

**Charter of The City of Caro, Michigan
As Submitted to the State of Michigan**

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PREAMBLE

We, the people of the City of Caro, pursuant to the authority granted by the Constitution and the laws of the State of Michigan, mindful of the ideals and labors of our forefathers, in order to secure the benefits of efficient self-government, and to promote the freedom, health, peace, safety and prosperity for our residents, the community and its members, do hereby ordain and establish this Charter. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation and regional cooperation.

CHAPTER I

NAME AND BOUNDARIES

Section 1.1 NAME

The Municipal Corporation now existing and known as the Village of Caro shall continue as a body corporate and shall henceforth be known as and include the territory constituting the City of Caro, Tuscola County, State of Michigan, on the effective date of this charter.

Section 1.2 BOUNDARIES

- (a) The City shall embrace the territory comprising the existing Village of Caro on the effective date of this charter and additional tracts of land situated in the Townships of Almer and Indianfields in the county of Tuscola as described in a certified copy of the FINAL ORDER OF THE STATE BOUNDARY COMMISSION approving the incorporation of the territory described therein on July 15, 2007, together with such annexations and less such detachments as may be made thereafter. Upon annexation or detachment of territory, the boundaries shall be deemed changed without amendment to this section.
- (b) The clerk shall maintain and keep available in the clerk's office for public inspection the legal description and map of the current boundaries of the City.

Section 1.3 WARDS

The city shall consist of one single ward.

CHAPTER II

GENERAL MUNICIPAL POWERS

Section 2.1 GENERAL POWERS

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

Section 2.2 ADDITIONAL POWERS OF THE CITY

- (a) The city and its officers shall have power to exercise all municipal powers in managing and controlling municipal property and in administering the municipal government, whether such powers are expressly enumerated or not; to do any act to advance the interests of the city, the good government, and prosperity of the municipality and its residents, and through its regularly constituted authority, to pass and enforce all ordinances relating to its municipal concerns, subject to the Constitution and laws of the State of Michigan and the provisions of this charter.
- (b) The city may condemn property if such exercise of power would serve a public necessity according to the authority granted to the City of Caro and governed by the statutes and the Constitution of the State of Michigan and this charter.

Section 2.3 INTERGOVERNMENTAL RELATIONS

The city may join with any municipal corporation or with any other unit or agency of government, whether local, state or federal, or with any number of combinations thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

Section 2.4 INTERPRETATION OF GENERAL POWERS

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this section.

CHAPTER III

ORGANIZATION OF GOVERNMENT

Section 3.1 FORM

The city shall have the council-manager, non-partisan form of government.

Section 3.2 CITY COUNCIL COMPOSITION AND POWER

There shall be a city council consisting of six councilpersons and the mayor, who shall be deemed a member of the council for all purposes. The council shall constitute the legislative and governing body of the city and shall have the power and authority to adopt such ordinances and resolutions, as it shall deem proper in the exercise of its power.

Section 3.3 QUALIFICATIONS OF COUNCIL MEMBERS

The members of the council shall meet the eligibility requirements as set forth herein. The councilperson shall be a resident of the city for a minimum of one year, and shall be a registered elector of the city on the last day for filing nominating petitions or appointment for such for which he or she is a candidate.

Section 3.4 TERMS OF OFFICE OF MAYOR AND COUNCILPERSONS

- (a) There shall be a regular city election held in each odd numbered year.
- (b) There shall be elected from the city at large, a mayor for a term of two (2) years and six (6) councilpersons for terms of four (4) years each.
- (c) At each regular election, the mayor and three (3) councilpersons shall be elected and such additional number of councilpersons as may be required to fill vacancies.
- (d) All terms of office shall commence at the first regularly scheduled or special meeting of council following the date of the election.

Section 3.5 COMPENSATION OF MAYOR AND COUNCILPERSONS

The council shall, by ordinance, from time to time set compensation to be received by the mayor and councilpersons.

Section 3.6 ORGANIZATIONAL MEETING OF COUNCIL; SELECTION OF MAYOR PRO TEM

The council shall hold its organizational meeting at the first regular meeting following the regular city November odd-year election at this time the council shall select a mayor pro tem from its members.

Section 3.7 POWERS AND DUTIES OF MAYOR; MAYOR PRO TEM

- (a) The mayor shall preside at all meetings of the council. The mayor shall be a full voting member of the council but shall have no veto power. He or she shall be the chief executive officer of the city insofar as required by law and for all ceremonial purposes. The mayor shall be the conservator of the peace and shall have the powers conferred by law upon sheriffs in times of emergency to suppress disorder, preserve the public peace and health and safety of persons and property and shall have other emergency powers as permitted by law. He or she shall authenticate by signature, such instruments as may be required under provisions of law. The mayor shall do all acts required of him or her by law.
- (b) The mayor pro tem shall act in place of the mayor in the absence or disability of the Mayor and serve as mayor on an interim basis in the case of a vacancy in that office.

**Section 3.8 COUNCIL'S DEALINGS WITH ADMINISTRATIVE SERVICES;
COUNCIL'S ORDERING OF SUBORDINATES OF CITY MANAGER**

Except for the purpose of inquiries, and investigations under Section 6.8, the council members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. Individual council members shall not give orders to any such officer or employee, either publicly or privately.

CHAPTER IV

ELECTIONS

Section 4.1 QUALIFICATIONS OF ELECTORS

The residents of the city having the qualifications of electors in the State of Michigan who are registered in the city shall be electors in the city.

Section 4.2 PROCEDURE

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

Section 4.3 PRECINCTS

The election precincts of the city shall remain, as they existed on the effective date of this charter unless altered by the elections commission in accordance with the laws of the State of Michigan.

