if the requirements for publication are met by posting copies thereof in three (3) public places in the City. The Clerk shall immediately after such posting enter in the ordinance book under the record of the ordinance a certificate stating the time and place of such publication by posting. Any emergency ordinance shall also be published in accordance with Section 6.5, but not as a requirement for the effectiveness thereof.
- (e) Be in effect for not more than sixty (60) days or may be renewed for an additional sixty (60) days upon affirmative vote of two-thirds (2/3) of council members present.

ORDINANCE RECORD

Section 6.7 An ordinance when enacted shall be recorded by the Clerk in a book called "The Ordinance Book," and it shall be the duty of the Mayor and the Clerk to authenticate such record by their official signatures.

PUBLICATION OF ORDINANCES

Section 6.8 Except as otherwise provided in this Charter, an ordinance when enacted shall be published forthwith by the Clerk in the manner provided by this Charter for publication of notices, or as otherwise provided by law, and the clerk's certificate shall be entered as to the manner and date of publication under each ordinance in The Ordinance Book. The Council may adopt any detailed technical regulations as a city ordinance by reference to any recognized standard code, official or unofficial. If such a code be written in detail for the City and adopted as an ordinance, the publication of a sufficient number of copies in booklet form, available for public distribution at cost, shall be sufficient publication of such ordinance, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

CODIFICATION

Section 6.9

- (a) Within three (3) years of this charter's effective date and at least every ten (10) years thereafter, the Council shall provide for preparing a general codification of all city ordinances and resolutions having the effect of law.
- (b) The general codification shall be enacted by ordinance and be known as the City of the Village of Clarkston Code; copies shall be furnished to city officials, placed in a local library, and sufficient copies maintained in the clerk's office for free public reference, and made available for purchase by the general public at cost.
- (c) After publishing of the first City of the Village of Clarkston Code, new ordinances and resolutions shall be printed annually in a form for integration with the code currently in effect.

PENALTIES

Section 6.10 The Council shall provide in each ordinance for the punishment of violations thereof, but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed the maximum fine or imprisonment, or both, provided by statute, in the discretion of the court.

PUBLICATION OF NOTICES, PROCEEDINGS AND ORDINANCES

Section 6.11 Notices or proceedings requiring publication and any ordinance passed by the Council shall, unless otherwise provided by this Charter, be published once in a newspaper of general circulation in the City. Notices or proceedings may be published in synopsis form, and indicate that the detailed document is available for the public inspection at any time at the clerk's office during normal business hours.

SEVERABILITY OF ORDINANCES

Section 6.12 Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portion or applications of the ordinance which can be given effect without the invalid portion or application, provided, such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

INITIATIVE AND REFERENDUM

Section 6.13 An ordinance may be initiated by petition. A referendum on an ordinance enacted by the Council may be had by a petition filed prior to twenty (20) days subsequent to enactment; as hereinafter provided.

PETITIONS

Section 6.14 An initiatory or a referendary petition shall be signed by registered qualified electors of the City in number equal to fifteen percent (15%) of the active registration file of voters at the preceding state even-numbered year election prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the Clerk. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers, each containing a copy of the issue. Each signer of a petition shall sign in ink or indelible pencil, and shall place thereon, the date and place of residence by street and number. To each petition paper there shall be attached a certificate by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the circulator. Any such petition shall be filed with the Clerk who shall within ten (10) days, determine the sufficiency thereof and so certify.

In the case of initiatory petitions, any signatures obtained more than ninety (90) days before filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of qualified registered electors of the City, or to be improper as to form or compliance with the provision of this section, ten (10) days 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. If found not to be in compliance with this section, no further action will be had with these petitions.

COUNCIL PROCEDURE

Section 6.15 Upon receiving a certified initiatory or referendary petition from the Clerk, the Council shall within thirty (30) days, either:

- (a) If it be an initiatory petition, adopt the ordinance or submit the proposal to the electors or
- (b) If it be a referendary petition, repeal the ordinance or submit the proposal to the electors.

SUBMISSION TO ELECTORS

Section 6.16 When the provisions of this Charter require the Council to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose, or in the discretion of the Council, at a special election. In any event, it shall be submitted at an election where there is sufficient time for processing of the notice of registration and of election and providing for absentee ballots. The results shall be determined by a majority vote of the electors voting

thereon, except in cases where otherwise required by law.

GENERAL PROVISIONS

Section 6.17 The certification by the Clerk of the sufficiency of a referendary petition shall automatically suspend the ordinance in question pending repeal by the Council or final determination by the electors, as the case may be. An ordinance adopted by the electorate through initiatory proceedings, may not be amended or repealed by the Council for two (2) years, and then only by the affirmative vote of not less than five (5) Councilpersons. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER VII
GENERAL FINANCE

FISCAL YEAR

Section 7.1 The fiscal year of the City of the Village of Clarkston shall begin on the first day of July of each year.

