

CHARTER
of the
City of Escanaba
Michigan

(With Amendments Incorporated)

CHARTER

OF THE

CITY OF ESCANABA

MICHIGAN

(WITH AMENDMENTS INCORPORATED)

Adopted by People August 29, 1921

Amendments Adopted:

April 4, 1938, Amending Sections 1, 7, 8, and 22 of Chapter VIII.

April 7, 1952, Amending Section 2 of Chapter XVII.

June 12, 1961, Repealing Sec. 11 of Chap. II, and adding Chap. XX.

June 1, 1965, Amending Chap. VII – FRANCHISES

(December 2016 - Converted to digital format)

PREAMBLE

WE, THE PEOPLE OF THE CITY OF ESCANABA, A BODY CORPORATE AND POLITIC
UNDER THE LAWS OF THE STATE OF MICHIGAN, DO HEREBY ADOPT THIS CHARTER.

INDEX TO CHARTER

A

	Chapter No.	Section No.	Page No.
Accounting Officer, approves requisitions	II	24	4
Accounting Officer, examine claims before approval	VIII	3	11
Accounts, keeping of	VIII	2	11
Accounts, what to show	VIII	2	11
Administration, by general ordinance	II	12	9
Alleys, control of	XII	1-6	23-24
Annual Report, Municipal Court	XX	13	36
Appointee to Elective Office, length of term.....	II	9	2
Appointee to Elective office vacancy	II	9	2
Appointments by Council, what officers	II	13	2
Appointments by Manager.....	II	15	3
Appropriations limited to estimated revenues	VIII	8	12
Appropriation Ordinance, amendment of	VIII	8	12
Appropriation Ordinance, no liability in excess of provisions of.....	VIII	8	12
Appropriation Ordinance, when to pass.....	VIII	8	12
Appropriations, no claim paid except by appropriation.....	VIII	3	11
Assessor, and assistants, appointed by Council	II	13	2
Assessor and Board of Review	X	2	16
Assessor and Board of Supervisors	II	25-26	4
Assessor, Custody of tax roll	X	9	17
Assessor, Record of Ownership of Property.....	X	17	18
Assessor, Special Funds in separate column of tax roll.....	X	5	17
Assessor, term of.....	II	13	2
Assistant Managers	II	18	3
Associate Municipal Judge	XX	7	30
Attorney, appointed by Manager	II	15	3
Attorney, qualifications and duties of.....	II	20-21	3
Audit, Annual, to be made	VIII	6	12
Audit, any time.....	VIII	6	12

B

Banks, Interest on City Deposits.....	VIII	4	11
Board of Review	X	2	16
Board of Review, Notice of Meeting.....	X	3	16
Board of Supervisors – City’s representatives.....	II	25-26	4
Board of Supervisors – Powers and duties of	II	26	4
Bonds, action on.....	XIV	8	25
Bonds, approved by Council.....	II	32	4
Bonds, emergency.....	IX	6	16
Bonds, filing of	II	32	4

CHARTER City of Escanaba

	Chapter No.	Section No.	Page No.
Bonds, issuance, Chapter on	IX	1-6	15-16
Bonds, Maintenance, report by Manager	XIV	6-7	25
Bonds, maturity, etc.	IX	4	15-16
Bond of Municipal Judge	XX	9	32
Bonds of Officers	II	30-34	4-5
Bonds, ordinance provisions	IX	3	15
Bonds, provisions of, term	IX	4	15-16
Bonds, purpose of issue	IX	3	15
Bonds, special assessment	IX	5	16
Bonds, surety company bonds	II	34	5
Budget, copies to be available	VIII	7	12
Budget, may exceed estimate by 5 percent – when	VIII	9	13
Budget, preparation of, when.....	VIII	7	12
Budget, what to contain	VIII	7	12
Budget, when to be passed.....	VIII	7	12

C

Charter, effective when	XIX	2	29
Charter, effect of adoption on Boards & Commissions	XIX	2	29
Charter, effects of adoption.....	XVIII	8	29
Charter, publication of	VI	12	10
Charter, submission of and election under.....	XIX	1	29
City Assessor and assistants.....	II	13	2
City Clerk, appointed by Council	II	13	2
City Clerk, term of	II	13	2
City Manager, appointed by Council	II	13	2
City Manager, term of.....	II	13	2
Civil Service.....	XVII		27-28
Claims against City to be filed.....	XVIII	6	29
Condemnation of property – Chapter on	XV	6	26
Constable, election of.....	XIX	5	30
Contract, alteration of modification	XIV	4	25
Contracts for public work	XIV		24-26
Contracts, no contract with delinquent debtor	VIII	20	14
Contract, no member of Council or officer interested therein	XIV	10	25
Contracts, public work, determination as to performance by City	XIV	3	25
Contracts, reservation by City to complete work.....	XIV	2	25
Council, action by resolution or ordinance	II	6	2
Council, adjournment.....	II	6	2
Council, appointments of	II	13	2
Council, approve bonds	II	32	4
Council, Board of Health	II	22	3
Council, budget to be submitted when.....	VIII	7	12
Council, compelling attendance.....	II	6	2

CHARTER City of Escanaba

	Chapter No.	Section No.	Page No.
Council, compensation.....	II	8	2
Council, consenting Mayor to take command.....	II	7	2
Council, creates new departments and combines existing departments ...	II	12	2
Council, creation of funds.....	VIII	5	12
Council, deal with administration thru Manager	II	8	2
Council, designate depository	VIII	4	11
Council, determines depository security.....	VIII	4	11
Council, election of.....	II	3	1
Council, elect Mayor.....	II	7	2
Council, first meeting.....	II	5	1-2
Council, general powers of	II	2	1
Council, judge of qualifications and election of its members.....	II	4	1
Council, legal meetings without notice.....	II	5	1-2
Council, Manager Plan.....	II		1-5
Council, may borrow in anticipation of budget	VIII	8-15	12-13
Council, may provide for audit	VIII	6	12
Council meetings, Manager present.....	II	16	3
Council meetings, publication of	II	5	1-2
Council, minutes and records of, public	II	5	1-2
Council, non-attendance of members vacates seat	II	10	2
Council, not to accept gift or pass.....	II	25	5
Council, number of meetings required each month	II	5	1-2
Council, number of constitute.....	II	1	1
Council, organization of.....	II	5	1-2
Council, quorum	II	6	2
Council, representation on Board of Supervisors	II	25-26	4
Council, rules and order of business	II	5	1-2
Council, special meetings of – call and notice.....	II	5	1-2
Council, term not lengthened by resignation and appointment	II	9	2
Council, term of office	II	4	1
Council, term of office – commence when.....	II	1	1
Council, term of office under Charter election	XIX	4	30
Council, time of meeting.....	II	5	1-2
Council, to levy taxes.....	VIII	9	13
Council, when to pass budget	VIII	7	12
Councilman, excused from meetings.....	II	10	2
Councilman – gives no order or direction to subordinate of Manager	II	8	2
Councilman – qualifications of.....	II	3	1
Court Clerk.....	XX	17	37-38
Court, Municipal	XX		30-38
Court Officer.....	XX	18	38
 D			
Damages, claims for, to be filed	XVIII	6	29
Departments, functions and duties of.....	II	12	2

CHARTER City of Escanaba

	Chapter No.	Section No.	Page No.
Departments of Government by General Ordinance	II	12	2
Departments, Vouchers approved by head of	VIII	3	11
Depositing of Municipal Court Fees & Costs	XX	11	32
Docket and accounts – Municipal Court	XX	14	36
Drains, chapter on	XII		23-24

E

Effective Date – City Charter	XIX	2	29
Effective Date – Municipal Court amendment	XX	21	38
Election – districts or precincts	I	2	1
Election – of council and qualifications of members	II	4	1
Election – of council, from city at large	II	3	1
Election – of council, non-partisan ticket	II	3	1
Election Officials, compensation of	II	28	4
Election of Municipal Judge	XX	6	31
Elections	III	6	5-6
Election – to fill vacancy in elective office	II	9	2
Elective office – term not lengthened by resignation and appointment	II	9	2
Elective office, vacancy in , how filled	II	9	2
Emergency Bonds	IX	6	16
Emergency, Mayor take command departments	II	7	2
Employees, compensation of	II	28	4
Employees, not to accept gift or pass	II	35	5
Establishment of Municipal Court	XX	1	30

F

Fees and Costs, Municipal Court	XX	10	32
Fees, received by officer or employee, belong to City	VIII	4	11
Finance, General Provisions	VIII		11-14
Fiscal Year determined	VIII	1	11
Form of Government	II		1-5
Franchises, general provisions	VII		10-11
Franchises, publication of	VII	1	10
Funds, division of	VIII	5	12
Funds, specified in payments	VIII	3	11

G

Garbage Fund, levy in Annual Appropriation Ordinance	VIII	14	13
Gifts, City may receive	VIII	17	14
Grade, streets, alleys, drains and sidewalks	XII		23-24

CHARTER City of Escanaba

H

	Chapter No.	Section No.	Page No.
Health, Council have authority of Board of Health	II	22	3-4

I

Initiative and Referendum.....	VI		8-10
Interest, accrue to City	VIII	4	11
Interest and sinking fund.....	VIII	14	13
Interest, rate of on City bonds.....	XI	4	15-16

J

Jurisdiction of Municipal Court.....	XX	12	32-36
Jury Trials	XX	15	36-37
Justice of the Peace – Office abolished.....	II	11	2
	XX	2	30

L

Legal definitions	XVIII		28-29
-------------------------	-------	--	-------

M

Manager, appointed by Council.....	II	13	2
Manager, assistant.....	II	18	3
Manager, chief administrative officer.....	II	14	3
Manager, compensation fixed by Council	II	17	3
Manager, no vote in Council.....	II	16	3
Manager Plan	II		1-5
Manager, qualifications.....	II	14	3
Manager, removal after one year	II	17	3
Manager, removal of.....	II	17	3

	Chapter No.	Section No.	Page No.
Manager, responsible to Council	II	15	3
Manager, subordinates, no interference by Council	II	8	2
Manager, suspension of	II	17	3
Manager, term of.....	II	13	2
Manager, to attend Council meetings	II	16	3
Manager, to make appointments	II	15	3
Mayor, compensation.....	II	7,8	2
Mayor, duties of	II	7	2
Mayor, election by Council.....	II	7	2
Mayor, maintain order and enforce laws	II	7	2
Mayor pro tem, compensation	II	8	2
Mayor, pro tem, election of.....	II	7	2
Mayor, pro tem, when to act	II	7	2

N

Nominations	III		5-6
Notice of Meeting, Board of Review	X	3	16

O

Officer, elective, term not lengthened by resignation and appointment	II	9	2
Officers, bonds required – when	II	30-34	4-5
Officers, compensation of	II	28	4
Officers, duties of.....	II	27	4
Officers, not to accept gift or pass	II	35	5
Officers, oath of office	II	29	4
Officers, qualification and fitness	II	36	5
Ordinances, general provisions	V		6-8
Ordinances, health powers, exercised by	II	22	3-4
Ordinances, publication of	VI	12	10
Ordinances, signed by Clerk	II	19	3
Organization of Council.....	II	5	1-2

P

Payments, final upon completion of work or improvement	XIV	6	25
Payments, how made	VIII	3	11

CHARTER City of Escanaba

	Chapter No.	Section No.	Page No.
Pending litigation, Municipal Court	XX	3	30
Personal injuries, claim for	XVIII	6	29
Personal property, City Treasurer liable for tax.....	VIII	18	14
Place and Conduct of Municipal Court.....	XX	13	36
Plan of Government	II		1-5
Political affiliations not to enter into appointments	II	36	5
Powers, general	I	1	1
Properties, financial records of	VIII	2	11
Provisions and legal definitions	XVIII		28-29
Public Improvement by contract.....	XIV		24-26
Public Improvement by bid.....	XIV	1	24
Public Work, Notice of bid for	XIV	1	24
Public work, no, until appropriation	VIII	16	13-14
Public work, right to reject bid	XIV	1	24
Purchases, - appropriations for	II	24	4
Purchases, requisition for.....	II	24	4
Purchasing Agent, creation of office	II	23	4
Purchasing Agent, designation of	II	23	4
Purchasing Agent, powers and duties	II	23	4
Q			
Qualifications of Municipal Judge.....	XX	5	21
Quorum, number constituting, of Council	II	6	2
R			
Recall	IV		6
Referendum and Initiative.....	VI		8-10
Registrations	III		5
Reports, Annual, Municipal Court.....	XX	13	36
Reports, financial	VIII	2	11
Reports, for term	VIII	2	11
S			
Salary of Councilmen	II	8	2
Salary of Municipal Judge	XX	8	31-32
Sewers, control.....	XII		23-24
Sidewalks, Chapter on control of.....	XII		23-24
Special Assessment bonds	IX	5	16
Special Assessments, Chapter on.....	XI		18-23
Special Assessments, collection of	VIII	4	11
Special Assessments, provisions for in Annual Appropriation Ordinance	VIII	14	13
Street District Fund for Cleaning, etc.	VIII	14	13
Street Openings, replacing	XIII		24
Streets, Chapter on control of	XII		23-24
Substitute Judge or Justice, Transfer of Causes.....	XX	16	37
Supervisors, City's representatives.....	II	25	4
Sureties of Treasurer, liable for Personal Property Collection	VIII	18	14

T

	Chapter No.	Section No.	Page No.
Taxation, Aggregate amount Council may levy	VIII	14,15	13
Taxation, Chapter on.....	X		16-18
Taxation, Council limited to expenses – and liabilities	VIII	13	13
Taxation to pay bond indebtedness.....	IX	4	15-16
Taxes, collection of.....	VIII	4	11
Taxes, Interest on December.....	X	12	17
Taxes, Interest on when delinquent	X	6	17
Taxes, Levied by Council	VIII	9	13
Taxes, Notice of same being due	X	7	17
Taxes, Payment of undivided share	X	15	18
Taxes, Payment to Board of Education.....	X	14	18
Taxes, Payment to County Treasurer.....	X	14	18
Taxes, Procedure to collect.....	X	13	17-18
Taxes, when due.....	X	6	17
Tax Law of State to apply	X	1	16
Tax Roll, custody of.....	X	9	17
Tax Roll, for December taxes	X	10	17
Tax Roll, notice of December roll	X	12	17
Traffic Violations Bureau, Municipal Court.....	XX	20	38
Transfer of Records and Dockets; effect – Municipal Court.....	XX	4	31
Treasurer, appointed by Manager	II	15	3
Treasurer, countersigns warrants	VIII	3	11
Treasurer, deposits with banks.....	VIII	4	11
Treasurer, liable for Personal Tax.....	VIII	18	14
Treasury, money received by officers and employees paid into.....	VIII	4	11
Treasurer, publish name of delinquent debtors for personal property taxes	VIII	19	14
Treasurer, to set off City debt against debt of City to any person	VIII	21	14

U

Utilities, Accounts, method of keeping, etc.....	XVI	6	27
Utilities, Appropriation of property	XVI	5	27
Utilities, bonds for extensions.....	SVI	3	27
Utilities, Chapter on.....	XVI		26-27
Utilities, public franchises of	VII		10-11
Utilities, rates fixed June each year	SVI	4	27
Utilities, restriction on sale or leasing.....	SVI	7	27

V

Vacancy, appointee, length of term	II	9	2
Vacancy, in elective office, how filled	II	9	2
Vacancies – Municipal Court.....	XX	19	38

W

	Chapter No.	Section No.	Page No.
Ward Boundaries (Precinct).....	I	2	1
Ward lines abolished.....	I	2	1
Witness, power to compel, attendance.....	XIV	11	25-26
Words and phrases, meaning of	XVIII	1	28

CHAPTER I
GENERAL

SEC. 1. The inhabitants of the city of Escanaba, Michigan, as its limits now are or hereafter may be established, shall continue to be a body politic and corporate, to be known as the “City of Escanaba”, and as such shall have, and my exercise, all powers which now are or hereafter may be conferred upon or reserved to cities under the constitution and laws of this state, as fully and completely as though said powers were specifically enumerated herein, and no enumeration of particular powers by the Charter shall be held to be exclusive.