Section 4.4 DATE OF REGULAR CITY ELECTIONS

A non-partisan regular city election shall be held on the first Tuesday following the first Monday of November of odd numbered years.

Section 4.5 SPECIAL ELECTION DATES

Special city elections shall be held when called by resolution of the council at least seventy (70) days in advance of such election, or as otherwise required by law. Any resolution calling a special election shall set forth the purpose of such election. There shall be no more than two (2) special elections in one (1) year, unless otherwise permitted or required by law.

Section 4.6 NOTICE

Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon shall be given by the city clerk as provided in the state election law for the giving of notice by city clerks.

Section 4.7 VOTING HOURS

The polls of all elections shall be opened and closed in accordance with the election laws of the State of Michigan for the opening and closing of polls at state elections.

Section 4.8 NOMINATIONS – GENERALLY

The method of nominations for all candidates for city elections shall be by petition as set forth in the Michigan Election Law, Act 116 of PA 1954 as amended, more particularly MCL 168.542 through 168.558.

Section 4.9 NOMINATIONS – FORM OF PETITION

The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan officers. The city clerk shall provide and maintain a supply of official petition forms.

Section 4.10 NOMINATIONS – APPROVAL OF PETITIONS

The city clerk shall accept only nomination petitions which conform with the forms provided and maintained by the city clerk, by the 8th Tuesday before the election and which, considered together, contain the required number of valid signatures of 15 registered electors for candidates having those qualifications required for the respective elective city offices by this charter. Petitions shall be accepted only when accompanied by an Affidavit of Identity as required by MCL 168.558. The city clerk shall within two business days examine the petitions and investigate the validity and genuineness of signatures submitted and, after the last day specified for receiving and filing nominating petitions, shall certify to the election commission the name and post office address of each candidate whose petitions meet the requirements set forth in the election act. The city clerk shall immediately notify the candidates in writing of his or her determination. Objections to the city clerk’s determination shall be filed by sworn complaint with the county clerk or as otherwise provided by state law.

Section 4.11 NOMINATIONS – WITHDRAWAL OF CANDIDATE

After the filing of a nomination petition by or on behalf of a proposed candidate for a city office, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the city clerk not later than 4:00 o’clock, local time, in the afternoon of the third day after the last day for filing petitions as provided in this charter, unless the third day falls on Saturday, Sunday or city holiday, in which case the notice of withdrawal may be served on the clerk up to 4:00 o’clock, local time, in the afternoon on the next regular business day following said Saturday, Sunday or city holiday.

Section 4.12 PUBLIC INSPECTION OF PETITIONS

All nomination petitions filed shall be open to public inspection in the office of the city clerk.

Section 4.13 ELECTION COMMISSION CREATED; COMPOSITION; DUTIES; COMPENSATION

An Election Commission is hereby created, consisting of the clerk of the City of Caro, and one city official, and one qualified registered elector, both to be appointed by city council not less than forty-five (45) days before each election. The council shall determine compensation, if any, of the members of the Election Commission. The city clerk shall be the chairperson and two (2) members of such board shall constitute a quorum. The commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of the election personnel shall be determined, in advance, by the council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

Section 4.14 FORM OF BALLOT

The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform to that prescribed by statute, except that no party designation or emblem shall appear.

Section 4.15 CUSTODY AND SAFEKEEPING OF REGISTRATION LISTS AND SUPPLIES

The city clerk shall be responsible for the custody and safekeeping of all registration lists and supplies. On Election Day, the city clerk shall deliver them to the respective board of inspectors of election, taking his or her receipt therefore.

Section 4.16 ABSENTEE BALLOTS

The electors of the city shall be entitled to vote by absentee ballots at any city election as provided by statute.

Section 4.17 DETERMINATION OF ELECTION ENDING IN A TIE VOTE

If, at any city election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the Tuscola County Board of Canvassers shall name a date for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by statute.

Section 4.18 RECOUNT

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

Section 4.19 INTERIM ELECTION CYCLE

Subject to Sections 16.5 through 16.7 of this charter, the city council and mayor shall be elected. The mayor shall be elected for a term ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011. Three (3) city councilpersons shall be elected for terms ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011 and three city councilpersons shall be elected for terms ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2013. At each subsequent election, the mayor and councilpersons shall be elected subject to Section 3.4 of this charter.

Section 4.20 PURITY OF ELECTION; STATE LAWFUL AND UNLAWFUL ACTS

All laws of the State of Michigan now in force or hereinafter enacted relating to the purity of elections, and as to what are lawful and what are unlawful acts, shall apply to all elections held under this chapter.

Section 4.21 RECALL

Any elected official may be recalled from office by the electors of the city in the manner provided by statute. The temporary vacancy of a recalled officer may be filled within sixty (60) days by a majority vote of the members of the City Council then in office and shall be effective until a successor shall be elected under the provisions of the Election Code, MCL 168.970 to 168.976.

CHAPTER V

GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL

Section 5.1 ELIGIBILITY FOR OFFICE

- (a) No person shall hold any elective office of the city unless he or she has resided in the City for a minimum of one year and is a registered elector of the city on the last day for filing nominating petitions for such office or prior to his or her appointment to fill a vacancy.
- (b) No person who is in default to the city shall be eligible for any elective or appointive position. The holding of office by any person who is in default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his or her last known place of residence by the city clerk upon the direction of the council, or, unless the officer contests his or her liability for the default in a court of competent jurisdiction.
- (c) No person who holds or has held the office of mayor or councilperson shall be eligible to hold any appointive office for which there is compensation paid by the city until six-months has elapsed following retirement or resignation unless a waiver is granted by the council. This provision would not apply to appointments where nominal compensation may be paid by the city.
- (d) No administrative officer, person holding an appointive position or employee shall hold an elective office of the city unless he or she resigns his or her position with the city upon election or appointment to elective city office.
- (e) All administrative officers (See Section 7.1 of this charter) shall be United States citizens.