FINANCE COMMITTEE

Section 7.2 Three (3) members of the Council appointed by the Mayor with advice and consent of the Council shall serve as the Finance Committee to assist the City Manager in the preparation of the annual budget and to advise the Council on budget matters.

BUDGET PROCEDURE

Section 7.3 On or before the first council meeting in March of each year, each officer, department, and board of the City shall submit to the Finance Committee and the City Manager an itemized estimate of the expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The Finance Committee and the City Manager, shall compile and review such budget request and then prepare budgetary recommendations. The City Manager shall submit the budget recommendations to the Council at the second council meeting of May of each year.

BUDGET DOCUMENT

Section 7.4 The budget document shall present a complete financial plan for the ensuing fiscal year and shall include those items required by the Uniform Budgeting and Accounting Act 621, of the Public Acts of 1978, as amended or as required by law. Also to be included shall be such other supporting schedules as the Council may require.

BUDGET HEARING

Section 7.5 Before its final adoption, a public hearing on the budget proposal shall be held as provided by law. Notice of the time and place of holding such hearing shall be published by the Clerk in a newspaper having general circulation in the City at least a week in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the Clerk for a period not less than one (1) week prior to such public hearing.

ADOPTION OF THE BUDGET

Section 7.6 The Council shall, not later than its second regular meeting in June, adopt by resolution a budget for the ensuing fiscal year and make appropriations therefor. After consideration of probable other revenues, the Council shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this Charter or by general law.

TRANSFER OF APPROPRIATIONS

Section 7.7 After the budget has been adopted, no money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of the money be incurred, except pursuant to the budget appropriations. The Council may transfer any unencumbered appropriation, balance, or

any portion thereof from one department, fund, or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year may be reappropriated during the next fiscal year as determined by the Council.

BUDGET CONTROL

Section 7.8

- (a) The City Manager shall submit to the Council monthly financial reports showing the relationship between the estimated and actual revenue and expenses to date; and if it shall appear that the revenue is or may be less than anticipated, the Council shall reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within anticipated revenues. If revenue exceed the amounts estimated in the budget, the Council may make supplemental appropriations. Expenditures shall not be charged directly to the contingency account except in those cases where there is no other logical account to which expenditures can be charged. Instead, a necessary part of the appropriation from the contingency account shall be transferred to the logical account, and the expenditure charged to such account.
- (b) The Council may make additional appropriations during the fiscal year for unanticipated expenditures required by the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenue of the year are exceeding the revenue as estimated in the budget.

IMPROVEMENT FUNDS

Section 7.9 The City may establish and maintain funds, including revolving funds, for special assessment projects or other improvements for the purpose of accumulating moneys to be used for financing, making, acquiring, extending, altering, or repairing public improvements. Moneys so accumulated may be transferred, encumbered or otherwise disposed of only for the purpose for which accumulated unless otherwise determined and declared by formal resolution of the Council and then only for the purpose of making some other public improvement.

WITHDRAWAL OF CITY MONEYS

Section 7.10 Unless otherwise provided by law or by ordinance, all moneys drawn from the treasury shall be drawn pursuant to the authority and appropriation of the Council. Checks for the disbursement of city funds shall be signed by two (2) of three (3) persons authorized by the Council.

DEPOSITORY

Section 7.11 The Council shall designate the depository or depositories for city funds and shall provide for the regular deposit of all city moneys.

INVESTMENTS

Section 7.12. Surplus moneys may be invested in obligations of the United States of America, or any certificate of deposit or deposited in any bank located in Michigan which is a member of the Federal Deposit Insurance Corporation, as may be directed by the Council or as allowed by statute.

INDEPENDENT AUDIT

Section 7.13 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 ninety (90) days thereafter. Special independent audits may be made at any time that the Council may designate. All such audits shall be submitted to the Council by a certified public accountant designated by the Council. Each audit and reports supplemental thereto shall be made public in the manner that the Council determines and copies of the audit shall be placed in the office of the Clerk.

CHAPTER VIII

TAXATION

POWER TO TAX

Section 8.1 The City of the Village of Clarkston shall have power to assess, levy and collect taxes, rents, tolls and excises. The subject of ad valorem taxation shall be the same as for state, county, and school purposes under general law. Except as otherwise provided by this Charter, city taxes shall be levied, collected and returned in the manner provided by law.

TAX LIMITS

Section 8.2 Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds, and exclusive of any other levies authorized by law to be made beyond charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed one and one half percent (1-1/2%), or fifteen (15) mills on the assessed value of all real and tangible personal property in the City.

EXEMPTIONS

Section 8.3 No exemptions from taxation shall be allowed except as expressly required or permitted by law.

TAX DAY

Section 8.4 Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the 31st day of December, or such other day as may subsequently be required by law, which shall be deemed Tax Day.

TANGIBLE PERSONAL PROPERTY - JEOPARDY ASSESSMENT

Section 8.5 If the Treasurer finds, or reasonably believes that a person who is or may be liable for taxes upon tangible personal property, the taxable situs of which was in the City on the Tax Day, intends to depart from the City, or to remove therefrom tangible personal property, which is or may be, liable for taxation, or to conceal themselves or their property, or to do any act tending to prejudice, or to render wholly or partially ineffective the proceeding to collect such tax, unless proceedings therefore be brought without delay, the Treasurer shall proceed to collect the same as jeopardy assessment in the manner provided by law.