SEC. 2. All wards heretofore existing in this city are hereby abolished and the city shall hereafter consist of one ward.

SEC. 3. The boundaries of the several election districts or precincts shall remain as they heretofore existed until the said boundaries shall be changed by the Council, in accordance with the general laws of this state, or in accordance with the provisions of this Charter.

CHAPTER II
PLAN OF GOVERNEMENT

SEC. 1. The form of government provided for in this Charter shall be known as the “Council-Manager Plan”. There is hereby created a Council of five citizens, to be elected in the manner hereinafter specified, which shall have full power and authority, except as herein otherwise provided, to exercise all the powers conferred upon the city. The members of the Council shall hold office from noon of the second Monday in April, following their election.

SEC. 2. The Council shall constitute the legislative and governing body of said city, possessing all the powers herein provided for, with power and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise any or all of the powers possessed by said city.

SEC. 3. The members of the Council shall be elected on a non-partisan ticket from the city at large, and shall be subject to recall as hereinafter provided. No person shall be eligible to the office of Councilman who is not a citizen of the United States and a resident of the City of Escanaba at least two years immediately prior to his nomination.

SEC. 4. Each member of the Council shall be elected to serve a term of four years, excepts as hereinafter otherwise provided. The Council shall be the judge of election and qualification of its own members.

SEC. 5. At 7:30 o’clock P.M. on the first Monday following the regular municipal elections, the Council shall meet at the usual place for holding the meetings of the legislative body of the city, for the purpose of organization. The clerk shall preside at the first meeting under this Charter; and until the Mayor shall have been selected, as hereinafter provided. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than twice each month. The Mayor, any two members of the Council, or the Manager, may call special meetings of the Council, upon at least ten hours written notice to each member, served personally or left at his usual place of residence, provided, however, any special meetings at which all members of the Council are present shall be a legal meeting for all purposes, without such written notice. All meetings of the Council shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business, and shall keep a journal of its

proceedings, in English, which shall be regularly published, at least monthly, or after each meeting, as the Council shall determine, and said Council shall provide full publicity and information relative to all matters of public interest or concern in said city.

SEC. 6. A majority of all the members elected to the Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The Council shall act only by ordinance or resolution.

SEC. 7. The Council, at its first regular meeting following the first election under this Charter, and following each municipal election thereafter, shall elect, by ballot, one of its members Mayor, who shall be presiding officer and executive head of the city, and perform such other duties as are, or may be imposed or authorized by the laws of the state or this Charter. In times of public danger or emergency he may, with the consent of the Council, take command of the police and such other departments and subordinates of the city, as may be deemed necessary by the Council, and maintain order and enforce laws. The Council shall also, at the first regular meeting, elect by ballot another member of the Council, Mayor Pro Tem, who, during the absence or disability of the Mayor to perform his duties, shall act in the name and instead of the Mayor, and shall, during the time of such absence or disability exercise all the duties and possess all the powers of the Mayor. The Mayor and Mayor Pro Tem shall receive compensation only as Councilmen.

SEC. 8. Each Councilman shall be paid for his services the sum of Five Dollars for each and every regular meeting of the Council attended by such member; provided however, that no member of the Council shall be entitled to receive more than One Hundred and Twenty Dollars in any one year, and pro rata for any portion of the year. Except for the purpose of inquiry, the Council and each of its members shall deal with the administrative branch of the city government solely through the Manager, except in the departments of Finance and Law, and neither the Council, nor any member thereof, shall give any order or directions, either publicly or privately, to any of the subordinates of the Manager, except as provided in Section 7 of this chapter.

SEC. 9. A vacancy in any elective office shall be filled by appointment by a majority of the remaining members of the Council. Such appointee shall hold office until the next regular municipal election taking place more than sixty days after such vacancy occurs, at which election a successor shall be elected for the unexpired term of the member in whose office the vacancy occurs. Provided, however, that the term of no member shall be lengthened by his resignation and subsequent appointment.

SEC. 10. Absence from three consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the Council by resolution setting forth the reason for such absence and such excuse fully entered upon the journal.

SEC. 11. (Repealed thru addition of Chapter XX, the Municipal Court Amendment, which was approved by the electorate at a Special City Election held June 12, 1961.)

SEC. 12. The Council shall, by a General Ordinance, establish departments of city government and determine and prescribe the functions and duties of each department, and may by a vote of four of its members, create new departments, combine existing departments and establish temporary departments for special work.

SEC. 13. The Council shall appoint a City Manager, City Clerk, City Assessor and one or more Assistant City Assessors, as the Council may determine, each of whom shall be appointed for an indefinite period and be removable by the Council.

CHARTER City of Escanaba

SEC. 14. The Manger shall be the chief administrative officer of the city. He shall be chosen by the Council solely on the basis of his administrative and executive qualifications and shall, during his term of office, reside in the city of Escanaba, provided however, he shall be a citizen of the United States of America.

SEC. 15. The Manger shall be responsible to the Council for the proper administration of the affairs of the city, and to that end shall make all appointments, including a City Treasurer and City Attorney, except as herein otherwise specifically provided.

SEC. 16. He shall be required to be present at all meetings of the Council and be entitled to be present at all meetings of its committees and to take part in all discussions, but shall have no vote.

SEC. 17. The Manger shall receive compensation to be fixed by the Council. If the Council, for any reason shall desire to remove the Manager at any time, it shall notify him in writing, specifying reasons for removal and fixing a date within thirty days for hearing such charges. The serving of such notice on the Manager shall automatically suspend him from office, pending the date fixed for the hearing. After serving one year, a Manager may be removed only upon the affirmative vote of four members of the Council.

SEC. 18. The Council may provide for appointment by the Manager of Assistant Mangers, who may be assigned by the Manager to act as heads of departments.

CITY CLERK

SEC. 19. The City Clerk shall be clerk of the Council and shall, with the Mayor, sign and attest all ordinances, and the journal or record of the Council's proceedings shall be prepared, kept and signed by the City Clerk and approved in writing by the Mayor. In addition, the Clerk shall perform such other duties as are prescribed by this Charter, the general laws of the state or by the Council.

CITY ATTORNEY

SEC. 20. The Director of the Department of Law must be an attorney at law and may be termed City Attorney. He shall be the legal advisor, City Attorney and counsel for the city and for all the officers and departments thereof, in all matters relating to their official duties, and shall perform such other duties as may be imposed upon him from time to time by the Council, either by ordinance or resolution.

SEC. 21. The Council, City Manager, the Director of any department or any officer or board, not included in any department, may require the opinion in writing of the City Attorney upon any question of law involving their respective powers and duties.

PUBLIC HEALTH

SEC. 22. The Council shall have and exercise for the city all the powers and authority conferred upon Boards of Health by the general laws of the state or by ordinance, so far as the same are not inconsistent with this Chapter, and the Council may enact all ordinances deemed necessary for the preservation and protection of the health of the inhabitants of the city, for preventing the introduction or spreading of malignant, infectious and contagious diseases within the city, or for the removal of persons having such disease to such proper place within or without the city limits, as may be deemed necessary for the public safety. The Council may enact such ordinances as

it may deem proper or expedient for regulating the proceedings and mode of exercising such powers and authority. The Council may establish, maintain and regulate suitable hospitals at places within or without the corporate limits of the city.

PURCHASING AGENT

SEC. 23. The Council shall by ordinance provide for the creation of the office of Purchasing Agent, prescribe his duties and the rules and regulations relative thereto. The Manager, or some person to be designated by the Manager, shall act as Purchasing Agent. If such other person is so designated, he shall act under the direction of said Manager.

SEC. 24. No purchases shall be made except on a requisition by the head of the department, counter-signed by the Manager, and approved by the Chief Accounting Officer. No purchases shall be made in excess of appropriations.

REPRESENTATION ON BOARD OF SUPERVISORS

SEC. 25. The City Assessor, the members of the Council and three other persons to be appointed by the Council, shall be the city's representative on the Board of Supervisors of Delta County.

SEC. 26. The representatives of the city aforesaid shall be endowed with all the rights, powers and duties conferred upon supervisors of townships by the general laws of this state, except where otherwise provided for in this Charter.

COMPENSATION, BONDS, ETC., OF OFFICERS

SEC. 27. All appointive officers of the city shall perform such duties as shall be prescribed by ordinance, this Charter or the general laws of the state, or which may be required by the Council, Manager and the heads of departments.

SEC. 28. The compensation of all officers and permanent employees of the city, including all election officials, shall be fixed by the Council, except as otherwise specifically provided herein.

SEC. 29. Every officer shall, before he enters upon the duties of his office, subscribe and file with the City Clerk an oath to support the Constitution of the United States and the Constitution of the State of Michigan, and to faithfully perform the duties of the office, to the best of his ability.

SEC. 30. The Council may require any officer or employee to give a bond for the faithful performance of his duty, in such amount as it may determine, and the premium thereof shall be paid by the city.

SEC. 31. Any officer or employee required by the provisions of this Charter, the general laws of the state, any ordinance of the city of Escanaba or by the Council, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed, approved and recorded.

SEC. 32. All such bonds, except as herein otherwise provided, shall be approved by the Council and filed with the Clerk, excepting the bond of the Clerk, which shall be filed with the Treasurer.

SEC. 33. No elective officer shall hold any office or employment except that to which he was elected, compensation for which is paid out of city money, nor be elected or appointed to any office created, or the compensation of which was increased or fixed by the Council while he was

a member thereof, until the expiration of one year from the date when he ceased to be a member of the Council.

SEC. 34. All bonds received under the provisions of this Charter shall be surety company bonds.

SEC. 35. No member of the Council, the Manager or other officer or employee of the city shall accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility within the city, or from any person known to him to have or to be endeavoring to secure a contract with the city. The provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is provided for by ordinance or otherwise. No member of the Council shall be eligible to an appointive office within its gift, during the period for which he was elected.

SEC. 36. All officers and employees shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations.

CHAPTER III REGISTRATIONS, NOMINATIONS AND ELECTIONS

SEC. 1. The general registration and election laws of the State of Michigan, except as herein provided, shall apply to and control the registrations of electors and the conduct of elections in the City of Escanaba.

SEC. 2. The inhabitants of the city having the constitutional qualifications of electors of the state, shall be electors of the city. Each one shall vote in the voting precinct wherein he shall have lodge for twenty days prior to the date of the election.

SEC. 3. At least thirty days prior to the first election after they enter upon the duties of their office, the City Council shall appoint three qualified electors in each voting precinct to be inspectors of Electors for such precinct, and they shall continue so to act at the will of the City Council.

SEC. 4. Within the time limited in the last preceding section the City Council shall appoint three qualified electors to be a Board of Election Commissioners for the city, and they shall serve in that capacity at the pleasure of the City Council.

SEC. 5. The regular city elections shall be held on the first Monday in April in each even numbered year.

SEC. 6. Special elections may be held at such times and places as the City Council shall by resolution designate, the purpose of which shall be fully set forth in the resolution.

SEC. 7. Candidates for elective offices shall be nominated from the city at large by petitions, blanks for which shall be furnished by the City Clerk. Each petition shall be signed by not less than fifty qualified electors and shall be filed with the City Clerk at least twenty days prior to the election. Each elector signing shall add his residential street and number and date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office. No petition shall be left for signatures in any public place other than the City Clerk's office.

SEC. 8. Notice of the time and places of holding any election, and the propositions to be voted

upon, shall be given by the City Clerk at least ten days before such elections, by posting such notices in three public places in each election precinct, and by publishing a copy thereof, at least three times, in a newspaper published and circulated in the city within ten days before such election. The notices shall also contain the names of the candidates to be voted upon, and the hours of opening and closing the polls.

SEC. 9. Within three days after the time limited for filing nomination petitions, the City Clerk shall certify to the Board of Election Commissioners the names of all candidates duly nominated and the special matters to be submitted to the electors, and the Board shall thereupon prepare the ballot, shall place thereon the names of the candidates in alphabetical order, and the office, without any party name or designation, and the special matters, if any, to be voted upon.

SEC. 10. The polls shall be open in each voting precinct from seven o'clock A.M. until eight o'clock P.M.

SEC. 11. Immediately upon the closing of the polls the election inspectors shall canvass the votes, and announce the result, as provided in the general election laws for county and state elections. They shall first canvass the votes for city officers and shall forthwith make a statement of all votes cast at the election and file the same at once with the City Clerk. The candidate or candidates, where more than one are to be elected for the same office, receiving the greatest number of votes shall be declared elected.