Section 5.2 HOLDING OF APPOINTIVE OFFICE OR EMPLOYMENT BY RELATIVE OF ELECTIVE OR ADMINISTRATIVE OFFICER

Unless the council shall by majority vote record as part of its official proceedings, a determination that the best interests of the city shall be served, family members of any elective or administrative officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed. This section shall in no way disqualify such family members who are bona fide appointive officers or employees of the city at the time of the election or appointment of said official.

Section 5.3 OATH OF OFFICE AND BOND REQUIRED

Every officer, elective or appointive, before entering upon the duties of that office, shall qualify by taking the oath of office prescribed for public officers by the Constitution of the State of Michigan, and by filing the oath with the city clerk, together with any bond required by statute, this charter or by the council. In case of failure to comply with the provisions of this section within twenty (20) days from the date he or she is notified in writing of that officer's election or appointment, such officer shall be deemed to have declined the office and such office shall

thereupon become vacant unless the council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 5.4 SURETY BONDS

- (a) Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the council shall, before they enter upon the duties of their respective offices, file with the city an official bond in such form and amount as the council shall direct and approve.
- (b) The official bond of every officer or employee whose duty it may be to receive or pay out money shall be conditioned that he or she will, upon demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him or her as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.
- (c) All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The city clerk shall be custodian of all bonds of all officers or employees except that the city manager shall be custodian of any bonds pertaining solely to the city clerk and/or city clerk-treasurer.

Section 5.5 DELIVERY OF EFFECTS OF OFFICE TO SUCCESSOR OR SUPERIOR WHEN OFFICER OR EMPLOYEE CEASES TO HOLD OFFICE

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he or she shall within five (5) days, or sooner on demand, deliver to his or her successor in office or to that officer's or employee's superior all the books, papers, money, equipment and effects in his or her custody that in any manner pertain to that office. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under the laws of the State of Michigan.

Section 5.6 DECLARATION OF VACANCY IN ELECTIVE OFFICE

The office of city council member or mayor shall become vacant (a) upon the official's death; (b) resignation; (c) removal from office in a manner authorized by this charter or by law; (d) ceasing to possess the qualifications of office required by this charter; (e) unexcused absence from four (4) consecutive regular meetings of council or twenty-five (25%) percent of such meetings in any fiscal year; (f) recall of the elected official; or (g) being found guilty of misconduct of office by a court of competent jurisdiction.

Section 5.7 REMOVAL FROM OFFICE

Removal by the council of elective officers or of members of boards or commissions shall be made for either of the following reasons:

- (a) For any reason specified by statute for removal of city officers by the governor;
- (b) For any act declared by this charter to constitute misconduct in office.

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

Section 5.8 RESIGNATIONS OF ELECTIVE AND APPOINTIVE OFFICERS

Resignation of elective officers and of members of boards and commissions shall be made in writing and filed with the city clerk and shall be acted upon by the council at its next regular or special meeting following receipt thereof by the clerk and is irrevocable upon acceptance. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

Section 5.9 FILLING VACANCIES IN COUNCIL

Except in the case of recall, the council shall fill a vacancy in the office of city council by appointment of a qualified, registered elector within sixty (60) days from the date the vacancy was created. The appointment shall be for the balance of the Term if within thirty (30) months of the expiration of the term. If the unexpired term exceeds thirty (30) months, the appointee shall hold office only until the first council meeting following the date of the next regular city election, at which election the office shall be filled for the remainder of the Term.

Section 5.10 FILLING VACANCIES IN OFFICES

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

Section 5.11 CHANGES IN TERM OF OFFICE

Except by procedures provided by law or in this charter, the terms of office of the elective officers, boards and commissions shall not be shortened or extended beyond the term for which said officer was elected or person appointed, provided that the elected official or appointed person may continue to hold their position or office until a qualified successor is either elected or appointed.

Section 5.12 COMPENSATION OF EMPLOYEES NOT PROVIDED FOR BY CHARTER; BONA FIDE EXPENSES INCURRED IN SERVICE OF CITY

- (a) The compensation of all employees and officers of the city whose compensation is not provided for herein, shall be fixed by the council within the limits of budget appropriations, and in accordance with any pay plan adopted by the council.
- (b) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service on behalf of the city.

Section 5.13 EMPLOYEE RETIREMENT SYSTEM

The council may provide for a retirement system or systems for the city employees.

CHAPTER VI

COUNCIL: PROCEDURES, POWERS AND DUTIES

Section 6.1 REGULAR MEETINGS

The council shall hold at least two (2) meetings each month and provide for the time and place of its regular meetings.

Section 6.2 SPECIAL MEETINGS

Special meetings of the City Council shall be called by the city clerk on the written request of the mayor, or any three (3) members of the council by written notice to each member of the council served personally or left at his or her usual place of residence no less than eighteen (18) hours prior to the time of such meeting. Subject to the requirements of the Open Meetings Act (MCL 15.265), the City Council may meet in emergency session on shorter notice in the event of a severe and imminent threat to the health, safety or welfare of the public.

Section 6.3 BUSINESS OF SPECIAL MEETINGS

No business shall be transacted at any special meetings of the council unless the same shall have been stated in the notice of such meetings. However, any business that might lawfully come before a regular meeting may be transacted at such special meeting if all the members present consent thereto and the business is not in conflict with this charter.