ASSESSMENT ROLL

Section 8.6 On or before the first day in March in each year, the Assessor shall prepare and certify an assessment roll for all property in the City subject to taxation, and shall file the same in the clerk's office for public examination. Such rolls shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized systematic assessment methods.

On or before the first day in March the Assessor shall provide notice by first class mail of any increase over the previous year in the assessed value of any property, or of the addition of any property to the assessment roll that had not been on the assessment roll previously. The failure to give any such notice, or of the owner to receive it, shall not invalidate any assessment roll or assessment thereon.

BOARD OF REVIEW

Section 8.7

- (a) A Board of Review is hereby created composed of three (3) members who have the following qualifications: A member shall be a qualified elector of the City, and shall have been a resident of the City for at least twelve (12) months immediately prior to the date of appointment. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation.
- (b) The members of the Board of Review shall be appointed by the Mayor with the advice and consent of the Council and may be removed for reasons of nonfeasance or misfeasance by the vote of five (5) members of the Council. The first such Board of Review appointed by the Mayor under the provisions of this Charter shall be made up of three (3) qualified members appointed for one (1), two (2) and three (3) year terms. Thereafter the Mayor shall appoint a member for a three (3) year term at the first regular council meeting in January of each succeeding year. The Council shall fix the compensation of the members of the Board.
- (c) An annual organizational meeting of the Board of Review shall be held on the first Tuesday following the first Monday in March to select one of its members as chairperson for the ensuing year, to review the assessment roll and to examine the guidelines and practices followed in preparing the assessment roll. The Assessor shall be Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.
- (d) The filing of a nominating petition for any elective office of the City by a member of the Board of Review shall constitute a resignation from the Board of Review.

DUTIES AND FUNCTIONS OF THE BOARD OF REVIEW

Section 8.8 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 conferred by law and required of boards of review. It shall hear the complaints of all persons considering themselves aggrieved by assessment, and if it shall appear that any person or property has been wrongfully assessed or omitted from the rolls, the Board shall correct the roll in such manner as it deems just. In all cases, the roll shall be reviewed according to the facts existing on the Tax Day and no change in the status of any property after that day shall be considered by the Board in making its decision. Except as otherwise provided by law, no person, other than the Board shall make or authorize any change upon or addition or correction to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all the proceedings of the Board and to enter therein all resolutions and decisions of the Board. Such proceedings shall be filed in the office of the Clerk.

NOTICE OF SESSIONS

Section 8.9 Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk in a newspaper having general circulation in the City at least ten (10) days prior to each session of the Board.

SESSIONS OF THE BOARD OF REVIEW

Section 8.10 The Board of Review shall convene its first session beginning on the second Monday in March of each year at such time of day and place as shall be designated by the Council

and shall remain in session for at least six (6) hours on that and each succeeding business day thereafter as may be necessary for the purpose of considering and correcting the roll. During its first session the Board shall consider any written objections filed with it in respect to any assessment and may, on its own motion, revise said assessment roll and may increase or diminish valuations therein, add the names of persons and descriptions of property and shall correct all errors and deficiencies found therein or resolve to consider such action at its second session.

In each case in which, at the first session of the Board, the assessed value of any property is increased over the amount shown on the assessment roll, as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second meeting such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the day following the last day of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene its second session on the third Monday in March of each year at such time of day and place as shall be designated by the Council and shall continue in session on that and each succeeding business day until all interested persons have had an opportunity to be heard, but in no case for less than six (6) hours. The Board may still add to the roll property previously omitted, but before so doing shall make every reasonable effort to notify the owner thereof and permit the owner to be heard.

ENDORSEMENT OF ROLL

Section 8.11 After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. Such roll shall be the assessment roll of the City for all tax purposes.

CLERK TO CERTIFY TAX LEVY

Section 8.12 Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by the general ad valorem tax. The Clerk shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires or orders to be assessed, reassessed, or charged upon said roll against any property or any person in accordance with the provisions of this Charter or any ordinances of the City.

STATE, COUNTY AND SCHOOL TAXES

Section 8.13 The levy, collection and return of state, county and school taxes shall be in conformity with the general laws of the State. To the extent permitted by law, the Council may contract for the collection of these and other taxes.

CITY TAX ROLL

Section 8.14 The Assessor shall prepare a copy of the assessment roll, to be known as the City Tax Roll, and upon receiving the certification of the several amounts to be raised, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property. The Assessor shall also spread thereon the amounts of the general ad valorem city tax according to and in proportion to the several valuations

set forth in said assessment roll. To avoid fractions in computation of any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the City.