SEC. 12. The Board of Election Commissioners shall act as a Board of City Canvassers and shall meet at the City Hall on the Thursday following any city election at nine o'clock in the forenoon and shall canvass the results of the election. Upon the completion of the canvass the Board shall file with the City Clerk a statement of the votes cast and of the candidates elected, and of the votes on any question or proposition submitted to the electors. The City Council shall enter the same on the official record of the city.

SEC. 13. Within five days after the filing of the canvass the City Clerk shall give notice to the persons elected of their election.

SEC. 14. If two or more candidates shall receive an equal number of votes the Board of City Canvassers shall determine by lot which one is elected to the office.

CHAPTER IV RECALL

SEC. 1. Any elective officer of the City of Escanaba may be removed by the qualified electors of the city in accordance with the general laws of the state providing for recall of city officials.

CHAPTER V ORDINANCES

SEC. 1. The enacting clause of all ordinances shall read "The City of Escanaba ordains" but such caption may be omitted when said ordinances are published in book form or are revised and digested by authority of the Council.

SEC. 2. The adoption of any ordinance by the Council shall require for its passage the concurrence of a majority of all the members of the Council.

SEC. 3. The time when any ordinance shall take effect shall be prescribed therein, which time

CHARTER City of Escanaba

shall not be less than ten days from the date of its publication, except emergency ordinances, which may be given immediate effect. No ordinance shall be finally passed on the day it is introduced, except in cases of public emergency. An emergency ordinance shall be defined to be one necessary for the immediate preservation of the public peace, property, health, safety or providing for the usual daily operations of a department and which contains a statement of its urgency.

SEC. 4. Immediately upon the final passage of any ordinance the Mayor and Clerk shall sign the same under a certificate of the day and date of its passage.

SEC. 5. All ordinances shall be published once within one week of their passage, in a newspaper printed and circulated within the city, and the Clerk shall certify on the records of ordinances the date of publication and newspapers in which any ordinance was so published, and such certificate shall be prima facie evidence that legal publication of an ordinance has been made. Proof of publication thereof shall be filed with the Clerk and a separate record be made thereof, but omission of such proof shall not invalidate said ordinance.

SEC. 6. All ordinances shall be recorded in an indexed book marked "Ordinance Record" and record of each ordinance shall be authenticated by the signature of the Mayor and Clerk. Such record and authentication shall be done within one week after the final passage of any ordinance but failure to so record and authenticate any ordinance shall not invalidate it or suspend its operation.

SEC. 7. No repealed ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be re-enacted. When any section or part of a section of any ordinance is amended, the whole section, as amended, shall be reenacted.

SEC. 8. Prosecutions for violation of any ordinance of the city shall be commenced within two years after the commission of the offense, provided that the limitations therein imposed shall not apply to violations penal in their nature, and shall not be construed as a limitation of the city's right to forfeit any franchise, grant or license, for violation of the terms and conditions thereof, after said two year period.

SEC. 9. Prosecution for violations of the ordinances of the city may be commenced by warrant, and all process in such cases shall be in the name of "The People of the State of Michigan". The practice in such cases shall be the same as near as may be, as in criminal cases, cognizant by Justices of the Peace under the general laws of the state, or as may be provided for cases cognizable by any Municipal Court hereafter created.

SEC. 10. All process issued in any prosecution or proceedings for the violation of any ordinance shall be directed to any police officer of the City, or County of Delta, and may be executed in any part of the state, by said officer or any other officer authorized by law to serve process issued by a Justice of the Peace.

SEC. 11. In all judicial proceedings it shall be sufficient to plead any ordinance by title and the number of section or sections, and it shall not be necessary to plead the entire ordinance or section.

SEC. 12. Judicial notice shall be taken of the enactment, existence, provisions and continuing force of all ordinances of the city.

SEC. 13. Whenever it shall be necessary to prove any ordinance or resolution of the Council, in any judicial proceedings, the same may be proved from the record thereof kept by the Clerk, by a copy thereof, duly certified by the Clerk under the seal of the city, or from any volume

purporting to have been published, printed or compiled by authority of the Council.

SEC. 14. The Circuit Court for the County of Delta shall have original jurisdiction in all cases arising under the ordinances of the city for violation thereof, when the fine or forfeiture imposed shall exceed One Hundred Dollars or where the offender may be imprisoned for a term exceeding three months. The Justices of the Peace, until otherwise provided by the Council, shall have original jurisdiction in all cases when the fine or forfeiture imposed shall not exceed One Hundred Dollars or when the offender may be imprisoned for a term not exceeding three months.

SEC. 15. All ordinances, regulations and resolutions in force at the time this Charter shall take effect, and not inconsistent with the provisions thereof, shall remain and be in force until amended, modified or repealed.

SEC. 16. The City Council may, by ordinance, provide for pensioning persons injured by violence, accident or exposure while employed by the city in the Fire or Police Departments, when such injuries arise out of, or in the course of such employment; also for the dependents of the person killed while so employed, and for persons who have been in such employment of the city for twenty-five years or more, subject to such rules and regulations as the Council may prescribe.

SEC. 17. The Council shall have the power to prescribe by ordinance, limits or districts to be known as “fire limits” and to prescribe the construction of buildings therein, both as to kind of material and type of construction, to prohibit within such limits or districts, as it shall deem expedient, the location of shops, factories, the prosecution of any trade or business, the keeping of lumber yards, the storing of lumber or other easily inflammable and explosive material in any place when in the opinion of the Council the danger from fire is thereby increased, and may pass and enforce such other ordinances and regulations as it may deem necessary for the prevention and suppression of fire.

SEC. 18. When the Council shall deem it for the public interest, grounds and buildings for necessary public uses may be purchased, erected and maintained beyond the corporate limits of the city, and in such cases the Council shall have authority to pass and enforce, beyond the city limits, and over such lands, buildings and property, in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in any building maintained upon such property.

SEC. 19. The Council shall, within three years after the adoption of this charter, adopt a City plan. Said plan shall provide for the logical development of the streets and transportation facilities, parks, boulevards and recreation grounds, sewer and drainage systems, water supply and distribution system, and the location of public and private buildings. The Council may appoint such Boards, Officers and Commission as it may deem necessary to carry this provision into effect.

CHAPTER VI INITIATIVE AND REFERENDUM

SEC. 1. Any proposed ordinance may be submitted to the Council by petition signed by electors of the city equal in number to fifteen percent of the highest vote cast in the city for Councilmen at the last preceding general election. The petition shall contain a request that the ordinance be submitted to a vote of the people if not passed by the Council, and the ordinance shall either be contained in the petition or shall accompany it.

SEC. 2. Within thirty days after such petition is presented to the Council the Council shall either pass the proposed ordinance without alterations, or it shall amend the ordinance if it deems it

CHARTER City of Escanaba

advisable, retaining however the general purpose thereof, or it shall submit the same without amendment, to a vote of the electors of the city.

SEC. 3. In case the Council shall amend the ordinance it shall publish the same, as amended, in one or more newspapers in the city, and if within fifteen days thereafter a protest against the adoption of the ordinance, as amended, be filed, signed by electors of the city equal in number to ten percent of the highest vote cast in the city for Councilmen at the last preceding general election, the ordinance shall take effect at the time prescribed by the ordinance, or if that has expired, at the expiration of said period of fifteen days.

SEC. 4. In case the amended ordinance is submitted to the electors the original ordinance shall be submitted at the same time as an alternative, but no elector shall vote "Yes" to both ordinances. If each ordinance shall have a majority of votes cast on the adoption of the same, the one having the great number of votes shall be considered adopted. If a single ordinance is submitted and the majority of qualified electors voting thereon shall vote in favor thereof, it shall be adopted.

SEC. 5. No ordinance passed by the Council, except when otherwise required by the general laws of the state or by the provisions of this Charter (excepting ordinances for the immediate preservation of the public peace, health or safety, which shall contain a statement of urgency and shall be passed by unanimous vote of the Council) shall go into effect for ten days from the time of its final publication, and if during the said ten days there shall be presented to the Council a protest against the passing of said ordinance, signed by electors of the city equal in number to at least fifteen percent of the highest vote cast for candidates for Councilmen at the last preceding general election, said ordinance shall thereupon be suspended from taking effect and it shall be the duty of the Council to reconsider said ordinance, and if the same is not entirely repealed the Council shall submit it to the vote of the electors.

SEC. 6. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of the Charter.

SEC. 7. The City Council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any city election, and if such proposition receives a majority of the votes cast thereon, at such election, the ordinance shall thereby be repealed or amended.

SEC. 8. All ordinances submitted to the electors shall be submitted at the next general municipal election after final action taken by the Council, if one is held within ninety days, but if no general election shall be held within that time, a special election shall be called by the City Council for that purpose and held within that time. Not more than one special election shall be held for such purpose in the period of six months.

SEC. 9. Whenever the electors shall adopt an ordinance it shall go into effect at the time prescribed therein, or if that time shall have expired, ten days after the election.

SEC. 10. No ordinance which has been adopted by the votes of the electors shall be repealed or amended within five years, except by vote of the electors.

SEC. 11. All ordinances or propositions for amendment or repealing of ordinances submitted to the voters, shall be published at least once in one or more of the daily newspapers in the city, not more than thirty nor less than ten days prior to the election.

SEC. 12. Within one year after this Charter takes effect the City Council shall cause to be published, in pamphlet form, this Charter, with the amendments thereof, if any, and all ordinances then in force in the city, with proper revision of all such ordinances to incorporate all amendments, and at least once in each ten years thereafter, the City Council shall cause to be compiled and published, in pamphlet form, this Charter, all amendments thereto, all ordinances and all long term contracts between the city and Public Utility Corporations.

CHAPTER VII
FRANCHISES

SEC. 1. Public utility franchises and all renewals, extensions thereof and amendments thereto, shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

SEC. 2. No franchise ordinance which is not subject to revocation at the will of the City Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and receive the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the City Council for referral to the electorate before thirty days after application therefor has been filed with the City Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the City Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the City Council, shall have first been paid to the Treasurer by the grantee.

SEC. 3. A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the City Council may be enacted by the City Council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have been so on file in the office of the City Clerk for public inspection for at least ten (10) days after publication of a notice that such ordinance is so on file.

SEC. 4. No exclusive franchise shall be granted, and no franchise shall be granted for a longer period than thirty years, and where several franchises are granted through one grantee, all shall expire at the same time. If the grantee shall hold several franchises which expire at different times, the Council shall not extend any for a longer period than the one last to expire.

SEC. 5. All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City, but this enumeration shall not be exclusive or impair the right of the City Council to insert in said franchise any provision within the power of the City to impose or require:

- (a) To repeal the same for mis-use, non-use or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof, in accordance with the rules and regulations promulgated or approved by the Michigan Public Service Commission, or its successor;
- (c) To require reasonable standards of service and quality of products and prevent unjust discrimination in service or rates as prescribed by the Michigan Public Service Commission, or its successor;
- (d) To use, control and regulate the use of its streets, alleys, bridges, and other public places and the space above and beneath them.

SEC. 6. Every public utility whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use. Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the City by the City and other utilities insofar as such joint use may be reasonably practicable, and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the City Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

SEC. 7. All franchises to which the City is a part when this Charter amendment becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

CHAPTER VIII GENERAL FINANCE

SEC. 1. The fiscal year of the City of Escanaba shall commence on the first day of July in each year. (As amended by a vote of the electorate on April 4, 1938).

SEC. 2. Accounts shall be kept by the chief accounting officer showing the financial transactions for all departments of the city, which accounts shall conform to any uniform system required by law. Forms for all such accounts shall be prescribed by the chief accounting officer, with the approval of the Manager, which shall be adequate to record all cash receipts and disbursements, all revenue accrued and liabilities incurred, and all transactions affecting the acquisition, custody and disposition of all property, and to make such reports of the financial transactions and conditions of the city as may be required by law, ordinance or resolution. Financial reports shall be prepared for each quarter and each fiscal year, and for such other periods as may be required by the Manager or the City Council. Adequate cost records shall be kept in all departments of the city; also a complete financial record of all properties of the city and the cost and value thereof.

SEC. 3. Payments by the city shall be made only upon vouchers certified by the head of the appropriate departments or divisions of the city government, by means of drafts, checks, orders or warrants, duly approved by the chief accounting officer and countersigned by the Treasurer. Such draft, check, order or warrant shall specify the fund from which it is payable and shall not be paid from any other fund. The chief accounting officer shall examine all pay-rolls, bills and other claims and demands against the city, except claims for unliquidated damages, and shall issue no warrant unless he find that the claim is in proper form, correctly computed and duly certified, and that it is justly and legally due and payable, than an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized and that there is money in the City treasury to make payment. He may investigate any claim, and for such purposes may examine witnesses under oath. If he finds such bill, claim or demand is fraudulent, erroneous or otherwise invalid, he shall not issue a warrant therefor.

SEC. 4. All taxes, special assessments and license fees accruing to the city shall be collected by the chief accounting officer. All money received by any officer or employee of the city, for or in connection with the business of the city, shall be paid promptly into the city treasury and shall be deposited with such responsible banking institutions designated by the Council, furnishing such security as the Council may determine and paying the highest rate of interest, and all such interest shall accrue to the benefit of the city. The Council shall provide, by ordinance, for the prompt and regular payment and deposit of all city moneys, as required by this section. All fees received by any officer or employee shall belong to the city.

SEC. 5. The revenues raised by general taxation upon all the property in the city or by loans to be repaid by such tax, shall be divided into such and so many funds, as the Council may by ordinance or resolution determine.

SEC. 6. Not later than thirty days after the close of each fiscal year the Manager shall provide that an annual audit be made of the accounts of all the officers and departments of the city government, by public accountants who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees. In addition to the annual audit the Council or Manager may, at any time, provide for such examination or audit of the accounts of any officer or any department of the city government, as they may determine.

(As amended by a vote of the electors 4/4/38.)

SEC. 7. Not later than two (2) months prior to the beginning of each fiscal year the Manager shall prepare and submit to the Council an annual budget for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government, according to a classification as nearly uniform as possible. The budget shall present the following information:

- (a) An itemized statement of the appropriations recommended by the Manager for current expenses and for permanent improvements for each department and each division thereof, for the ensuing fiscal year, with comparative statement, in parallel columns of the appropriations for the next preceding fiscal year, and the increases and decreases in the appropriation recommended.
- (b) An itemized state of the taxes required and of the estimated revenues of the city from all other sources for the ensuing fiscal year, with comparative statements, in parallel columns, of the taxes and other revenues for the current and next preceding fiscal year, and of the increases and decreases estimated or proposed.
- (c) A statement of the financial condition of the city and an inventory of all property owned by the city.
- (d) Such other information as may be required by the City Council.