Section 6.4 MEETINGS TO BE IN COMPLIANCE WITH OPEN MEETINGS ACT

All meetings of the City Council shall be held in compliance with the Open Meetings Act, MCL 15.261 to 15.275.

Section 6.5 QUORUM

Four (4) members of the council shall be a quorum for the transaction of business at all meetings of the council. In the absence of a quorum, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

Section 6.6 ATTENDANCE; CONDUCT; SERGEANT-AT-ARMS

- (a) Any three (3) or more members of the council may by vote compel the attendance of its members and other officers of the city at any meeting. Any member of the council or other officer, who when notified of the vote to compel his or her attendance, fails to attend such meeting for reasons other than confining illness or extenuating circumstances, shall be deemed guilty of misconduct in office unless excused by the council.
- (b) The presiding officer shall enforce orderly conduct at meetings and any councilperson or other officer who shall fail to conduct himself or herself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

- (c) Any police officer designated by the presiding officer of the meeting shall serve as the sergeant-at-arms of the council in enforcement of the provisions of this section.

Section 6.7 ORGANIZATION, RULES AND ORDER OF BUSINESS

Each council shall determine its own organization, rules and order of business subject to the following provisions:

- (a) A journal in the English language, of the proceedings of each meeting shall be kept by the city clerk, and shall be signed by the presiding officer and city clerk of the meeting.
- (b) A vote upon all ordinances and resolutions shall be taken by “yes” and “no” vote, and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- (c) Subject to the provisions of the Contracts of Public Services with Public Entities Act (MCL 15.321 et seq.) which governs certain city contracts involving city officers and city employees, any council member who has a potential conflict of interest shall disclose such potential conflict to the presiding officer or city clerk prior to the meeting at which a vote will be taken. If such disclosure is made at a meeting, the vote may be postponed to the next scheduled meeting. This section does not prevent a councilperson from making or participating in making a governmental decision to the extent that the councilperson’s participation is required by law or is exempt by law.
- (d) All council members shall vote on any and all questions in which they do not have a financial interest other than the common public interest or any question concerning his or her conduct, unless excused by unanimous consent of the remaining members present. Any member refusing to vote, except when not required to do so by law or this charter, shall be guilty of misconduct of office.
- (e) In all roll call votes the names of the members of the council shall be called in alphabetical order, and the name to be called first shall be advanced on position alphabetically in each successive roll call.
- (f) Any standing committee of the council shall be composed of at least two (2) members. The council shall not assign the administration of any department or agency of the city to any member or committee of the council.

Section 6.8 INVESTIGATIONS INTO CONDUCT IN OFFICE, EMPLOYEE, ETC; POWER TO SUMMON AND COMPEL ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE

- (a) The council or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office, officer or employee of the city and to make investigations as to matters in which the municipality has an interest. The council, for the purposes stated herein, may

summon witnesses, administer oaths, and compel the attendance of witnesses and the production of books, papers, and other evidence.

- (b) Failure on the part of any officer to obey such summons or to produce books, papers, and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee to obey such summons or to produce books, papers, or other evidence as ordered under the provisions of this section, shall constitute a violation of this charter and such employee when found guilty of such violation by a court with proper jurisdiction may be punished by a fine of not to exceed five hundred (500) dollars, or imprisonment not to exceed ninety (90) days, or both, at the discretion of the court.
- (c) It is provided further that, in case of failure on the part of any person to obey such summons or to produce such books, papers, and other evidence as so ordered, the council may invoke the aid of the Circuit Court of Tuscola County in requiring obedience of such summons or production of such books, papers, and other evidence.

Section 6.9 VOTE REQUIRED FOR THE ADOPTION OF AN ORDINANCE

Except as otherwise provided in this charter, no ordinance shall be adopted or repealed or passed except by the affirmative vote of at least four (4) members of the council unless otherwise provided by law.

Section 6.10 PUBLIC PEACE, HEALTH AND SAFETY

The council shall see that provision is made for the public peace and health, and for the safety of persons and property.

CHAPTER VII

ADMINISTRATIVE SERVICES

Section 7.1 ADMINISTRATIVE OFFICERS GENERALLY

The administrative officers of the city shall be the city manager, city clerk, city treasurer, city assessor and city attorney. The council may, by ordinance or by resolution, establish such additional administrative officers or departments, or combine any administrative officers or departments, in any manner not inconsistent with law or this charter, and prescribe the duties and compensation thereof as it may deem necessary for the proper operation of the city government.

Section 7.2 PERSONNEL SYSTEM

- (a) All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.
- (b) Consistent with all applicable federal and state laws, the city council may provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

Section 7.3 CITY MANAGER – APPOINTMENT; COMPENSATION

- (a) The council shall appoint a city manager within ninety (90) days after any vacancy exists in such position or the council may appoint an acting manager during the period of a vacancy in the office. The city manager, with the consent and approval of the council, may designate an administrative officer or employee of the city to act as city manager if he or she is temporarily absent from the city or unable to perform the duties of his or her office.
- (b) The council shall set the city manager's compensation.
- (c) The city manager shall be the chief administrative officer of the city. The council shall appoint him or her on the basis of education, ability, training and experience.

Section 7.4 CITY MANAGER – FUNCTION AND DUTIES

- (a) The city manager shall be responsible to the council for the proper administration of the affairs of the city, and shall appoint and remove employees of the city and shall make recommendations to the council relative to the appointment and removal of administrative officers of the city as referenced in 7.1. He or she shall set employees compensation within the pay plan adopted by the council, and shall supervise and coordinate the work of all of the administrative offices and departments of the city except, the city attorney and the work of the city clerk, city treasurer and city assessor as dictated by state constitution or statute. The

city manager will be the main point of communication and dissemination of information from the city attorney.