TAX ROLL CERTIFIED FOR COLLECTION

Section 8.15 After spreading the taxes the Assessor shall certify the tax roll, annex the assessor's warrant thereto, direct and require the Treasurer to collect the several sums mentioned therein opposite their respective names as a tax, charge, or assessment, and grant to the Treasurer, for the purpose of collecting the taxes, assessments and charges of such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes, except the Treasurer shall not add any collection fee or percentage for collection to such tax bills until and unless such taxes have become delinquent.

TAX LIEN

Section 8.16 On July 1st of each year, the taxes thus assessed on real and tangible personal property shall become a debt due to the City from persons to whom assessed. The amounts assessed on real property and all penalties, collection fees and interest charges thereon shall become a lien on all real property of such persons so assessed. The amounts assessed on personal tangible property and all penalties, collection fees and interest charges thereon shall likewise become a lien on all tangible personal property of such persons so assessed. Such lien(s) shall take precedence over all other claims, encumbrances, and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

TAXES DUE NOTIFICATION THEREOF

Section 8.17 In notifying taxpayers of tax due dates and taxes to be paid, the Treasurer shall not be required to call upon persons named in the city tax roll nor make personal demand for payment of taxes, but shall:

- (a) Publish between June 15th and July 1st notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof; and
- (b) Mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed. Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate such taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late or nonpayment of same.

COLLECTION CHARGES ON LATE PAYMENT FEES

Section 8.18 The Council shall comply with applicable statutory requirements governing tax due dates, collection procedures, interest and penalty charges and return of delinquent taxes to the County Treasurer. Within its authority, the Council may, for the benefit of taxpayers, establish payment schedules to approximately equalize summer and winter tax payments. Except as restricted by-statute, the following schedule of collection dates shall apply:

- (a) Taxes payable July 1st will be accepted without interest or penalty until September 14th of the same year.
- (b) Taxes payable December 1st will be accepted without interest or penalty until February 14th of the succeeding year.

- (c) Deferment of taxes payable July 1st until the following February 14th without penalty shall be, on application and qualification by September 14th granted to taxpayers age sixty five (65) and over meeting statutory limitations on health and household income.

Taxes payable July 1st, unpaid as of September 15th, shall be assessed a 1% interest penalty if paid by September 30th, plus an additional one percent (1%) the first of each month thereafter on the unpaid balance. Taxes payable December 1st, unpaid as of February 15th, shall be assessed a three percent (3%) interest penalty if paid before March 1st. On March 1st such delinquent tax bills shall be returned to the Oakland County Treasurer for collection.

COLLECTION OF DELINQUENT TAXES

Section 8.19 All taxes on real and tangible property for which the City is the designated collection agency and remaining uncollected by the City Treasurer on March 1st or such date established by statute shall be returned to the Oakland County Treasurer for collection. Such return should be made upon a delinquent tax roll to be prepared by the City Treasurer and shall include all the additional charges and assessments hereinbefore provided. Such charges shall be added to the amount assessed in said tax roll against each description. Taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer for collection in accordance with the provisions of the general laws of the State, 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 8.20 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, fees, penalties, interest, and costs, paid by the City to protect its title in such property. After the lapse of ninety (90) days after the date that the City acquired 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.

FAILURE OR REFUSAL TO PAY TANGIBLE PERSONAL PROPERTY TAX

Section 8.21 If any person, firm or corporation shall neglect or refuse to pay any tangible personal property tax assessed to that person, firm or corporation, the Treasurer shall collect the same by seizing the tangible personal properties of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the State, and from which seizure no property shall be exempt. The Treasurer may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on tangible personal property, sue the person, firm or corporation to whom it is assessed in accordance with the statute.

INEQUITABLE ASSESSMENT OF TAX

Section 8.22 If it shall be found, at any time, that any property has been subjected to a substantially inequitable assessment or tax, as by reason of errors in computations, decimal misplacement, double entries, and the like, so that the same amounts to a constructive fraud upon the taxpayer, and if the City Attorney shall prepare and file a written opinion indicating that, under

current law, relief would be granted by a court of competent jurisdiction, then the Council may so determine and declare by resolution without requiring the commencement of court proceedings and any necessary adjustment may be taken from the general fund of the City.

CHAPTER IX

BORROWING AUTHORITY

GENERAL BORROWING

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

- (a) General obligation bonds which pledge the full faith, credit, and resources of the City for payment of such obligations.
- (b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 7.6;
- (c) In cases of fire, flood, windstorm, or other calamity, emergency loans due in not more than five (5) years for the relief of inhabitants of the City and for the preservation of city property.
- (d) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts, and a general obligation of the City.
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the City is authorized by this Charter or by law to acquire or operate;
- (f) Bonds for the refunding of the funded indebtedness of the City;
- (g) Revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the City;
- (h) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the state or federal government which the City may be permitted by law to pledge for the payment of principal and interest thereof;
- (i) Budget bonds, which pledge the full faith, credit and resources of the City, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of taxation authorized by statute; and
- (j) Bonds which the City is, by any general law of the state authorized to issue, now or hereafter, which shall pledge the full faith, credit and resources of the City or be otherwise secured or payable as provided by law.