Copies of such budget shall be printed and available for distribution not later than two weeks after its submission to the Council, and a public hearing shall be given by the Council before action thereon.

(AS amended by a vote of the electors 4/4/38.)

SEC. 8. Not later than one (1) month prior to the beginning of the fiscal year the Council shall pass an annual appropriation ordinance which shall be based on the budget submitted by the Manager, as approved and amended by the Council. The total amount of appropriation shall not exceed the estimated revenues of the city, as set forth in the preceding section. No liabilities shall be incurred by any officer or employee of the city, except in accordance with the provisions of the annual appropriation ordinance, or under continuing contract and loans authorized under the provisions of this Charter. At any meeting after the passage of the appropriation ordinance and after at least one week's notice in a newspaper printed and circulating in the city, the Council by a vote of four members, may amend such ordinance so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues not included in the annual budget.

CHARTER City of Escanaba

SEC. 9. The Council shall by ordinance levy such taxes each year as may be necessary to meet the appropriations made (Less the estimate of the amount of revenue from other sources) and all sums required by law to be raised on account of city debt, together with such addition, not exceeding five percent of the amount of the budget, as may be necessary to meet commission, fees and abatements in amount of taxes collected from the estimate, subject in each case to the laws of the State of Michigan.

SEC. 10. The Council shall have authority within the limits herein prescribed, to raise annually by taxation, such sums of money as may be necessary to defray the expenses and pay the liabilities of the city, and to carry into effect the powers in this Charter granted.

SEC. 12. All taxes, charges and penalties, other than special assessments, ordered to be spread on any tax roll, shall become a lien upon the property assessed, on and after the first day provided for the collection of such roll.

SEC. 13. The aggregate amount which the Council may raise by a general tax upon the taxable, real and personal property in the city for the purpose of defraying the general expenses and liabilities of the corporation, shall not exceed, in any one year, one and one-quarter per centum of the assessed value of all real and personal property in the city, as fixed by the assessment roll of the year in which the tax is levied.

SEC. 14. In addition to the above amount the Council may raise, by special assessment, in a special assessment district, such sums as they deem necessary for the purpose of grading, curbing, paving, gravelling and otherwise improving the streets, and for constructing sidewalks, sewers and drains, and making other improvements, chargeable upon the land and property in the district according to frontage or benefits, and for all other purposes for which special assessment funds are constituted. The Council may also raise by tax, in each street district, for defraying the expenses of working upon, improving and repairing and cleaning the streets of the district, and for all purposes for which a street district fund is constituted, a sum not exceeding in any one year one-fourth of one percent on the assessed value of the taxable real and personal property in the district. A tax or assessment of not more than Two Dollars per year may be levied upon each lot of premises drained by a private sewer or drain leading into any public drain or sewer. The Council may also raise such further sum annually, not exceeding three mills on the dollar of the assessed valuation of the property in the city, as may be necessary to provide an interest and sinking fund to pay the funded debts of the city and the interest thereon. The Council may also establish and maintain a garbage system or plan in said city, and may levy a tax not to exceed two mills on the dollar on all taxable property in the city, according to the last assessment thereof, for the purpose of maintaining and operating said garbage system or plant.

SEC. 15. Money may be borrowed in anticipation of taxes and the receipts from taxes during any fiscal year, by the issue of notes or certificates of indebtedness, but the aggregate amount of such loans at any time outstanding shall not exceed twenty-five per centum of the receipts from taxes during the preceding fiscal year, and all such loans shall be paid out of the receipts from taxes of the fiscal year in which they are issued, except in cases of special assessments.

SEC. 16. No public work or improvement shall be commenced, or expenditure made, nor any contract therefor be let or made, excepting as herein otherwise provided, until an appropriation has been made therefor or a special assessment shall have been levied to pay the cost and

expenses thereof. No such work or improvement shall be paid for, or contracted to be paid for, except from the proceeds of such appropriation or special assessment, or from the proceeds of bonds or other obligations issued in anticipation of the collection of such appropriations or special assessments.

SEC. 17. Subject to the limitation of this Charter and of the general laws, the Council shall have the power to receive devises, bequests, gifts, donation of all kinds of property, within or without the city, in fee simple or in trust, for charitable or other public purposes, and to do all things and acts necessary to carry out the purposes of such bequests, gifts and donations, with power to sell, lease or otherwise manage or dispose of the same, in accordance with the terms of the bequests or donations.

SEC. 18. The City Treasurer and the sureties on his bond shall each be jointly and severally liable for all city taxes assessed against personal property, unless it be affirmatively shown that said City Treasurer has used all legal processes authorized by the Charter or by any general law of the state for the collection of such taxes and in the absence of the use by said City Treasurer of such legal process for the collection of said taxes, the failure of said City Treasurer to collect city taxes assessed against personal property shall be grounds for his removal by the Council.

SEC. 19. The City Treasurer shall, within sixty days after city taxes are delinquent and personal demand therefor shall have been made, cause to be published in a newspaper published and circulated in the city of Escanaba, to be designated by him, a list giving the name of all persons who are delinquent in the payment of said taxes assessed against personal property, together with the amount of such tax, which publication shall be continued at least once in each week for three successive weeks.

SEC. 20. NO contract shall be awarded and no moneys shall be paid by the city of Escanaba to any person, firm or corporation who is at the time being more than thirty days delinquent in the payment of taxes assessed against the personal property of such person, firm or corporation, and all contracts so awarded to any such person, firm or corporation shall be void and no recovery shall be had thereunder or on account of any work, services or materials furnished on account thereof.

SEC. 21. In event of any money being due or claimed to be due to any person, firm or corporation from the city on any account whatsoever, and there being due at the same time from such person, firm or corporation city taxes assessed against personal property of such person, firm or corporation, it shall be the duty of the City Treasurer to deduct any check, warrant or voucher which he may be authorized to sign, countersign or pay to such person, firm or corporations so delinquent, the amount of such taxes so assessed against personal property, and the city is hereby given an offset and counterclaim for taxes assessed against personal property against any person, firm or corporation to which the city by be indebted or liable on any account whatsoever.

(Amended by a vote of the electorate April 4, 1938.)

SEC. 22. The common council may create and establish a fund which shall be known as the "Retirement Fund", for the purpose of pensioning its officers and employees; and may establish such rules and regulations as shall be necessary to carry the same into effect.

CHAPTER IX
BONDS

SEC. 1. The city and the Council thereof, may borrow money and issue bonds therefor on the faith and credit of said city, provided that at no time shall the bonded indebtedness of the city exceed eight per centum of the assessed valuation of all real and personal property in the city. School bonds and bonds issued to cover the cost of purchasing or installing, improving or extending public utilities, which are a lien or mortgage on the utility and are payable from the income of such utility and which are not a general obligation of the city, shall not be included in the aforesaid limitation.

SEC. 2. Bonds may be issued for the following purposes: Sewers, drains, sewage disposal and treatment works, and for enlarging, improving or extending same. Water works, water mains, water filtration or purifying plants and works for increasing the water supply and the distribution and protection thereof. Fire stations, fire fighting equipment, fire alarm apparatus, police stations, police equipment, police telegram and alarm equipment, or the purchase or installation of public utilities, gas manufacturing and electric generating plants and distributing systems, heating plants, wireless, telephone and telegraph stations, street railway or transportation systems or the extension or improvement thereof, parks, playgrounds, recreation grounds and buildings and the improvement thereof, civic and community houses and centers, libraries, hospitals, dispensaries and clinics of all kinds. Workhouses and farms, almshouses, juvenile homes, grade separations, bridges, viaducts, street improvements by grading, paving, curbing or otherwise, markets and market houses, fuel markets and yards, garbage disposal works, garbage collection equipment, street cleaning apparatus, aviation fields or landings, hangars, municipal or public buildings, docks and wharfs and harbor improvements. For paying the city's share of street improvements and sewers, when said improvements are paid in part by special assessments. For any municipal improvement necessary to advance the peace, health, safety and welfare of the city or its inhabitants. The cost of procuring sites and furnishings shall be deemed to be a part of all of the aforesaid. The aforesaid enumeration of powers shall not be a limitation of the right and power of the city to issue bonds for other purposes, provided however that no bonds shall be issued to defray operative and administration costs and expenses of the city.

SEC. 3. Whenever the Council shall desire to issue bonds they shall pass an ordinance stating the amount of bonds to be issued, and the purpose thereof, how and when the same shall be due and payable and the rate of interest thereon, which ordinance shall not be finally passed on the day it is introduced, except in case of public emergency. Such ordinance shall be published once before its final passage by the Council, in a daily or weekly newspaper published and circulating in the city and thereafter shall be published once in each week for three successive weeks immediately preceding the election hereinafter provided. The time when such ordinance shall take effect shall be prescribed therein and it shall be submitted to the electoral vote of said city for adoption or rejection at a general or special municipal election to be held therein, and the Council is hereby empowered to call a special election, to be held in accordance with the provisions of the Charter and the general laws of this state, for the submission, to the electors, of the question of issuing bonds for the aforesaid purposes, and all persons having qualifications of electors under the Constitution and general laws of this state shall be eligible to register and vote at said special or general election on said bonding question. If three-fifths of the votes cast upon the question shall be in favor of the adoption of such ordinance and the issuance of such bonds, then such ordinance shall be considered as adopted and such bonds may be issued.

SEC. 4. All bonds shall bear interest at not exceeding six per centum per annum and be payable in equal annual installments, not exceeding thirty in number, the first installment to become due not later than two years after date, and shall be signed by the Mayor and attested by the Clerk, under the city seal. The coupons evidencing the interest upon said bonds may be executed with

the facsimile signatures of said Mayor and Clerk. Whenever bonds shall be issued, it shall be the duty of the Council annually, at that time and in the manner that other taxes are to be levied, to levy a tax in addition to all other taxes authorized by this Charter sufficient to pay the principal and interest of such bonds as they respectively become due.

SEC. 5. The Council shall have authority to raise money by loans in anticipation of the receipts from special assessments for the purpose of defraying the cost of the improvement for which the assessment was levied. Bonds or notes may be issued for such loans, which shall not exceed the amount of the assessment for the completion of the whole work, not shall loan be made until after the special roll shall have been confirmed. The Council shall pledge the faith and credit of the city for the payment of such loans.

SEC. 6. In case of fire, floods and other calamities, the Council may borrow, for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not exceeding one-quarter of one per centum of the assessed value of all real and personal property in the city, due in not more than three years. For any such loan, lawfully made, the bonds of the city may be issued, payable in equal annual installments.

CHAPTER X TAXATION

SEC. 1. All the provisions of the general tax laws of the State of Michigan, except as herein otherwise provided, shall apply to and control the assessment of property and the collection of taxes in the city of Escanaba, and the taxing officers of the city shall have the same power and be subject to the same duties as like officers under that law. The City Clerk, City Assessor and City Treasurer shall take notice of said law and comply therewith.

SEC. 2. The Board of Review shall consist of the Mayor, City Assessor and the three members of the Board of Supervisors appointed by the City Council. It shall meet for the purpose of reviewing the assessment roll on the first Monday in the month of June, shall choose one of its members to be Chairman, and the City Clerk shall be Clerk of the Board. It shall regulate for itself its order of procedure, but no person who shall appear before it shall be refused a reasonable opportunity for a hearing. It shall remain in session at least four days successively and as much longer as may be necessary to complete the review, and when in session their hours shall be eight A.M. to twelve noon, and one thirty P.M. to five-thirty P.M. On the completion of its work its chairman and clerk shall certify to the same, as provided by the general tax law. After all hearings have been had, the Board may adjourn for the purpose of completing its work on the roll, but the same shall be duly certified on or before the first day of July.

NOTE: SEC. 2. has been superseded by State law which provides that the Board of Review shall meet on the first Tuesday following the first Monday in March, and shall remain in session at least two days successively and as much longer as may be necessary to complete the review. The State law further provides that the assessment roll shall be duly certified on or before the first day of April.

SEC. 3. The City Clerk shall give notice to the public of the time and place of meeting of the Board of Review, by publication in at least one newspaper published and circulated in the city, at least six days immediately preceding such meeting, and also by posting three copies of such notice in each voting precinct in the city.

SEC. 4. On or before the first day of October in each year, the City Clerk shall make and deliver to the Assessor a certified copy of the annual appropriation resolution and of the statement of school taxes as prepared by the Board of Education of the Public Schools of the City of Escanaba, filed in his office.

SEC. 5. The Assessor, in assessing the taxes, shall place in a separate column those included in the interest and sinking fund, or other special funds.

SEC. 6. The taxes assessed on the general city tax roll for each fiscal year, shall be due and payable on the tenth day of July of each year, and may be paid at any time up to and including the fifteenth day of September following, without any collections fee or additional charge. An additional charge of four percent shall be added to all unpaid general city taxes after the fifteenth day of September until return thereof, together with such accrued penalties or charges, shall be made to the County Treasurer.

SEC. 7. The City Treasurer shall give notice by publishing in a daily newspaper published and circulating in said city, for the six secular days next preceding July 10th, which notice shall be sufficient demand for the payment of all taxes on said roll, and that the payment therein specified may be made to him at any time up to and including the fifteenth day of September, without any collection fee therefor, provided that an addition of four per centum shall be made thereto after the fifteenth day of September, until return to the County Treasurer by the City Treasurer. Provided however, that the failure to give the notice specified in this section for the payment of such tax shall not invalidate the said tax nor release the persons or property assessed from the penalty herein specified.

SEC. 8. The taxes so assessed shall be and remain in lien upon the lands upon which they are levied and a charge against the persons owning the property, as provided for in the general laws of the State.

SEC. 9. The Assessor shall keep the original assessment rolls in his office until the meeting of the Board of Supervisors of Delta County in the month of October, and present such rolls to said Board, which rolls, after equalization by said Board, shall be the assessment rolls of the city for all assessment purposes whatsoever, except the levying of taxes to be collected in the month of July, as herein provided.

SEC. 10. On the first day of November the Assessor shall apportion and spread upon the tax roll all school, state and county taxes certified to him by the Board of Supervisors or otherwise, and such other taxes as are legally required to be spread on the roll.