- (b) The city manager shall see that all laws and ordinances are enforced, shall prepare and administer the annual budget under policies formulated by the council and shall keep the council advised as to the financial condition and needs of the city. The city manager shall furnish the council with information concerning city affairs and prepare and submit such reports as may be required or which the council may request. The city manager shall make recommendations to the council relative to all agenda items, except as directly relating to his or her employment. Subject to any employment ordinance of the city, he or she shall employ or be responsible for the employment of all city employees and supervise and coordinate the personnel policies and practices of the city. The city manager or an authorized representative shall establish and maintain a central purchasing service and the city manager shall act as purchasing agent for the city.
- (c) The city manager shall attend all meetings of the council with the right to be heard in all council proceedings but without the right to vote. The city manager shall possess such other powers as may be granted to or required of him or her by the council, so far as may be consistent with the provisions of law. The city manager shall establish any rules necessary to carry out any of the foregoing duties.
- (d) The city manager shall perform such other duties in connection with the office as may be required by law, ordinances or the city council.

Section 7.5 CITY MANAGER – REMOVAL

The city manager serves at the pleasure of the city council and may be removed by an affirmative vote of not less than four (4) of its members.

Section 7.6 CITY CLERK

- (a) The city clerk shall be the clerical officer of the council and shall keep its journal in English. The city clerk shall keep a record of all actions of the council at its regular and special meetings and shall certify all ordinances and resolutions adopted by the council. The council shall appoint him or her on the basis of education, ability, training and experience.
- (b) The city clerk shall have the power to administer all oaths required by law and by the ordinances of the city and shall be the custodian of the city seal, and shall affix the same to documents required to be sealed. The city clerk shall be the custodian of all papers, documents, and records pertaining to the city, which are not entrusted to some other city officer or department by city charter, ordinance or law. All records of the city shall be made available to the general public in compliance with the Freedom of Information Act, MCL 15.231 to 15.246. He or she shall give the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the city is a part and shall notify the council of the failure of any officer or employee required to

take an oath of office or furnish any bond required of him or her. The clerk shall be the chief election officer for the city.

- (c) The city clerk shall perform such other duties in connection with the office as may be required by law, the ordinances or resolutions of the council, or by the city manager.
- (d) The city clerk serves at the pleasure of the city council and may be removed from office by an affirmative vote of at least four (4) of its members.

Section 7.7 CITY TREASURER

- (a) The city treasurer shall have the custody of all moneys of the city and all evidences of value or indebtedness belonging to or held in trust by the city. The city treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the council may determine, and shall report the same to the city manager. The council shall appoint him or her on the basis of education, ability, training and experience.
- (b) The city treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, city taxes and other taxing entities' money as are provided by law for Township Treasurers.
- (c) The city treasurer shall disburse all city funds in accordance with provisions of law and this charter.
- (d) The city treasurer shall establish and maintain a general accounting plan which will conform to such uniform accounting system as may be required by law.
- (e) The city treasurer shall perform such other duties in connection with the office as may be required by law, the ordinances and resolutions of the council, or as directed by the city manager.
- (f) The city treasurer serves at the pleasure of the city council and may be removed by an affirmative vote of not less than four (4) of its members.

Section 7.8 CITY ASSESSOR

- (a) The city assessor shall possess all the power vested in and shall be charged with the duties imposed upon the assessing officer of a Township by law. The council shall appoint him or her on the basis of proper certification by the state assessor's board, education, ability, training and experience.
- (b) The city assessor shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the city.
- (c) The city assessor shall perform such other duties as may be prescribed by law or the ordinances of the city, or by the city manager.
- (d) The city assessor shall be secretary of the Board of Review.

- (e) The city assessor serves at the pleasure of the city council and may be removed by an affirmative vote of not less than four (4) of its members.

Section 7.9 CITY ATTORNEY

- (a) The city attorney shall act as legal advisor and be responsible to the council. The council shall appoint him or her on the basis of education, ability, training and experience.
- (b) The city attorney shall be the legal advisor and counsel for the city.
- (c) The city attorney shall prepare or review all ordinances, regulations, contracts, bonds, and other such instruments as may be required by this charter, the council, or the city manager, and shall promptly give his or her opinion as to the legality thereof.
- (d) The city attorney shall prosecute ordinance violations and shall represent the city in cases before the courts and other tribunals. In such instances as the council shall direct, he or she shall defend officers and employees of the city in actions arising out of the performance of their official duties.
- (e) Upon the city attorney's recommendation, or upon its own initiative, the council may retain special legal counsel to handle any matters in which the city has an interest, or to assist the city attorney.
- (f) The city attorney shall perform such other duties in connection with the office as may be prescribed by this charter, the council or by contractual agreement.
- (g) The city attorney shall comply with the Michigan Rules of Professional Conduct.
- (h) The city attorney serves at the pleasure of the city council and may be removed by an affirmative vote of not less than four (4) of its members.

Section 7.10 POLICE PROTECTION AND FIRE PROTECTION

- (a) The council shall provide for, establish or maintain police protection to enforce all laws, ordinances and codes of the city through the creation of a police department, public safety department, or contract police services by intergovernmental agreement.
- (b) The council shall have power to enact such ordinances and to establish and enforce such regulations and enter into intergovernmental agreements as it shall deem necessary to guard against the occurrence of fires in the city and to protect the property and persons or inhabitants of the city against the occurrence of fires and against accident or damage resulting therefrom. For this purpose, the council may provide for, establish and maintain a Fire Department within the administrative division of the city.
- (c) If the city operates its own police and/or fire department, the police and/or fire chief shall be appointed by the city manager, after consultation with the city

council, on the basis of education, ability, training and experience. The city manager shall supervise and have the authority of dismissal.