LIMITS OF BORROWING AUTHORITY

Section 9.2

- (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such bonded indebtedness there shall be excluded money borrowed on notes issued in the anticipation of the collection of taxes, special assessment bonds, even though they are a general obligation of the City, mortgage bonds, revenue bonds, bonds in anticipation of state-retained revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.
- (b) The amount of emergency loans which may be made under the provisions of this Charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the City to exceed the limit of the net bonded indebtedness fixed in this Charter, or by law.
- (c) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.
- (d) The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

PREPARATION AND RECORD OF BONDS

Section 9.3 Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this Charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of said issue or for any other purpose permitted by law. All bonds or other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk, under the seal of the City. The signatures of the Mayor and Clerk, and the seal of the City may be facsimiles in the case of fully-registered bonds. Interest coupons may be executed with the facsimile signature of the Mayor and the Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

DEFERRED PAYMENT CONTRACTS

Section 9.4 The City may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than, nor shall the total amounts of principal payment under all such contracts exceed a sum permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER X
SPECIAL ASSESSMENTS

GENERAL POWERS

Section 10.1 The Council of the City of the Village of Clarkston shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution. Such resolution shall state:

- (a) The estimated cost of the improvement;
- (b) What proportion of the cost shall be paid by special assessment, and what part, if any, shall be a general obligation of the City;
- (c) The number of installments in which assessments shall be levied; and
- (d) Whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof.

The Council shall also have the power of reassessment with respect to any such public improvement.

PROCEDURE FIXED BY ORDINANCE

Section 10.2 The Council shall prescribe by ordinance the complete special assessment or reassessment procedure governing:

- (a) The initiation of projects,
- (b) Preparation of plans and cost estimates,
- (c) Notice of hearings on necessity,
- (d) Confirmation of the assessment rolls,
- (e) Making and confirming of the assessment rolls,
- (f) Correction of errors,
- (g) The collection of special assessments, and
- (h) Any other matters concerning the making and financing of improvements by special assessment.

CHAPTER XI

UTILITIES AND FRANCHISES

GENERAL POWERS RESPECTING UTILITIES

Section 11.1 The City of the Village of Clarkston shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, transportation, and garbage and refuse disposal facilities, or any of them to the municipality and its inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

CONTROL OF UTILITIES

Section 11.2 The Council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the City may, in any manner acquire, own, or operate and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the City by the provisions of this Charter and by law.

PURCHASE OF UTILITY SERVICE

Section 11.3 The City may purchase and resell public utilities services from any person, municipal or private, if such purchase may be deemed by the Council to be in the best interests of the City and its inhabitants.

DISPOSAL OF PLANTS AND PROPERTY

Section 11.4 The City shall not sell, exchange, lease, or in any way alienate or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at a special election held for the purpose in the manner provided in this Charter, to the qualified voters of the City and approved by them by a majority vote of the electors voting thereon. All contracts, negotiations, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange or any articles or equipment of any city-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

FRANCHISES

Section 11.5

- (a) A franchise ordinance, which is not revocable at the will of the Council, shall not be granted or become operative until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths (3/5) of the electors voting thereon at such election or as required by law.
- (b) All irrevocable public utility franchises, and all renewals, extensions and amendments thereof, shall be granted only by ordinance. Such ordinance shall not be adopted before thirty (30) days after application therefor has been filed with the Council, or until a full

public hearing has been held thereon. Such ordinance shall not become effective until it has been submitted to the electors and has been approved by a three-fifths (3/5) majority of the electors voting thereon. Such ordinance shall be submitted to the electors at a general election to be held not less than sixty (60) days after the grantee named therein has filed unconditional acceptance of all terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the Council, shall have been paid to the Treasurer by the grantee.

- (c) An exclusive franchise shall not be granted, and a franchise shall not be granted for a longer term than thirty (30) years.
- (d) Such franchise shall not be transferable, directly or indirectly, except with the approval of the Council expressed by ordinance.
- (e) Purchase of a franchised utility by the City shall require the approval of a three-fifths (3/5) majority of the electors voting thereon.

RIGHT OF REGULATION

Section 11.6 All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the right of the City to:

- (a) Repeal the same for misuse or nonuse, or for failure to comply with the provisions thereof;
- (b) Require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (d) Make independent audit and examination of accounts at any time, and to require reports annually;
- (e) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; and
- (f) Impose such other regulations as may be determined by the Council to be conducive to the health, safety, welfare, and accommodation of the public.

RATES OF FRANCHISED UTILITIES

Section 11.7 The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agencies. The rates not preempted by the state for public utilities shall be set, after public hearing, by the Council.

PURCHASE - CONDEMNATION

Section 11.8 The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with general law, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill, or prospective profits.

REVOCABLE PERMITS

Section 11.9 Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by resolution on such terms and conditions as it shall determine, provided that such permits shall not be construed to be franchises or amendments to franchises.