SEC. 11. Within thirty days after the first day of November the Assessor shall deliver a certified copy of the assessment roll to the City Treasurer, to be filed in his office, to which roll shall be annexed a warrant signed by the Assessor and directed to the Treasurer, and in all other respects a near as may be as warrants of Township Treasurers for the collection of state, county and township taxes.

SEC. 12. Upon receiving said tax rolls as herein provided, the Treasurer shall give notice to the taxpayers of the city that such rolls have been delivered to him and that the taxes therein levied can be paid to him at his office at any time from the tenth day of December to and including the tenth of January next ensuing, without any charge for collection, but that four percent collection fee will be charged and collected upon all taxes remaining unpaid after the tenth day of January. Said notice shall be given by publishing the same six successive times in a daily newspaper published in said city, but any defect in said notice, or any omission to comply with the provisions of this section shall not invalidate the said tax roll, or any measure thereafter to be taken to enforce collection of the taxes thereon.

SEC. 13. For the collection of all taxes remaining unpaid on the general tax roll after the fifteenth day of September and the tenth of January of each year, the Treasurer shall proceed in the same

manner as Township Treasurers are required by law to do, for the collection of taxes in townships, and shall for that purpose have all the power and authority conferred by law upon township treasurers for such purposes. And it is hereby made mandatory upon the Treasurer to exhaust all the legal remedies for the collection of unpaid personal tax before the return thereon.

SEC. 14. The Treasurer shall, within ten days after the expiration of the time listed in his warrant, or in case of extension of time for collecting such taxes, within ten days after such time has expire, pay over to the Treasurer for the Board of Education the amount which by law is payable to him, and on the first day of March, or within ten days thereafter, shall pay to the County Treasurer the balance which by law is payable to him, and shall make his return according to the general laws of the state relating to Township Treasurers, except as herein otherwise provided, and such general laws shall govern in all things not herein otherwise provided for.

SEC. 15. Any person owning an undivided share or other part or parcel of real property assessed in one description may pay the same on the part thus owned, by paying an amount having the same relation to the whole tax as the part on which payment is made as to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given and the record of the receiving officer shall show such description and by whom paid. And in the case of the sale of the remaining part or share for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. These provisions shall include all taxes that may be assessed against real property, including special assessments.

SEC. 16. The fees and penalties for the collection for all taxes provided for by this Charter or the general laws of the state shall belong to the city, and shall be paid e by said Treasurer into the City Treasury.

SEC. 17. The Assessor shall at least monthly, make and keep in his office a corrected record of the changes of ownership or real property in the city of Escanaba, as shown by the records of the Register of Deeds of Delta County.

CHAPTER XI SPECIAL ASSESSMENTS

SEC. 1. The Council shall have power to provide for the payment of all or any part of the cost of construction, reconstruction, repairs, operation or maintenance of any structure or work in the nature of public improvements, by levying and collecting special assessments upon property specially benefited. Such special assessment may be payable in yearly installments for a period not exceeding five years.

SEC. 2. When the owners of the majority of the frontage of land liable to be assessed in any special assessment district, or part of the city which may be constituted a special assessment district, shall petition the Council for any public improvement, the Council shall order such improvements to be made. In other cases, public improvements shall be made in the discretion of the Council.

SEC. 3. When a Council shall determine to make any public improvement or repairs and defray the whole or part of the cost and expenses thereof by special assessment, they shall so declare by resolution, state the nature of the improvement and what part or proportion of the expenses thereof shall be paid by special assessment and what part, if any, shall be paid by the general funds of the city, and shall designate the district or lands and premises upon which the special assessment shall be levied.

CHARTER City of Escanaba

SEC. 4. Before ordering any public improvements or repairs, any part of the expenses of which is to be defrayed by special assessment, the Council shall cause estimates of the expense thereof to be made, and also plat and diagram, when practicable, of the work and of the locality to be improved, and deposit the same with the Clerk for public examination, and they shall give notice thereof, and of the proposed improvements, and of the district to be assessed, and of the time and place when the Council will meet and consider any objections thereto, by publication at least once five days prior to such meeting, in a newspaper published and circulating in the city.

SEC. 5. When any special assessment is to be made pro rata upon the lots and premises in any special assessment district, according to frontage or benefits, the Council shall, by resolution, direct the same to be made by the Assessor, and shall state therein the amount to be assessed and whether according to frontage or benefits, and describe or designate an assessment district comprising the lands to be assessed.

SEC. 6. Upon receiving such orders and directions the Assessor shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, with the name of the person, if known, chargeable with the assessment thereon, and shall levy thereon and against such property the amount to be assessed, in the manner directed by the Council and provisions of this Charter applicable to the assessment. In all cases where the ownership of any description is unknown to the Assessor, he shall, in lieu of the name of the owner, insert the word "unknown" and if by mistake or otherwise any person shall be improperly designated as the owner of any lot or parcel of land or premises, or if the same shall be assessed without the name of the owner, or the name of a person other than the owner, such assessment shall not for any such cause be vitiated, but shall in all respects be as valid upon and against such lot, parcel of land or premises, as through assessed in the name of the proper owner, and when the assessment shall have been confirmed it shall be a lien on such a lot, parcel of land or premises, and collected as in the Charter provided.

SEC. 7. If the assessment is required to be according to frontage the Assessor shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length or front of such premises abutting upon the improvement bears to the whole frontage of all lots to be assessed, unless on account of the shape or size of any lot, an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits they shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefits resulting to such lot from the improvement. When he shall have completed the assessment roll he shall report the same to the Council. Such report shall be signed by the Assessor and may be in the form of a certificate, endorsed on the assessment roll, as follows:

"State of Michigan

ss.

City of Escanaba

TO THE COUNCIL OF THE CITY OF ESCANABA:

I hereby certify and report that the foregoing is a special assessment roll and the assessment made by me, pursuant to a resolution of the Council of the said city, adopted on the day of A.D. 19....., for the purpose of paying that part of the coast which the Council decided should be paid and borne by special assessment for the (insert here object of the assessment) and in making such assessment I have, as near as may be according to my best judgment, conformed in all things to the direction contained in the resolution of the Council hereinbefore referred to, and the Charter of the city, relating to such assessment.

Dated,

.....
Assessor"

SEC. 8. When any expense shall be incurred by the city upon or in respect to any separate or single lot, parcel of land or premises which, by the provisions of this Charter, the Council is authorized to charge and collect as a special assessment against the same, and not being that class of special assessments required to be made pro-rata upon several lots or parcels of land in a special assessment district, on account of the labor, material or services, for which such expense was incurred, verified by the Manager, with description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or person, if known, chargeable therewith, shall be reported to the Council in such manner as they shall prescribe. The provisions of the preceding section of this chapter with reference to special assessments generally, and the proceedings necessary to be had before making the improvements, shall not apply to assessments to cover the expenses incurred in respect to that class of improvements contemplated in this section.

SEC. 9. The Council shall determine what amount or part of every such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment, and as often as the Council shall deem it expedient they shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith, respectively, to be reported by the Clerk to the Assessor, for assessment.

SEC. 10. Upon receiving the report mentioned in the preceding section, the Assessor shall make a special roll and levy as a special assessment therein, upon each lot or parcel of land so reported to him and against the person chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid, to be levied upon each of such lots or premises respectively, and when completed he shall report the assessment to the Council, and all the several assessments shall be kept separated.

SEC. 11. When any special assessment roll shall be reported by the Assessor to the Council, as in this Charter directed, the same shall be filed in the office of the Clerk and numbered consecutively. Before adopting such assessment roll, the Council shall cause five days notice to be published in some newspaper of the city, of the filing of the same with the Clerk, and appointing a time when the Council and the Assessor will meet to review said assessment. Any person objecting to the assessment may file his objections thereto in writing with the Clerk. The notice provided for in this section may be addressed to the persons whose names appear upon the special assessment roll and to all others interested therein, and may be in the following form:

“NOTICE OF SPECIAL ASSESSMENT”

To (insert the names of the persons against whom the assessment appears) and to all other persons interested:

TAKE NOTICE, that the roll of the special assessment heretofore made by the Assessor for the purpose of defraying that part of the cost which the Council decided should be paid and borne by special assessment for the (insert the object of the assessment and the locality of the proposed improvement in general terms) is now on file in my office for public inspection. Notice is also given that the Council and the Assessor of the city of Escanaba will meet at the City Hall in said city on to review said assessment, at which time and place opportunity will be given all person interested to be heard.

Date.....

.....
City Clerk”

SEC. 12. At the time and place appointed for the purpose as aforesaid, the Council and Assessor, shall meet and there, or at some adjourned meeting, review the assessment roll, and shall hear any objections to any assessments which may be made by any person deeming himself aggrieved thereby, and the Council may correct said roll as to any assessment, or description of premises appearing therein, and may confirm it as reported, or as corrected, or they may refer the assessment back to the Assessor for revisions, or annul it and direct a new assessment, in which case the same proceeding shall be held as in respect to the previous assessment. When a special assessment shall be confirmed the Clerk shall make an endorsement upon the roll, showing the date of confirmation.

SEC. 13. When any special assessment roll shall be confirmed by the Council it shall be final and conclusive.

SEC. 14. All special assessments shall, from the date of confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall be a charge against the respective owners of the several parcels as assessed until paid.

SEC. 15. Upon the confirmation of any special assessment, the amount thereof may be divided into not more than five installments, one of which shall be collected each year, at such times as the Council shall determine, with annual interest at a rate not exceeding six percent annum, but the whole assessment after confirmation may be paid to the City Treasurer at any time in full, with the accrued interest thereon, provided that no interest shall be charged until twenty days after confirmation.

SEC. 16. All special assessments, except such installments thereof as the Council shall make payable at a future time, as provided in the preceding section, shall be due and payable upon confirmation.

SEC. 17. In all cases of special assessments of any kind against any property where such assessments have failed to be valid in whole or in part, the Council shall be and they are hereby authorized to cause to be re-assessed such special taxes or assessments, and to enforce their collection, and it is further provided that whenever for any cause, mistake or inadvertence, the amount assessed shall not be sufficient to pay the cost of such improvements made and enjoined on the property, or on the owners of property in the local assessment district where the same are made, that it shall be lawful, and the Council is hereby directed and authorized to cause to be made a reassessment upon all the property in said local assessment district to pay for such improvement and to continue requiring such reassessments until a valid and sufficient assessment shall have been made.

SEC. 18. No judgment or decree, nor any act of the Council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed, for such amount of the assessments as may be equitably charged against the same, or, as by a regular mode of proceeding might have been lawfully assessed thereon.

SEC. 19. Whenever any special assessment shall be confirmed and be payable, the Council may direct the Clerk to report to the Assessor a description of such lots and premises as are contained in said roll, with the amount of the assessment levied upon each and the name of the owner or occupant against whom the assessment was made, and direct said Assessor to levy the several sums so assessed respectively. The Assessor shall levy the sum therein mentioned upon the respective lots and premises to which they are specially assessed, and against the persons chargeable therewith, as a tax, in the general tax roll next thereafter to be made, in a column for special assessments, and thereupon the amount so levied in said tax roll shall be enforced and collected

with the other taxes in the tax roll and in the same manner, and shall continue to be a lien upon the premises assessed until paid, and when collected, shall be paid into the City Treasury.

SEC. 20. Whenever any special assessment shall be confirmed and be payable as hereinbefore provided, the Council, instead of requiring assessments to be reported to the Assessor, as provided in the preceding section, may direct the assessment so made in the special assessment roll to be collected directly therefrom, and thereupon the Clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the Treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein, and in case any person named in said roll shall neglect or refuse to pay his assessment, upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person and return said roll and warrant, together with his doing thereon, within sixty days from the date of such warrant.

SEC. 21. Upon receiving said special assessment roll and warrant, the Treasurer shall proceed to collect the amount assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the Treasurer shall seize and levy upon any personal property found within the city or elsewhere with the state of Michigan, belonging to such person and sell the same at public auction, first giving six days notice of the time and place of such sale, by posting such notice in three public places in the city or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, the costs and expenses of seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

SEC. 22. The Treasurer shall make return of said assessment roll and warrant to the Clerk, according to the requirements of the warrant, and if any of the assessments in said roll shall be returned unpaid, the Treasurer shall attach to his return a statement, verified by affidavit, containing a list of the persons delinquent and a description of the lots and premises upon which the assessment remains unpaid, and the amount unpaid by each.

SEC. 23. Said warrant may be renewed from time to time by the Clerk, if the Council shall so direct, and for such time as they shall determine, and during the time of such renewals the warrant shall have the same force and the Treasurer shall perform the same duties and make the like returns as above provided. In case any assessment shall be finally returned by the Treasurer unpaid, as aforesaid, the name shall be certified to the Assessor in the manner provided in Section 19 of this chapter, and shall then be levied, together with the penalty of ten percent of the amount of said assessment, in the next tax roll, and be collected and paid in all respects as provided in Section 19 of this chapter.

SEC. 24. At any time after a special assessment has become payable, the same may be collected by suit, in the name of the city, against the person assessed, in an action of assumpsit in any court having jurisdiction of the amount. In every such action a declaration upon the common counts for money paid shall be sufficient. The special assessment roll and a certified order or resolution confirming the same shall be prima facie evidence of the regularity of all the proceedings in making the assessment, of the whole amount due, and of the right of the city to recover judgment therefor.

SEC. 25. If in any such action it shall appear that by reason of any irregularities or informalities, the assessment has not been properly made against the defendant, or upon the lot or premises sought to be charged, the court may nevertheless, on satisfactory proof that expenses have been incurred by the city which are a proper charge against the defendant or the lot or premises in question, render judgment for the amount properly chargeable against such defendant, or upon such lots or premises.

SEC. 26. If the owner or occupant of any lot or premises shall fail to remove the snow, ice and filth from the sidewalk upon which such property abuts, or to remove and keep the same from obstruction, encroachments, encumbrances or other nuisances, or fail to perform any other duties required by the city in respect to such sidewalks or the premises of any person, within such time and in such manner as the city shall require, the city may cause the same to be done and the expenses or such part thereof as the city shall have determined, together with a penalty of ten per centum, may be charged and collected as a special assessment against such property as in the Charter provided.

SEC. 27. Revenues and moneys raised by taxation in every special assessment district in the city, shall be credited to separate special assessment funds, and money so raised shall be used solely for the purpose specified. Provided, if there be a surplus after paying for the specified improvements, such surplus shall be refunded pro-rata, as follows: By refund where the tax has been paid in full, and by credit on the assessment roll where the tax has not been fully paid.