Section 7.11 CITY PLANNING COMMISSION; ZONING AND ZONING BOARD OF APPEALS

- (a) The council shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of law relating to such commissions, and this charter including but not limited to the Michigan Planning and Enabling Act 33 of PA 2008 as amended MCL 125.3801 et seq., and all other intergovernmental planning and zoning statutes which it deems beneficial to the health, safety and general welfare of the city.
- (b) The council shall maintain a zoning ordinance in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of PA 2006, as amended MCL 125.3101 et seq. relating to such ordinances and this charter. The ordinance shall provide that zoning be coordinated with the work of the city planning commission.
- (c) The council shall appoint the members of the Planning Commission and Zoning Board of Appeals. Their appointment, functions and duties shall be in accordance with statute and city ordinance.

Section 7.12 ZONING ADMINISTRATOR

The zoning administrator shall enforce the city zoning ordinances and will receive functional and administrative supervision from the city manager. The zoning administrator shall be appointed by the city manager, after consultation with the city council, on the basis of education, ability, training and experience. The city manager shall supervise and have the authority of dismissal.

The Administrator shall:

- (a) Issue all notices and orders to insure compliance with zoning ordinances and recommend prosecution as necessary;
- (b) Process all applications related to zoning compliance, site plans, special land use permits, zoning variances and certificates of occupancy;
- (c) Prepare documents, agendas and supporting information for the planning commission and zoning board of appeals meetings;
- (d) Assess all fees authorized by state statute, city ordinance or city resolution and;
- (e) Perform all other duties as may be prescribed by state law, the ordinances and resolutions of the city council or as directed by the city manager.

Section 7.13 OTHER PUBLIC AUTHORITIES, BOARDS OR COMMISSIONS

- (a) The council may create such entities as may be needed for the public health, safety and well being of the city.

- (b) If an appointed member of an authority, board, commission or other entity developed by the city council is absent from office for four (4) meetings in a row or more than twenty-five (25) percent of the meetings annually, or becomes ineligible, the council may remove the member.

Section 7.14 DEPARTMENT HEAD DISMISSAL: RIGHT TO APPEAL

Any department head permitted to be dismissed by the city manager shall have the right to file an appeal of the dismissal to the city council within ten (10) days of the dismissal. The city council may uphold or override the decision of the city manager.

CHAPTER VIII

LEGISLATION

Section 8.1 STATUS OF CHARTER

This charter shall constitute the governing law of the City of Caro subject only to the Constitution and the general laws of the State of Michigan and of the United States of America.

Section 8.2 PRIOR VILLAGE ORDINANCES AND REGULATIONS

All by-laws, ordinances, resolutions, rules and regulations of the Village of Caro which are not inconsistent with this charter and which are in full force and effect on the effective date of this charter shall continue in full force and effect as by-laws, ordinances, resolutions, rules and regulations of the city until repealed or amended.

Section 8.3 LEGISLATIVE POWERS

The legislative power of the City of Caro is vested exclusively with the council, except as otherwise provided by law.

Section 8.4 FORMS OF LEGISLATION

(a) Resolution or Motion

A resolution or motion shall be limited to matters required or permitted by the charter, or by state or federal laws or pertaining to the internal affairs or concerns of the city government. A resolution is an official council action in the form of a motion adopted by a majority vote of the council members present.

(b) Ordinance

(1) An ordinance is an official council action by an affirmative vote of four (4) or more elected council members except as provided in 8.7(c), emergency ordinances may be adopted by an affirmative vote of three (3) or more council members. An ordinance is a legislative act establishing a more permanent influence on the city than a resolution and requiring greater formalities in its adoption.

(2) The council shall act by ordinance when establishing a rule or regulation that provides for a penalty, when amending or repealing an ordinance previously adopted, or when required by law or this charter.

(3) Each ordinance shall be introduced in written form and identified by a number and short title.

(4) The style of all ordinances passed by council shall be "The City of Caro ordains."

Section 8.5 ACTIONS REQUIRING AN ORDINANCE

- (a) In addition to other acts required by law or by specific charter provisions to be done by ordinance, those council acts shall be by ordinance which:
 - (1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;
 - (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - (3) Grant, renew or extend a franchise;
 - (4) Adopt, with or without amendment, ordinances proposed under the initiative power and;
 - (5) Amend or repeal any ordinance previously adopted, except as otherwise provided by this charter with respect to repealing ordinances reconsidered under the referendum power.
- (b) Acts other than those referred to in Section 8.5(a) may be done either by ordinance or resolution.

Section 8.6 ORDINANCE – ENACTMENT, AMENDMENT, REPEAL

- (a) No ordinance shall be adopted at the same meeting at which it is introduced, except as identified in Section 8.7.
- (b) No ordinance shall be adopted without an affirmative vote of four (4) council members unless otherwise provided by this Charter or State Law.
- (c) An ordinance may be repealed by reference to its number and title.
- (d) No ordinance shall be enacted, amended or repealed until after publication of the proposed ordinance or amendment or repeal, or summary thereof except as identified in Section 8.7.
- (e) A public hearing on all proposed ordinances shall be held at the next regularly scheduled council meeting after it has been proposed, except as identified in Section 8.7.