USE OF STREETS BY UTILITY

Section 11.10 Every public utility franchise shall be subject to the City's right to use, control and regulate the use of streets, alleys, bridges and public places, including the space above and beneath them. Every public utility shall pay such part of the cost of improvements and maintenance of streets, alleys, bridges and other public places as shall arise from its use and shall protect and hold the City harmless from damages arising from said use. The Council shall by ordinance establish the terms and conditions for such joint use of the public right-of-way and the compensation to be paid.

CHAPTER XII

PURCHASES, SALES, AND LEASES

CONTRACTING AUTHORITY OF COUNCIL

Section 12.1 The power to authorize the making of purchase, sale and lease contracts on behalf of the City of the Village of Clarkston is vested in the Council, and shall be exercised in accordance with the provisions of law. All contracts, except as otherwise provided by ordinance in accordance with the provisions of this Charter shall be authorized by the Council, and shall be signed on behalf of the City by the Mayor and the Clerk.

PURCHASE, SALE AND LEASE OF PROPERTY AND SERVICES

Section 12.2 The Council shall establish by ordinance the procedures for the purchase, sale or lease of real and personal property and services for the City for the direction of the City Manager. The ordinance shall provide a dollar limit within which purchases, sales or leases of real and personal property and services may be made without the necessity of securing competitive bids, and the dollar limit within which purchases, sales or leases may be made without the necessity of prior council approval.

LIMITATIONS ON CONTRACTUAL POWER

Section 12.3

- (a) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years, unless such contract shall first receive the approval of the majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for services with a public utility, or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the City by law.
- (b) Except as provided by ordinance authorized in this Charter, each contract for construction of public improvements or for the purchase or lease of personal property and services, shall be let after opportunity for competition and shall require the posting of an adequate performance bond.
- (c) Except as provided by ordinance all bids shall be opened and read aloud in public by the City Manager or the City Manager's authorized representative at the time designated in the notice of letting, and shall be reported by the City Manager to the Council at its next regular meeting. The Council may reject any or all bids if deemed advisable. If, after ample opportunity for competitive bidding, no bids are received, or such bids as are received are not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or authorize the City Manager, or other proper officials of the City, to negotiate or contract on the open market.
- (d) No contract shall be made with any person, firm or corporation in default to the City.
- (e) The Council's power to sell, lease or dispose of any real property shall be conditioned on the conducting of a public hearing thereon and receiving five (5) affirmative council votes and the requisite electoral approval if required by law.

OFFICIAL INTEREST IN CONTRACTS

Section 12.4 No person holding any elective or appointive office of the City shall take any official action on any city contract in which that person shall have a direct personal interest in the profits to be derived therefrom or be a bondsman or surety on any contract or bond given to the City. The provisions for handling this shall be in accordance with Act 317 of the Public Acts of 1968, as amended or as required by law. Any officer violating the provisions of this section shall be deemed guilty of misconduct in office and upon conviction shall forfeit that office.

CHAPTER XIII

MUNICIPAL RIGHTS AND LIABILITIES

RIGHTS, LIABILITIES, REMEDIES

Section 13.1 All rights and properties of any kind and description which were vested in the Village of Clarkston at the time of the adoption of this Charter shall continue, and no rights or liabilities, either in favor of or against the Village at the time of the adoption of this Charter, and no suit or prosecution of any kind shall be in any manner affected by the adoption of this Charter, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the Village and all taxes levied and uncollected at the time of the adoption of this Charter shall be collected the same as if such change had not been made; provided that, when a different remedy is given in this Charter, which can be made applicable to any rights existing at the time of the adoption of this Charter, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

LIABILITY FOR DAMAGES

Section 13.2 The City shall not be liable for unliquidated damages for injuries to persons or property unless the person or persons claiming such damages, or someone on their behalf, shall file a claim in writing with the Clerk. Such claim shall be verified by the claimant or claimants, or some person having knowledge of the facts, who shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the specific grounds upon which the claim of liability on the part of the City shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amount claimed, Upon filing such claim, the City shall investigate the same and may require the claimant to produce all witnesses for examination under oath. No action shall be maintained in any case unless the same be brought within the statutory period stated by law after such injury or damages shall have been received.

STATEMENTS OF CITY OFFICERS

Section 13.3 An officer of the City shall not have the power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the City. Any such representation shall be void and of no effect as against the City.

CHAPTER XIV

GENERAL PROVISIONS AND DEFINITIONS

GENERAL PROVISIONS AND DEFINITIONS

Section 14.1 All records of the City of the Village of Clarkston shall be public, except those exempted by law, and shall be kept in the city offices except when required to be elsewhere for official reasons or for safekeeping. All city records shall be in the English language including the city's legislative journal and shall be available to the public during normal business hours.

HEADINGS

Section 14.2 The chapter, section and subsection headings used in this Charter are for convenience only and shall not be considered to be part of this Charter.