CHAPTER XII STREETS, SIDEWALKS, SEWERS AND DRAINS

SEC. 1. The Council shall have control of and maintain all streets, highways and alleys in the city and may improve the same by grading, graveling, curbing, paving, re-paving, constructing sidewalks, or otherwise, and shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any highway, street or alley in the city, whenever they shall deem the same a public improvement. The expense of such improvement may be paid by special assessment upon the property adjacent to or benefited by such improvement, in the manner in this Charter provided for levying and collecting special assessment, or, in the discretion of the Council, a portion of such cost and expenses may be paid by special assessments as aforesaid, and the balance by the city.

SEC. 2. When the Council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they shall by resolution so declare and in the same resolution shall appoint a time, not less than four weeks thereafter, when they shall meet and hear objections thereto. Notice of such meeting, with a copy of said resolution, shall be published once not less than two weeks before the time appointed for such meeting, in a newspaper published and circulating in the city.

SEC. 3. The Council shall have authority to determine and establish the grade of all streets, avenues, alleys, sidewalks, curbs and public grounds within the city and may change or alter the grade of any street, sidewalk, curb, alley or public ground, or any part thereof, whenever, in their opinion, the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be kept in the office of the City Clerk or other official or department, as the Council may determine by administrative ordinance.

SEC. 4. Whenever any street, alley or public ground or highway shall have been graded, or pavement, sidewalk or curb shall have been constructed in conformity to grades established by authority of the city, and the expenses thereof shall have been assessed upon lots or lands bounded by or abutting upon such street, alley, sidewalk, curb or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade of such pavement, alley, sidewalk, curb or public highway, but the expense of all the improvements occasioned by such change of grade shall be chargeable to and be paid by the city.

SEC. 5. Such part of the expense of improving or repairing any street, land or alley, by grading, graveling, paving, re-paving, curbing, constructing sidewalks or otherwise improving or repairing the same as the Council shall determine, and in keeping the same free from dust and nuisance, may be paid by the City, or the whole of such part of the expense of such improvement, as the Council shall determine, may be defrayed by special assessment upon the lots and premises included in a special assessment district, to be constituted of the land fronting upon that part of the street or alley so improved or proposed so to be, or constituted of lands fronting upon such improvement and such other lands as in the opinion of the Council may be benefited by the improvement.

SEC. 6. The City shall build or cause to be built, maintain and control all sidewalks and crosswalks in the public streets and alleys of the city, and may prescribe the grade thereof, and change the same when deemed necessary, as herein provided.

SEC. 7. The Council may establish, construct and maintain a sewerage system, sewage disposal system, sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper.

SEC. 8. Special assessments for the construction of sewers and drains shall be made in the manner provided in this Charter for making special assessments.

SEC. 9. The owners or occupants of lots and premises shall have the right to connect the same at their own expense by means of private drains with the public sewers and drains, under such rules and regulations as the Council may prescribe.

SEC. 10. Such part of the expense of providing ditches and drains and improving water courses as the Council may determine, may be defrayed by special assessment upon the lands and premises benefited thereby.

CHAPTER XIII REPLACING STREET OPENINGS

SEC. 1. No contract shall be made with any person involving the removal of the soil or the tearing up of the surface of any street, alley or other public place, unless such contract shall provide for replacing such street, alley or other public place, in the same condition as near as may be, as it was immediately before being torn up or the removal of said soil, and for the full performance of the requirement of such contract and this provision therein, full security shall be required of and received from the contractor by the city.

CHAPTER XIV CONTRACTS

SEC. 1. Any public work or improvement costing more than One Thousand Dollars, shall be executed by contract, except where a specific work or improvement is authorized by the Council, based on detailed estimates, submitted by the department authorized to execute such work or improvement. Contract shall be awarded to a responsible bidder. Bids for such contracts shall be opened not less than three days after advertisement therefor in some newspaper published and circulating in the city, but the Council shall have the right to reject any or all bids and to advertise again, and all advertisements shall contain a reservation of this right. Provided that where the Council is not satisfied with the bids obtained, it may authorize the doing of such work under the direction of the Manager.

CHARTER City of Escanaba

SEC. 2. Every contract shall reserve to the city the right, when it shall become satisfied that the work provided for in any contract will not be completed within the time limited, to furnish additional labor and materials, if necessary, and render such other assistance as it may deem advisable, for the completion of such contract, at the expense of the contractor, and retained by the city, out of the contract price, or recovered by legal proceeding.

SEC. 3. Every contract to which the city is a party shall reserve to the city the right to determine finally all questions as to the proper performance of such contract or any unfinished portion thereof, and in case of the improper, dilatory or imperfect performance thereof, to suspend the work at any time and to order the partial or entire reconstruction of the same, and whenever, because of unreasonable delay in the work or for other just cause, it shall declare such contract forfeited, it may complete or re-let the work covered by such contract, or any unfinished portion thereof. Power is hereby given the city to determine all such questions arising under any such contract, according to the true intent and meaning thereof.

SEC. 4. When it becomes necessary, in the prosecution of any work or improvement under contract, to make minor alterations or modifications of such contract, or the plans and specifications thereof, such alterations, changes or modifications shall be made only on the written order of the Manager.

SEC. 5. No such order shall be made until the price to be paid for the work or material, or both, and the credits, if any, to be allowed by the city under the altered or modified contract, shall have been agreed upon in writing, and signed by the contractor and by the Manager.

SEC. 6. Upon the completion of any public work or improvement wherein a bond for construction or maintenance has been furnished, the Manager shall before the payment of the final estimate or balance due thereon, file with the Clerk and the City Attorney a written report certifying whether such work or improvement has, in his judgment, been done in all respects in accordance with the construction specification. Provided such report shall not waive any right of the city to later complain of non-compliance with such construction specifications.

SEC. 7. It shall be the duty of the Manager, annually, during the life of all maintenance bonds given to the city, upon public works or improvements, to report in writing to the Council the defects and costs of repair and maintenance of such work or improvement

SEC. 8. It shall be the duty of the Council promptly to institute appropriate proceedings on behalf of the city whenever there shall have been default in complying with such construction or maintenance specifications.

SEC. 9. No public improvement costing more than One Thousand Dollars shall be contracted for or commenced, until drawings, profiles and estimates for same shall have been submitted to the Council and approved by it, and the same, or a copy thereof, shall thereafter remain on file in the office of the Clerk, subject to inspection by the public.

SEC. 10. No member of the Council, the Manger or any other officer or employee of the city, shall be personally interested in any contract with or for the city, nor in the expenditures of any money on the part of the city, and every such contract shall be void.

SEC. 11. The Council shall have the power to hold hearings and to compel, by subpoena, the attendance of witnesses and the production of books, papers and data, in any proceedings or hearing pending before it. The forms of the subpoena shall be prepared by the City Attorney. The Council shall provide by ordinance for the punishment of any person who, having been personally served with subpoena, willfully disobeys the same. Such subpoena may be served by any

person of lawful age. Each witness shall be entitled to receive the same fee for attendance as is provided by law for the payment of witness fees in the Circuit Court in this State.

SEC. 12. The Council shall, by ordinance, prescribe the methods to more effectually carry out the foregoing provisions.

CHAPTER XV
CONDEMNATION AND APPROPRIATIONS OF PROPERTY

SEC. 1. Private property, whether within or without the city limits, may be purchased, condemned or appropriated for public use for the purpose of opening, widening, altering or extending streets, alleys and avenues, for the construction of bridges, docks, wharfs, harbor improvements, viaducts, grade separations, public buildings, parks, parkways, markets and market places, sewers, drains, and water courses, public and detention hospitals, public cemeteries, sewage disposal, water supply, water mains, water works, gas and electric lighting plants and works, and for the protection thereof, or any necessary lawful public use, not specifically enumerated herein.

SEC. 2. If it shall become necessary to condemn or appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same, and the ownership therein and thereto, may be acquired by the city, in the manner and with like effect, as provided by the general laws of this state, relating to the taking of private property for public use.

SEC. 3. Whenever the Council shall have decided a public improvement to be necessary, and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, designating it, and that the improvement is for the use or the benefit of the municipality, they shall by resolution, direct the City Attorney to institute proceedings in behalf of the municipality, before the proper court, to carry out the object of the resolution in regard to taking property by the city for such public use.

CHAPTER XVI
UTILITIES

SEC. 1. The Council shall maintain, conduct and control the present electric generating and distributing plants, and municipal gas plants, and the city water works plants of this city, and may improve and extend the present plants or construct new plants as need therefor shall arise, to enable it to furnish the city and its inhabitants, or others, with an adequate supply of electric current for light and power, and for gas and water supply. The Council shall make all such ordinances, rules and regulations as may be needed for the safe, economical and efficient management thereof.

SEC. 2. In case the Council shall declare that it is expedient to improve or extend the present plants or construct new plants for the purpose of supplying current for light and power purposes, gas and water supply, the cost of which must be met by bond issues or loans, then the Council shall cause to be made and recorded in their proceedings, an estimate of the expenses thereof, and the question of raising the amount required for such purposes shall be submitted to the electors of the city at its regular election or at a special election called for that purpose by the Council, as provided for in this Charter, and shall be determined to have been favorably carried if three-fifths of the electors voting at such election, by ballot, shall so decide.

The Council will construct such improvement and extensions to the existing plans as the normal growth of the plants require, the cost of such improvements and extensions to be met by reinvesting the depreciation reserve, and no extensions or improvements in excess of this amount shall be made except by reference to the electors as required above.

SEC. 3. It shall be lawful for the city to borrow a sum of money, as provided in this Charter or by general law, to be used exclusively for the purpose of improving or extending the present municipal utility plants or to construct new plants, as provided in the preceding sections of this chapter. The Council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, not inconsistent with this Charter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed six percent per annum, and such bonds shall not be sold for less than their par value, provided that the total amount expended for improving or extending the present municipal utility plants or constructing new plants, shall not exceed the amount of the estimate of expense thereof, provided for in Section 2 of this chapter.

SEC. 4. The Council shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city, or others, with lights, power, gas and water, and shall annually on the first Monday in June, fix such rates for the year ensuing.

SEC. 5. If it shall be necessary, in the judgment of the Council, to appropriate private property, either within or without the city, for construction and maintenance, or for the due operation of lighting, power, gas or waterworks, the right to occupy and hold the same, and the ownership therein or thereto may be acquired by the city, in the manner and with like effect as provided in this Charter for the taking of private property for public use.

SEC. 6. Accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. These accounts shall show the actual cost to the city of each public utility owner, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and in the case of city operation, all operating expenses of every description. They shall show as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other city or governmental department. They shall also show a proper allowance for depreciation, insurance, interest on the investment, and estimates of the amount of taxes that would be chargeable against the property, if privately owned. The Council shall annually cause to be made and printed for public distribution a report showing the financial results of such city ownership or ownership and operation, which report shall give the information specified in this section, and such information as the Council shall deem expedient.

SEC. 7. The City shall not sell, exchange, farm out, lease out, or in any way alien or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to its present system of electric light and power, gas or water works plants, or its parks, and 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, unless and except the proposition for such purpose shall first have been submitted according to law to the qualified electors of said city and approved by them by a vote of three-fifths of the electors voting thereon, and with all the same or similar formalities as may be required by this Charter or the state laws of Michigan, preliminary to the purchase by said city of any municipal utility. But the provisions of this section shall not apply to the sale, exchange or alienation of such articles or equipment of the said electric lighting, gas, water works plants, or part as are worn out or useless, or which could with advantage to the service be replaced by new or improved machinery or equipment.

CHAPTER XVII CIVIL SERVICE

SEC. 1. The City Council may provide by ordinance for a system of Civil Service for the city, which shall observe the principles and spirit of this chapter.

SEC. 2. (As amended by a vote of the electorate on April 7, 1952.)

Such system shall provide for a non-salaried board of five members to administer the Civil Service. It shall exempt from Civil Service the City Manager, all officials elected by the people, the directors of departments, Assistant Manager, members of appointed boards, the City Clerk and City Assessor.

SEC. 3. The Civil Service Board shall formulate rules and regulations covering the selection and promotion of municipal employees (it being required that, so far as is possible and consistent with public welfare, all appointments and promotions in any and all departments of the city be made from employees of such departments, in the order of their seniority, who can qualify under the Civil Service system and who desire to take the necessary examinations for such appointments or promotion.) Where competitive tests are used and eligible lists created, appointments shall be made from the three candidates standing highest on such lists. Such rules and regulations shall forbid appointment on any other grounds than those of fitness for the position to be filled, and shall prevent favoring or discriminating against any applicant or employee because of his or her political, religious or industrial opinions or affiliations.

SEC. 4. The City Manager or other official or Board in whom is vested disciplinary or removal power, shall be allowed full freedom in his or its action in such matters, it being the intent and spirit of this section to provide a fair and honest approach to municipal employment for every inhabitant of the city, but in no way to handicap or curtail the responsible administrative officers in securing efficient service.

SEC. 5. The principle of the eight-hour basic day is hereby recognized and wherever and whenever practically consistent with the best interest and public welfare of the city, it shall be put in full force and effect in all public works and employment.

CHAPTER XVIII LEGAL DEFINITIONS AND PROVISIONS

SEC. 1. Where the following specified words are used herein they shall each be construed to mean as follows:

1. "State" shall mean "State of Michigan".
2. "City" shall mean "City of Escanaba".
3. "Council" shall mean "City Council".
4. "Manager" shall mean "City Manager".
5. "Clerk" shall mean "City Clerk", unless from the context the contrary shall plainly appear.
6. "Treasurer" shall mean "City Treasurer".

SEC. 2. Word imparting the singular number only, may extend to and embrace the plural number, and words imparting the plural number may be applied and limited to the singular number. Words imparting the masculine gender only, may extend and apply to females as well as males.

SEC. 3. Words purporting to give joint authority to two or more public officers or other persons, either as a Board or otherwise, shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared.

SEC. 4. The word "persons" may extend and apply to bodies politic and corporate as well as individually. The words "written" and "in writing" may be construed to include printing,

engraving, typewriting, and lithographing, except that this rule shall not apply to provisions requiring written signature, unless it be otherwise expressly herein provided.

SEC. 5. Should any portion of this Charter be declared void, illegal or unconstitutional such finding shall not invalidate the remainder of the Charter.