Section 8.7 ORDINANCE – EMERGENCY

An emergency ordinance shall:

- (a) Be enacted only to meet a public emergency affecting public peace, health, safety or welfare of persons or property;
- (b) Be introduced in the form and manner required for ordinances generally, except that it shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms;

- (c) Be adopted at the meeting at which it is introduced by an affirmative vote of two-thirds (2/3) of council members present and may be given immediate effect upon publication.
- (d) Any emergency ordinance shall also be published in accordance with Section 8.6, but not as a requirement for the effectiveness thereof;
- (e) Be in effect for not more than sixty (60) days or may be renewed for an additional sixty (60) days upon affirmative vote of two-thirds (2/3) of council members present and;
- (f) Not levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; make or amend a grant; or other special privilege.

Section 8.8 ORDINANCE – RECORD

- (a) An ordinance when enacted shall be recorded by the city clerk in a book called “The Ordinance Book.”
- (b) It shall be the duty of the mayor and the city clerk to authenticate such record by their official signatures.

Section 8.9 ORDINANCE – PUBLICATION

- (a) No ordinance is effective until it is published. An ordinance when enacted shall be published forthwith by the city clerk in the manner provided by this charter for publication of notices, or as otherwise provided by law.
- (b) The city clerk’s certificate shall be entered as to the manner and date of publication under each ordinance in The Ordinance Book.
- (c) The council may adopt any detailed technical regulations as a city ordinance by reference to any recognized standard code, official or unofficial, to the extent permitted by law.
- (d) To the extent permitted by law and, if such a code be written in detail for the city and adopted as an ordinance, the publication of a sufficient number of copies in booklet form, available for public distribution at cost, shall be sufficient publication of such ordinance, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

Section 8.10 PENALTIES

The council may provide in any ordinance for the civil or criminal punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine as prescribed by law, or imprisonment as prescribed by law, or both, at the discretion of the court.

Section 8.11 INITIATIVE AND REFERENDUM PETITIONS – GENERALLY

Any ordinance may be initiated by petition, or a referendum on an enacted ordinance may be made by petition as hereinafter provided.

Section 8.12 PETITIONS FOR INITIATIVES AND REFERENDUMS

- (a) An initiative or referendum petition shall be signed by not less than ten percent (10%) of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petitions shall be obtained within thirty (30) days before the date of filing the petition with the city clerk.
- (b) Any such petition shall be addressed to the council and may be the aggregate of two (2) or more petition papers identical as to contents and simultaneously filed by one (1) person.
- (c) An initiative petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance.
- (d) A referendum petition shall identify the ordinance or part thereof it proposes to have repealed.
- (e) Each signer of a petition shall be a registered elector of the city and shall sign his or her name thereon and after his or her name, the date and his or her place of residence by street and number, or by other customary designation.
- (f) To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof, and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant.
- (g) Such petitions shall be filed with the clerk who shall, within fifteen (15) days, verify the signatures thereon.
- (h) If the petition does not contain a sufficient number of signatures of registered electors of the city, the city clerk shall notify forthwith the person filing such petition and fifteen (15) days from such notification shall be allowed for the filing of supplemental petition papers.
- (i) When a petition with sufficient signatures is filed within the time allowed by this section, the city clerk shall present the petition to the council at its next regular meeting.

Section 8.13 PETITIONS – COUNCIL PROCEDURE, SUBMISSION TO ELECTORS

Upon receiving an initiative or referendum petition from the city clerk the council shall, within thirty (30) days, unless otherwise provided by law, either,

- (a) Adopt the ordinance as submitted by initiative petition;
- (b) Repeal the ordinance, or part thereof, referred to by a referendum petition; or
- (c) Determine to submit the proposal provided for in the petition to the electors.

- (d) Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, at the discretion of the council, at a special election called for that specific purpose.
- (e) In the case of an initiative petition, if no election is to be held in the city for any other purpose within one hundred and fifty (150) days from the time the petition is presented to the council and the council does not adopt the ordinance, then the council shall call for a special election within ninety (90) days or as soon thereafter as an election may be permitted by law, from such time for the submission of the initiative petition.
- (f) The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

Section 8.14 GENERAL PROVISIONS; SUSPENSION

- (a) The presentation to the council by the city clerk of a valid referendum petition shall automatically suspend the operation of the ordinance in question pending repeal by the council or final determination by the electors.
- (b) An ordinance adopted by the electorate through initiative proceedings may not be amended or repealed for a period of one (1) year after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of one (1) year after the date of the election at which it was repealed.
- (c) If two (2) or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

Section 8.15 CODIFICATION

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

CHAPTER IX

BUDGETS AND FINANCE

Section 9.1 FISCAL YEAR

The fiscal and budget year of the city shall begin on July 1 and end on June 30.

Section 9.2 BUDGET DOCUMENT

The budget document shall present a complete financial plan for the ensuing fiscal year and shall include those items required by the Uniform Budgeting and Accounting Act 2, of the Public Acts of 1968, as amended MCL 141.421 et seq. and as required by law.

Section 9.3 BUDGET – RECOMMENDED

On or before April 30 each year the city manager shall submit to the council a recommended budget for the next fiscal year which, considering any anticipated unexpended balance or deficit at the end of the current fiscal year, is within the tax limit and other anticipated revenue of the city. Such recommended budget shall include therein at least the following information:

- (a) The detailed estimates by the city manager, with supporting explanation of proposed expenditures for each office, department, and board of the city, with a comparison of the actual expenditures for the corresponding items for the last two (2) fiscal years in full, and the expenditures for the current fiscal year to March 31 and an estimate of the expenditures for the balance of the current fiscal year;
- (b) Statements of the indebtedness of the city, showing the principal and interest requirements for the next fiscal year, the debt authorized and unissued and the condition of the sinking and debt retirement funds, if any;
- (c) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts estimated for and actually received from each of the same or similar sources for the last two (2) years in full, for the current fiscal year to March 31 and estimated revenues therefrom for the balance of the current fiscal year;
- (d) A statement of the estimated accumulated cash and unencumbered balances, or deficits at the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from taxes to be levied, from delinquent taxes, and the amount to be raised from bond issues which, together with available unappropriated funds and any revenues from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting information as the council may request; and
- (g) A multi-year capital improvement program.