DEFINITIONS AND INTERPRETATIONS

Section 14.3 Except as otherwise specifically provided or indicated by the context of this Charter:

- (a) The word "State" shall mean the State of Michigan.
- (b) The word "City" shall mean the City of the Village of Clarkston.
- (c) The word "Council" shall mean the City Council of the City of the Village of Clarkston.
- (d) The word "officer" shall include the Mayor, City Manager, the members of the Council, and, as herein provided, the administrative officers, and members of city boards and commissions created pursuant to this Charter.
- (e) The word "employee" shall mean those persons not holding elective or appointive office, one who is generally subordinate to an officer and performs only those duties specifically assigned by a contract, department head, or other governmental body.
- (f) The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals.
- (g) The words "printed" and "printing" shall include printing, engraving, stenciling, duplicating, lithographing, typewriting, photocopying, or any similar method.
- (h) Except in reference to signatures, the words "written" and "in writing" shall include handwritten script, printing, typewriting, photocopying and all electronic, facsimile, teletype, and telegraphic communications.
- (i) 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 in accordance with this Charter.
- (j) The words "public utility" shall include all common carriers in the public streets; water; sewage disposal; electric light and power; gas; telephone and telegraph lines and systems; cable television; garbage and refuse collection and disposal and reduction

plants; transportation; and such other and different enterprises as the Council may determine or designate.

- (k) 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 happening of any event or requirement to which any provision of this Charter is applied.
- (l) The singular shall include the plural, and plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter.
- (m) The word "law" denotes applicable federal law, the Constitution and statutes of Michigan, and the applicable common law, and this Charter and the ordinances of the City.
- (n) The word "statute" shall denote the public acts of the State of Michigan including amendments in effect at the time the provision of the Charter containing the word "statute" is to be applied.

AMENDMENTS

Section 14.4 This Charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest number of affirmative votes shall prevail as to those provisions.

SEVERABILITY OF CHARTER PROVISIONS

Section 14.5 Should any provision or section or portion thereof, of this Charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or section.

CHAPTER XV

SCHEDULE OF ADOPTION

PURPOSE AND STATUS OF SCHEDULE CHAPTER

Section 15.1 The purpose of this schedule chapter is to inaugurate the government of the City of the Village of Clarkston under this Charter and to provide the transition from the Village of Clarkston. It shall constitute a part of this Charter only to the extent and for the time required to accomplish this end.

ELECTION TO ADOPT CHARTER

Section 15.2 This Charter shall be submitted to a vote of the registered electors of the Village of Clarkston at a special election to be held on February 4, 1992, between the hours of 7:00 AM and 8:00 PM local time. The provisions for the submission of the question of adopting this Charter at such election shall be made in a manner provided by law. The election shall be conducted by the Village Clerk, and if in said election a majority of the electors voting thereon shall vote in favor of the adoption of this Charter, then the Clerk shall perform all the other acts required by law to carry this Charter into effect.

FORM OF BALLOT

Section 15.3 The form of the ballot on submission of this Charter shall be as follows:

"Shall the proposed Charter of the City of the Village of Clarkston drafted by the Charter Commission elected on October 16, 1990, be adopted."

YES _____
NO _____

EFFECTIVE DATE

Section 15.4 If the canvass of the votes on the adoption of this Charter shows it to have been adopted, it shall take effect and become law as the Charter of the City of the Village of Clarkston for all purposes on July 1, 1992, at 12:01 AM local time.

FIRST ELECTION OF OFFICERS

Section 15.5

(a) An election to elect the first Mayor and City Council shall be held on Monday, June 15, 1991, between the hours of 7:00 AM and 8:00 PM, local time. The mayoral candidate receiving the highest vote shall have a term beginning at 12:01 AM, July 1, 1992, and extend until the second Monday in November following the annual city election in 1994. The three (3) council candidates receiving the highest vote shall have terms beginning at 12:01 AM, July 1, 1992, and extend until the second Monday in November following the annual city election in 1994. The three (3) candidates receiving the next highest number of votes shall have terms beginning at 12:01 AM July 1, 1992, and extend until the second Monday in November following the annual city election in 1993. Henceforth, the elections for the City Council shall be held in accordance with and at the times set forth in this Charter.

(b) Candidates for Mayor and for City Council who shall be duly registered electors of the

Village of Clarkston and who shall have been residents of the Village of Clarkston for one (1) year immediately prior to the election shall file petitions signed by not less than twenty (20), nor more than forty (40) qualified and registered electors of the Village of Clarkston, and filed with the Village Clerk by 4:00 PM, local time, on Monday, April 23, 1992. The Village Clerk shall publish notice of the last day and time of filing of petitions which notice shall be published in the Clarkston News by April 1, 1992. Such petitions shall be in the form designated by statute for the use in nominations for nonpartisan office. The manner of approval of nominating petitions and those who qualify to sign shall be in general as outlined in this Charter.

- (c) Monday, May 18, 1992 shall be the last day of registration for such election. The Village Clerk will act as registrar for the purpose of registering the electors of the Village of Clarkston for the election to be held on June 15, 1992. Those registered voters now registered with the Village of Clarkston will be eligible to vote without further registration if their registrations in the Village of Clarkston are in order. The Village Clerk shall also publish notices as required in accordance with state statutes for such election.
- (d) The Oakland County Board of Canvassers shall canvass both the votes for and against the February 4, 1992, election on the adoption of this Charter and the June 15, 1992 election for the Mayor and the City Council.