SEC. 6. The city shall not be liable for unliquidated damages for personal or other injuries unless the person suffering the injury or sustaining the damage, or someone in his behalf, shall serve a notice in writing upon the city, within sixty days after such injury shall have occurred, which notice shall specify the location and the nature of the defect, the injury sustained and the names of the witnesses and attending physicians, if any, which said witnesses were present at the happening of the accident complained of, and whose names are known at that time by said complainant. The failure to so notify the city within the time and in the manner specified herein, shall exonerate, excuse and exempt the city from any and all liability on account of any such injury.

SEC. 7. Service of all process and notice of claims for unliquidated damages against the city shall be made on the Mayor, Manager or Clerk.

SEC. 8. After the adoption of this Charter, the city shall continue to be vested with all properties, moneys, contracts, rights, credits, effects, records, files, books and papers belonging to it, as formerly incorporated. No right or liability, either in favor of or against the city, existing at the time of the taking effect of this Charter, and no suit or prosecution of any character shall in any manner be affected by such change, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city shall continue to be its debts and liabilities, and all fines and penalties imposed, and all taxes and assessments levied and uncollected, and all licenses issued by the city shall be and remain the same as if such change had not been made, provided that when a different remedy is given in this Charter, or in any ordinance pursuant thereto, which can be made applicable to any right existing upon the adoption of this Charter, or subject thereto, the same shall be deemed cumulative to the remedies before provided and may be used accordingly, unless the newly provided remedy shall be expressly declared to be exclusive therein.

CHAPTER XIX SCHEDULE

SEC. 1. This Charter shall be submitted to the electors of the City of Escanaba, for their adoption or rejection, on the 29th day of August, A.D. 1921. Prior to such submission, said Charter shall be published once in the "Escanaba Morning Press", a newspaper published and circulating in said City, at least twenty days before the date of said submission.

SEC. 2. If adopted, this Charter shall take effect on the first day of March, A.D. 1922, and it is expressly provided that all officers, boards and commissions and appointive officers now existing shall continue their official duties and retain all their official powers and prerogatives until twelve o'clock noon of the tenth day of April, A.D. 1922, and in the case of appointive officers, until their successors, to whom their respective duties shall have been committed under this Charter, shall have been selected and qualified, according to the provisions of this Charter, or until their appointment has been revoked or the office abolished by the action of the Council, whereupon their respective duties, powers and compensation shall cease and terminate.

SEC. 3. It shall be the duty of the Council of the city of Escanaba, in office when this Charter takes effect, to comply with all the requirements of said Charter relating to primary nominations and elections, to the end that all things may be done necessary to the nomination and election of the officers first to be elected under this Charter, which election shall be held on the third day of April, A.D. 1922.

SEC. 4. At the first election under this Charter the two candidates receiving the highest number of votes shall be deemed to be elected and serve for a period of four years, and three to be elected and serve for a period of two years respectively, from and after the second Monday in April, 1922.

SEC. 5. There shall be elected at the first election held under this Charter, one constable, who shall hold office for two years and until his successor shall have been elected and qualified.

SEC. 6. The Council first elected under this Charter, and their successors in office, shall be held and deemed, in law and in fact, the successors of the Mayor and Council in office when the Charter shall take effect, and upon the qualification of such Councilmen comprising the Council elected under the provisions of this Charter, all powers, rights and duties of their predecessors in office shall cease, and such Council shall have and exercise all the rights, powers and duties of the said Mayor and Council, as may be conferred by the constitution and laws of this state or by the Charter.

CHAPTER XX.

MUNICIPAL COURT

(Added by a vote of the electorate on June 12, 1961)

SEC. 1. ESTABLISHMENT OF COURT. Effective on the first day of July, 1961, the two offices of Justice of the Peace of the City of Escanaba, existing prior to the effective date of this amendment, shall be and the same hereby are abolished; and on the said effective date, the powers, jurisdiction and duties of the said Justices of the Peace, except as otherwise hereinafter provided, hereby are consolidated into one Municipal Court to be presided over by a Municipal Judge. This Municipal Court is established under the authority and pursuant to the provisions of Section 28 of Act 279 of the Public Acts of 1909, as amended, and Act 5 of the Public Acts of 1956, as amended, and shall be known as the Municipal Court of the City of Escanaba.

SEC. 2. ELECTION OF JUSTICES OF THE PEACE: No Justice of the Peace shall be elected in and for the City of Escanaba, nor shall any Justice of the Peace be appointed to fill any vacancy, for a term extending beyond July 1, 1961.

SEC. 3. PENDING LITIGATION: No action, cause or prosecution of any kind which is before or pending to be before the Justices of the Peace of the City of Escanaba on July 1, 1961, shall be in any manner affected by the adoption or taking effect of this Amendment. All said actions, causes or prosecutions shall be transferred to the Municipal Court on the 1st day of July, 1961, and the Municipal Judge shall have full jurisdiction to proceed with all such actions, causes or prosecutions in the same manner as if they had been brought before him originally. As to such actions, causes or prosecutions, all of the provisions of the present law, whether general or special, apply to the Justices of the Peace of the City of Escanaba, and to appeals therefrom, except as otherwise hereinafter provided, shall remain in full force and shall be applicable to the Municipal Court herein established.

SEC. 4. TRANSFER OF RECORDS AND DOCKETS; EFFECT: No later than July 31, 1961, all files, records and dockets belonging or appertaining to the offices of Justice of the Peace of the City of Escanaba prior to the 1st day of July, 1961, shall be transferred and delivered to the Municipal Judge and filed by him in the offices of the Municipal Court herein established. Said files, records and dockets shall be by him there safely kept, and they shall, in all respects and for all purposes, constitute official records of the Municipal Court. The Municipal Judge shall be and hereby is empowered to issue executions, according to the law, upon any judgment appearing upon said dockets with the same effect as if the said judgment had been rendered by him.

SEC. 5. QUALIFICATIONS OF THE MUNICIPAL JUDGE: The Municipal Judge shall meet the qualifications required of elective officers of the City by Act 215 of the Public Acts of 1895, as amended, and in addition, at the time of and immediately preceding his election or appointment, he shall have been a resident of the City of Escanaba for not less than 5 years and he shall remain a resident of said City throughout his tenure of office. He shall be an attorney in good standing, admitted to practice law in the Supreme Court of this State, preceding the date of his election or appointment and throughout his tenure of office. During his tenure of office, the Municipal Judge shall not be disqualified to practice law, but he shall not preside in any case or cause in which either he or his business partner is attorney or of counsel for any party or person interested by law in such cases or cause.

SEC. 6. ELECTION OF MUNICIPAL JUDGE: At the regular City election held in 1962, and at such election in every sixth year thereafter, a Municipal Judge shall be elected by electors of the City at large, for a six year term of office, which term of office shall commence on and date from the first day of January following such regular City election. Candidates for the office of Municipal Judge shall be nominated and elected, as nearly as may be, in the same manner that the Council of the City is nominated and elected. Candidates for election to the said Municipal Court shall henceforth be designated as candidates for the office of Municipal Judge. An incumbent who is a candidate, upon his request in writing, may have printed below his name on the ballot the designation "Municipal Judge". The City Council of said City is empowered to appoint by motion, a Municipal Judge to hold such office from the effective date of the said Court until by motion, a Municipal Judge, elected as herein set forth, shall have qualified and assumed his office.

SEC. 7. ASSOCIATE MUNICIPAL JUDGE: The City Council shall be and hereby is empowered to provide, by ordinance, for an Associate Municipal Judge, in accordance with the provisions of Act No. 109 of the Public Acts of 1947.

SEC. 8. SALARY OF MUNICIPAL JUDGE: The Municipal Judge shall receive such annual salary from the City of Escanaba as the City Council shall determine by ordinance but not less than \$3600.00 nor more than \$12,000.00 per year, such salary to be paid in the same manner as other City officers are paid.

The salary provided by ordinance shall be in lieu of all fees, both in civil and criminal cases, to which said Judge might otherwise be entitled but for the provisions of this section, providing that this section shall in no manner affect the fees or compensation to which the said Judge may be entitled for the performance of marriages, taking of acknowledgments, and for administering oaths in matters no connected with suits or proceedings before him.

The Municipal Judge shall be entitled to two weeks vacation in each calendar year without loss of salary. Should his absence exceed such vacation allowance, then the compensation or salary paid to the Judge or Justice who serves during such absences in excess of such vacation time shall be deducted from the salary of the Municipal Judge; but such deduction shall not be made

because of illness, disqualification due to interest in any cause or case, or because of absence from the City on the official business of the Municipal Court.

SEC. 9. BOND: The Municipal Judge shall, before entering upon his duties of office, give bond to the Treasurer of the County of Delta in such sum as is provided by law for justices of the Peace in townships, and to the City of Escanaba in like amount. All such bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The City Clerk shall be custodian of said bond or bonds given to the City by the said Judge.

SEC. 10. FEES AND COSTS: The Municipal Judge shall tax and collect fees in civil cases and costs in criminal cases and ordinance violation cases as are provided by law in civil and criminal cases before Justices of the Peace in townships.

SEC. 11. DISPOSITION OF FEES, COSTS AND FINES: The Council shall within ninety days after the effective date of this Charter revision enact an ordinance establishing and fixing the fees and costs which may be taxed by the Court in all civil matters and in all cases for violations of the Charter or City ordinances and fixing fees and costs not inconsistent with statute in criminal matters.

Fees in civil cases shall be collected by the Court and turned over to the City Treasurer on the first and fifteenth of each month. Fees in criminal cases shall be charged and presented to and audited by the Board of Supervisors of Delta County, in the same manner and amounts as provided by law in the case of Justices of the Peace in townships, and upon allowance by said Board, shall be paid monthly by said County to the City Treasurer for the use and benefit of the City. The Court shall turn over to the Delta County Treasurer all costs and fines in state criminal cases. The Court shall turn over to the City Treasurer all costs and fines in city ordinance of Charter cases.

The expenses of prosecution before the Court for violations of criminal statutes and in punishing the offenders thereof, shall be paid by the County of Delta.

SEC. 12. JURISDICTION OF THE COURT:

- (a) General Jurisdiction: The Municipal Court shall have and exercise within the City of Escanaba and County of Delta the same jurisdiction, powers and duties as are or may be conferred upon or required of Justices of the Peace in cities or townships by statute, and shall be subject to such statutes with respect to such Justices, except as otherwise provided in this amendment.
- (b) Criminal Jurisdiction: The Court shall have concurrent jurisdiction with other Justices of the Peace in Delta County of all crimes, offenses and misdemeanors alleged to have been committed within Delta County, whether within or without the City of Escanaba. The proceedings in all such suits, actions or prosecutions before the Court shall, except as otherwise provided in this amendment, be according to and governed by the statutes applicable to Justice Courts and to proceedings therein.
- (c) Ordinance Cases: The Court shall have authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by the Charter and Ordinances of the City of Escanaba, and to punish offenders for the violation thereof as is therein directed and prescribed.
- (d) Extended Jurisdiction: The Municipal Court shall have original jurisdiction in all civil actions wherein the debt or damages does not exceed the sum of \$100.00 and concurrent jurisdiction in all civil actions wherein the debt or damages claimed does not exceed the sum of

\$1,000.00, and shall have original jurisdiction in all actions of replevin wherein the value of the property involved does not exceed the sum of \$100.00 and concurrent jurisdiction in all actions wherein the value of the property involved does not exceed the value of \$1,000.00.

In the event that, at some future date, the statutes of this State shall permit cities by their Charter to provide for higher dollar limitations in such civil matters, then the said Court shall have the maximum limitation to be so provided, automatically and without further amendment of this section of the Charter.

- (e) Causes where All Parties are Residents of City: The said Court shall have exclusive jurisdiction, concurrent jurisdiction of Courts of record excepted, in civil causes or proceedings where all the parties to same reside in the City of Escanaba at the time of commencement of the cause or proceedings and also where the original cause of action existed in favor of a plaintiff and against a defendant, both residents of said City, and has since been assigned to a non-resident of said City. This jurisdiction is pursuant to the provisions of Section 10 of Chapter LXVI of Act 314 of the Public Acts of 1915, as amended.
- (f) Setting Aside Verdicts: The Court shall have the same powers and authority to set aside a verdict or judgment and grant a new trial therein upon legal cause as the Circuit Courts of the State possess, in accordance with the rules and practice as provided by Section 28 of Act 279 of Public Acts of 1909. The filing of a motion for a new trial or to set aside a verdict or judgment shall have such effect on the time for taking an appeal, the issuance and levy of execution, and other proceedings in said cause as is provided in said Act.
- (g) Motions: Procedure on: The Municipal Judge may by rule require that all motions made in such Court shall be in writing. All written motions shall be filed with the Clerk of the Court, who shall set a date for the hearing thereon before the Municipal Judge, or some other Judge to whom the Municipal Judge may assign the hearing and disposition of such matters, in accordance with the rules and practice of such Court. The moving party shall cause to be served on the opposite parties or their attorneys copies of such motions and notices of hearing thereof within the time and in the manner fixed by the rules and practice of such Court.
- (h) Direction of Verdict: The presiding Judge in any jury trial shall have the same power to direct a verdict for either party as is or may be possessed by judges of the Circuit Courts of the State.

In all civil jury trials in such Municipal Court, if either party shall at the close of the testimony, and before the case is submitted to the jury, request a verdict in his favor, the judge presiding may reserve his decision thereon, and submit the case to the jury under proper instructions as to the law applicable to such case. After the case is thus submitted to the jury, and after receiving and recording the verdict of the jury and before judgment is entered in said cause, the Judge may hear arguments of counsel for and against said request, but in all cases he shall receive and record the verdict of the jury as rendered. If the Judge shall then decide as a matter of law that the party requesting the direct verdict was entitled thereto, and if the verdict of the jury is adverse to the party making said request, the Judge shall enter his decision and give judgment in accordance with such decision notwithstanding the verdict entered.

- (i) Disagreement of Jury and Discharge thereof; Motion of Entry of Judgment upon Effidence of Proofs; Judgment: In all civil jury trials in which the jury decides and is discharged by the Judge, either party may, on motion and notice to the opposite party, request the entry of judgment upon the evidence and proofs taken, within 7 days after the discharge of such jury, and if the judge before whom such case was tried shall decide as a matter of law that a verdict should have been directed for either party, he shall enter judgment accordingly.