FIRST MEETING OF THE CITY COUNCIL

Section 15.6 On or before the effective date of this Charter, each person who has been elected to an office of the City shall appear before the Clerk of the Village of Clarkston and take and subscribe to their oath of office. The officer receiving such oath shall file the subscribed copy of such oath with the City Clerk within ten (10) days after the effective date of this Charter. The first council meeting of the City shall convene at 7:30 PM, local time, on Monday, July 13, 1992 in the City Hall. The meeting shall be called to order by the Chairman of the Charter Commission who shall introduce the Mayor and the Council to the public and call the meeting to order. The Chairman shall then turn the meeting over to the Mayor and the Council shall proceed with the business before it.

EXISTING VILLAGE LEGISLATION AND RULES

Section 15.7 All ordinances and resolutions of the Village and all rules and regulations made by any officer or agency of the Village which are not inconsistent in their content with this Charter shall remain in effect until changed by action taken under this Charter. The adoption of this Charter shall not effect any rights, assets, obligations, liabilities or immunities of the Village of Clarkston or the officers thereof.

COUNCIL ACTION

Section 15.8 In all cases involving the transition of the Village of Clarkston to the City of the Village of Clarkston under this Charter which are not covered by this schedule or other provisions of this Charter, the Council shall supply the necessary details and procedures and may adopt such rules, regulations and ordinances as may be required therefor.

VESTED RIGHTS AND LIABILITIES

Section 15.9 After the effective date of this Charter, the City of the Village of Clarkston shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books and papers belonging to the Village of Clarkston according to statute and cases provided. No right

or liability, contract, lease, or franchise either in favor or against the Village of Clarkston, and no existing suit or prosecution of any character shall be affected in any manner by any change resulting from the adoption of this Charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the Village of Clarkston shall continue as debts and liabilities of the City, and all debts to it and fines and penalties, imposed and existing at the time of such change shall be collected by the City.

All trusts established for any municipal purpose shall be continued in accordance with the terms thereof subject to the cy-pres doctrine.

OFFICERS AND EMPLOYEES

Section 15.10 The adoption of this Charter shall not change or influence the Village Clerk, the Village Treasurer, any appointive officer or employee at the time of adoption. Each such person who holds any office or who is an employee shall continue therein until a successor has been appointed or employed in accordance with the provisions of this Charter.

BOARDS AND COMMISSIONS

Section 15.11 The present boards and commissions of the Village of Clarkston shall continue as now established under the terms of the ordinance establishing them and the members of such boards and commissions shall continue for the terms as established in the ordinance creating them.

RESOLUTION OF ADOPTION

At a meeting held on January 13, 1992, the Charter Commission elected on October 16, 1990 to draft a City Charter for the City of the Village of Clarkston adopted the following resolution:

"RESOLVED, that the proposed charter for the City of the Village of Clarkston prepared by the Charter Commission after months of careful study, discussion and deliberation, be approved by the Charter Commission. That the Village Clerk of the Village of Clarkston is hereby instructed to transmit the same to the Governor of the State of Michigan in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, for his approval."

The vote on the adoption of the resolution was as follows:


Ayes: Johnston, Hitchcock, Sanderson, Arkwright, Hunter, Robertson, Smith.

Nays: None.

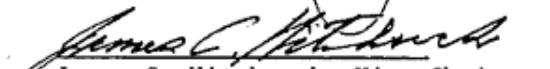
Absent: Byers, Secatch.


Norma Goyette, Village Clerk

Attested to by the following Commissioners:

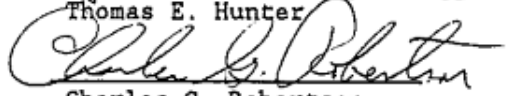

Richard C. Johnston, Chairman

Jackson G. Byers


James C. Hitchcock, Vice-Chairman

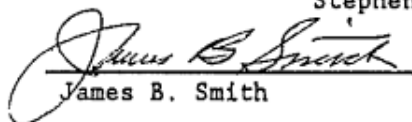

Thomas E. Hunter


Karen L. Sanderson, Secretary

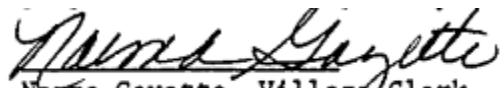

Charles G. Robertson


Stephen D. Arkwright

Stephen Secatch


James B. Smith

I hereby certify that the foregoing is a true copy of the resolution of January 13, 1992 adopted by the Charter Commission for the City of the Village of Clarkston and a true copy of the proposed charter adopted by that resolution.


Norma Goyette, Village Clerk

I hereby certify that the above Commissioners were those duly elected to the Clarkston Charter Commission on October 16, 1990.


Norma Goyette, Village Clerk