- (j) Civil Process; Service in any Part of County: Any civil process issued out of the Municipal Court may be served in any part of Delta County.
- (k) Appeals in Criminal Cases: Appeals in criminal cases shall be taken from the Municipal Court to the Circuit Court of Delta County in the same manner and time as provided by law for appeals in criminal cases from Justice Courts.
- (l) Process Returnable Before Municipal Judge: All returns, summons, proceedings or matters of any kind, which by law are made returnable before a Justice of the Peace and are not herein otherwise provided for, shall be returnable before a Municipal Judge.
- (m) Conduct of Trial by Attorney; Individual Litigant May Try Own Cause; Violation of Section is Contempt Penalty: Individual litigants may conduct the trial of his own causes in the Municipal Court, but it shall be unlawful for anyone excepting an Attorney at law to conduct the trial of other than his own individual suits in such court. Any person violating the provisions of this section shall be guilty of contempt of court and may be punished therefor by any Judge of the Municipal Court or the Circuit Judge of Delta County, by a fine of not more than \$50.00, or by imprisonment in the County jail of such County for a period of not more than 30 days, or by both such fine and imprisonment in the discretion of the Court.
- (n) Bail; Examination and Binding Over to Circuit Court in Criminal Cases not Cognizable by Justices of Peace; Recognizance in Criminal Cases Cognizable by Justices of Peace: When a warrant has been issued by a judge of the Municipal Court of a criminal offense not cognizable by a Justice of the Peace, the person charged with such offense may be brought before any judge of the Municipal Court, who may fix the amount of bail or let such person to bail, or both, and set a date for the examination provided by law before the judge who signed such warrant, and if the person charged with such offense shall waive examination, he may fix the amount of bail or let him to bail, or both, and bind him to appear before the Circuit Court of Delta County, provided the warrant has been issued by any such Municipal Judge for an offense against the laws of the State of Michigan cognizable by a Justice of the Peace and the person charged has been arraigned, and the amount of bail has been set, a recognizance for the appearance of the person charged to answer for such offense may be taken and entered into by any clerk or deputy clerk of such Court.
- (o) Application of Statutes Relating to Justices of the Peace and Justice Court Fees: All the provisions of general statutes, local or special acts, relating to Justices of the Peace and the Justice Court in the City of Escanaba, shall apply to the Municipal for a fixed fee not exceeding \$5.00 in all civil cases in lieu of the fees for jurors, witness fees and mileage, attorneys fees, or constable's fees and mileage, which are provided by statute.
- (p) Signing of Judgments: Judgments rendered in the Municipal Court shall be signed by the Judge by or before whom such cause was tried.
- (q) Conciliation Division of Municipal Court, Jurisdiction, Conciliators; Claim; Summons, Services, Fees: Defaults; Rules of Evidence; Adjournments; Hearing; Settlement; Filing; Judgments; Enforcement; Transfer of Cause to Regular Division, Demand, Costs: The Municipal Judge may provide for a Conciliation Division of such Court in which civil actions wherein the deed or damage as claimed does not exceed the sum of \$100.00, excepting replevin suits, suits commenced by return of attachment, and suits commenced by civil warrant, except as hereinafter provided, shall be brought in and settled in an informal manner. The judges of the court shall

CHARTER City of Escanaba

act as conciliators of the Conciliation Division and shall act as such as part of their official duties. The Municipal Judge may authorize any clerk or deputy clerk of the Court to act as conciliator in any case.

Any person having acclaim within the jurisdiction of the Conciliation Division of such Court may appear before the clerk or other deputy clerk of such Court and state his claim without formality or written pleadings. The Clerk shall thereupon issue a summons in substantially the following form:

STATE OF MICHIGAN

The Municipal Court for the City of _____ to _____

You are notified that (name of plaintiff) has commenced suit against you for (state nature of claim and amount).

Be in the above court on the _____ day of _____ 19 _____, at _____ o'clock in the _____ noon, or judgment will be taken against you. Bring witnesses and papers, if any. Be prepared for trial at that time.

_____ Clerk
_____ Deputy Clerk

The summons shall notify the defendant to appear for trial at a certain time and place not less than 6 or more than 14 days from the date of issue, and shall be served at least 2 days before the date set therein for trial. The Clerk or Deputy Clerk, on request of the plaintiff, may notify the defendant by telephone or by mail, in which case the Clerk's fee for such service shall be 25 cents, for the use of the city. If the defendant does not appear on the date and time set, no judgment shall be taken unless service was had upon him by summons, and the case may be adjourned and summons issued and served personally upon the defendant. If the defendant does not appear at the date and time set, after personal service of the summons upon him, the clerk shall be informal and may be private. The conciliator may suspend rules of evidence and may dispense with the swearing of witnesses. There shall be no adjournments unless in the opinion of the conciliator and adjournment is necessary to prevent a miscarriage of justice.

The parties prior to or at the hearing may make a settlement upon such terms as they may agree upon, in which case it shall be reduced to writing and signed by the parties, and the settlement shall be filed in the cause and in all respects shall be considered as a judgment rendered by the conciliator. Any judgment rendered in such conciliation division may provide for its satisfaction by payment to the clerk of the Court or to the plaintiff of either a lump sum, or by installments in such amounts and at such times as the conciliator may deem just and reasonable under the circumstances. The Municipal Judge or the conciliator in the cause thereafter, for good cause shown, may alter the amount of the installment payments and the time of payment of such judgments, and authorize execution or garnishment to issue thereon where it appears that the defendant has not paid according to the terms of the agreement or order.

Either party to a suit in the conciliation division shall be entitled to make demand, before the commencement of the hearing in his cause, to transfer the cause to the regular division; the conciliator shall then transfer the cause to the regular division of the court. At the termination of the suit, the judge hearing the same shall have discretion to save the opposite party harmless from costs caused by the transfer to the regular division, if in his opinion the cause should have been heard in the conciliation division.

- (r) Additional Authority: The Court shall have such additional jurisdiction, powers and duties as may now or hereafter be conferred upon such municipal courts by statute.

SECTION 13. PLACE AND CONDUCT OF COURT, SEAL, ANNUAL REPORT: The City Council shall provide and maintain a suitable place for holding court, and shall furnish necessary supplies, fixtures, furniture, telephone service, dockets, forms, books, postage and stationery for use in the official business of the Court, and shall provide for heating, lighting and daily maintenance of such court room. It may regulate the hours of the Court and it may require monthly reports of the activities and finances of the Court in such form as it prescribes.

Subject to the approval of the City Council, the Municipal Judge may from time to time make and adopt rules of practice for the conduct and regulation of the Municipal Court, which rules may govern the form of all summons, write and other processes issued by such Court, the time and manner of filing and serving pleadings and the forms thereof, the dismissal and adjournment of causes, the entry and setting aside of defaults and default judgments, the extension of time for pleading, and all other matters of pleading, practice and procedure not inconsistent with the provision of the Charter and the ordinances of the City and the statutes of the State.

Said rules may provide that the Clerk of such Court, or any of his deputies, may sign dockets and executions and may approve any bond required in any civil action.

All such rules when approved shall be entered in the civil docket of said Judge when signed by him.

The Municipal Court shall have a seal of office, and copies of all records thereof, duly certified by the Municipal Judge or Court Clerk, under the said seal, to be correct, shall be received in evidence in all of the Courts of this State. The seal shall bear the words, "Municipal Court of the City of Escanaba, Michigan".

The Municipal Judge shall file with the City Council an annual report of the Court and its complete operation for each fiscal year, in such form as the Council, by motion, shall prescribe.

SECTION 14. DOCKET AND ACCOUNTS: The Municipal Judge shall keep, at the place of holding Court, a docket or dockets in the manner required by statute. He shall enter or cause to be entered therein the title of all suits and prosecutions commenced or prosecuted before him and a record of all proceedings therein, including judgments rendered or fines and sentences imposed and all fees and costs, and he shall itemize the amounts and dates of payment of all fines, penalties and forfeitures, moneys and costs received by the Court on account of any suit or prosecution or proceeding. Such docket or dockets shall be submitted by the Municipal Judge at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the Municipal Judge and exhibited to the City Council and the auditors of the City whenever required.

Failure of the Municipal Judge to maintain such docket or dockets and to comply with the provisions of this section shall constitute misconduct in office.

SEC. 15. JURY TRIALS: The trial of cases by jury shall be otherwise conducted as provided by law for trial by jury before Justices of the Peace in townships and cities, provided that it shall be the duty of the Municipal Judge to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of the case. Either party may present written requests to charge to the judge, who shall present all of such requests to the jury as he shall deem to correctly state the law applicable to the case.

The Council may by ordinance provide that jury cases be set for trial upon one or more certain days of each month, or as soon thereafter as such trial can be reached, and may therein establish

terms for the trial of jury cases, and may provide therein that a panel of jurors shall be drawn and certified to the Court Clerk in the manner provided by law for the drawing of Circuit Court jurors, all in accordance with the provisions therefor contained in Section 28 of Public Act 279 of 1909.

SECTION 16. SUBSTITUTE JUDGE OR JUSTICE, TRANSFER OF CAUSES: The Municipal Judge, and the Associate Municipal Judge, if such there be, shall be disqualified to take cognizance of any cause for the reasons set forth by law for the disqualification of Justices of the Peace.

In the event of disqualification of the Municipal Judge and also the Associate Municipal Judge, if such there be, in any cause pending before one of them, or in the event of their absence, such cause, at the time the matter comes before the Court, may be transferred from the Court upon the order of either of them who may be presiding over the Court at that time, or in the case of absence, by the Court Clerk, if such there may be, to any other Municipal Judge of any city in this State or to one of the Justices of the Peace of Delta County, or any other person permitted by law to hear and determine such causes, without notice to the parties in such cause, but a note of transfer shall be entered upon the docket of such cause.

Whenever two or more Judges or Justices, or other proper persons, shall have acted in any one cause or proceeding, the docket shall be signed in the manner and within the time provided by law by the Judge, Justice or other proper person who shall have given the final judgment in such cause.

Any Justice of the Peace or other person acting for the Municipal Judge during his absence or because of his disqualification, as herein provided, shall be compensated by the City at such rate as the City Council, by ordinance, shall determine, and, unless so provided by ordinance, no Justice or other proper person, who shall so act, shall be entitled to compensation therefor, provided, however, that the City Council may provide in its budget an appropriation for the payment of substitute judges, and when such appropriation is provided, the Municipal Judge may engage the services of such substitute judges as may be necessary to carry out the duties of the Court, and upon presentation of a voucher for such services approved by the Municipal Judge requesting such services, such substitute judge shall be compensated from the appropriation so made.

In the event that the Municipal Judge shall be unable to hear and determine cases pending in his Court without unreasonable delay, because of the volume of cases waiting determination, he may request and obtain the assistance of any other Municipal Judge of any city in this State to assist him in the trial of cases and the performance of the duties imposed upon him by law in all matters criminal and civil and in all matters pertaining to violations of the ordinances of the City of Escanaba.

SECTION 17. COURT CLERK: The City Council may provide, by ordinance, for a Court Clerk of the Municipal Court. When so provided by the Council, the Municipal Judge shall appoint such Court Clerk, with the approval of the Council, and he shall serve at the pleasure of the Municipal Judge and shall receive such salary as the Council may by ordinance provide. The Court Clerk may hold other City office or employment.

Such Clerk shall, by virtue of his office, be empowered to administer oaths to persons making affidavits for writs in civil causes, and to issue all processes and test the same in the name of the Municipal Judge, and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all money paid into Court for security of costs, bail or otherwise. The Clerk shall enter a record of the same in books kept by him for that purpose and pay over the same to the authorities of the City or County or other persons entitled to the same by law, and the Council shall cause the books of the said Clerk to be audited at least once a year to ascertain that such books are correctly kept and all moneys received have been properly accounted for.

Such Clerk shall, before entering upon the duties of his office, give bond in such sum as the City Council, by ordinance, shall require, and he shall perform such other duties as may from time to time be prescribed by the Council.

SECTION 18. COURT OFFICER: The City Manager, upon request of the Municipal Judge, may assign a police officer of the City to the Court, who shall have all the duties and powers of court officers of the Circuit Courts of the State, and like powers, authorities and immunities in matters of civil and criminal nature and in relation to the service of processes, civil and criminal, as are conferred by law on constable in the townships. He shall have power also to serve all processes at the pleasure of the City Manager. Such officer shall receive no compensation except such as he may be entitled to as a police officer. All fees and mileage allowances received by such officer in the performance of the duties imposed upon him during his tour of duty shall be paid into the city treasury.

SECTION 19. VACANCIES: If the Municipal Judge shall be disbarred, or if, for any cause provided in this amendment, a vacancy shall occur in the office of Municipal Judge, the City Council shall, except in the case of recall, appoint by motion a qualified and suitable person to serve in such office, until the successor of the Municipal Judge whose office has become vacant, shall be elected for the unexpired term of such Municipal Judge, at the next regular city election and shall have qualified and assumed his office. Any person elected to fill a vacancy in the office of Municipal Judge shall assume office on the first day of January following his election.

SECTION 20. TRAFFIC VIOLATIONS BUREAU: The City Council of the City of Escanaba shall have power and authority to establish by ordinance a Traffic Violations Bureau within the Municipal Court for the handling of cases involving the violation of any ordinance of the City regulating traffic on the streets or alleys or in the parks and public places of the City, other than driving while under the influence of intoxicating liquors or narcotics, failure to stop in the event of an accident, and reckless driving.

In such Bureau, any person who has received notice that he has violated any of such ordinances may, prior to and without the necessity of the issuance of a warrant for his arrest for the alleged violation, and within the time specified in the notice, answer at the Traffic Violations Bureau to the violation set forth in such notice, by paying a uniform fine prescribed by the Municipal Judge, which fine cannot be waived by the Bureau, and costs, and in writing pleading guilty to the violation, waiving the requirement of warrant and arrest and a hearing in court and giving power of attorney to the Court Clerk, or some other person designated by the Municipal Court. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed to be a complete satisfaction for the violation, and the violator shall be given a printed receipt which clearly so states. The creation of such a Bureau by the City Council shall not operate so as to deprive any person of a full and impartial hearing on the violation charged in the Municipal Court, should such person so choose.

SECTION 21. EFFECTIVE DATE: This amendment to the Charter of the City of Escanaba shall take effect and be in force from and after the date of its adoption by the electors of said City.