Section 9.4 BUDGET – PUBLIC HEARING

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

Section 9.5 BUDGET – ADOPTION

The council shall, not later than June 30, adopt a balanced budget for the ensuing fiscal year and make appropriations therefore. After consideration of probable other revenues the council by resolution shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this charter or by general law.

Section 9.6 BUDGET – CAPITAL IMPROVEMENT BONDS

Any capital improvement items contained in the budget, upon the affirmative vote of not less than four (4) members of the city council, may be financed by the issuance of bonds as a part of the budget system, provided that the amount of such bonds together with the taxes levied for the same year shall not exceed the limit of taxation authorized by law.

Section 9.7 BUDGET – APPROPRIATIONS; CHARGING OF EXPENDITURES; INTERIM ACCOUNTING

- (a) No money shall be drawn from the treasury of the city except in accordance with an appropriation thereof for such specific purposes, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments, which will be due under such obligation in the current fiscal year. Except for funds subject to contractual or statutory limitations, the council may transfer any actual unencumbered appropriation balance, or any portion thereof, from one account, department, fund or agency to another. Any expenditure of city funds shall not be authorized or incurred, except in pursuance with the authority and appropriations of the City Council. All city expenditures shall be incurred in compliance with the requirements of Uniform Budgeting and Accounting Act 2, of the Public Acts of 1968, as amended, MCL 141.421 et seq. and Section 9.11 of this Charter.
- (b) The council may make additional appropriations during the fiscal year for unanticipated expenditures required by the city.
- (c) Except in those cases where there is no other logical account to which expenditures can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation from the contingency fund (or other similar fund) shall be transferred to the logical account, and the expenditure charged to such account.
- (d) At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the city manager shall submit to the council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the council shall

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

Section 9.8 DEPOSITORIES

The council shall designate depositories for city funds in accordance with law, and shall provide for the regular deposit of all city money by the city treasurer, under the direction of the city manager, pursuant to a written investment policy approved by the council.

Section 9.9 INVESTMENTS

Surplus funds may be invested in any manner permitted by law, pursuant to a written investment policy approved by the council.

Section 9.10 INDEPENDENT AUDIT AND REPORT

An independent audit shall be made of all accounts of the city government at least annually and more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants. The auditor's report of the city's business shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finances of the city government.

Section 9.11 WITHDRAWAL OF FUNDS

All funds drawn from the treasury shall be drawn pursuant to the authority and appropriation of the council and upon checks signed by an officer of the city to be designated by resolution of the council. Each such check shall specify the fund or funds from which it is payable and shall be paid from no other fund or funds.

CHAPTER X

TAXATION

Section 10.1 POWER TO TAX

In order to carry out the purposes, powers, and duties of the city government, established by this charter, and subject to state law where applicable, the city may assess, levy, and collect ad valorem taxes, rents, tolls, and excise taxes.

Section 10.2 SUBJECT OF TAXATION

- (a) Exclusive of any levies authorized by law to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed two percent (2%) or twenty (20) mills of the taxable value of all real and personal property in the city.
- (b) The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county, school and any other taxing entities under the general law.
- (c) Except as otherwise provided by this charter, city taxes shall be assessed, levied, collected, and returned in the manner provided by law for Townships.

Section 10.3 TAX DAY

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of December 31, or such other date as may subsequently be required by law, which shall be deemed the tax day. Values on the assessment roll shall be determined according to the facts existing on the tax day for the year for which such roll is made, and no change in the status or location of any such property after that day shall be considered by the assessor or the Board of Review.

Section 10.4 JEOPARDY ASSESSMENTS

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

Section 10.5 ASSESSMENT

The city assessor shall annually place a value, in accordance with law, upon all property, both real and personal, in the city, which is subject to taxation. Such valuation of property shall be in accordance with established assessment rules, techniques, and procedures. The council shall provide for the maintenance of the records and facilities of the office of the city assessor.

Section 10.6 ASSESSMENT ROLL

- (a) Prior to the date of the first meeting of the Board of Review in each year, the city assessor shall prepare and certify an assessment roll of all property in the city, in the manner and form provided in the general tax law of the State of Michigan. Such roll may be divided into volumes that the city assessor shall identify by number, for the purpose of convenience in handling the assessment roll and for locating properties assessed therein. The attachment of any certificate or warrant required by this Article to any volumes of the roll, either as an assessment roll or as a tax roll, shall constitute the attachment thereof to the entire roll, provided the several volumes are identified in such certificate or warrant. Values of property set forth on the assessment roll shall be determined according to recognized methods of systematic assessment.
- (b) The city assessor shall give notice by first class mail to each owner of property which has been added to the assessment roll or the value of which has been increased or decreased on such roll. The notice shall be addressed to the owner according to the records of the city assessor's office and mailed not less than ten (10) days before the date of the convening of the Board of Review. Neither the failure of the city assessor to give notice nor the failure of a person to receive notice shall invalidate any assessment roll or any assessment thereon.

Section 10.7 BOARD OF REVIEW

- (a) A Board of Review is hereby created and composed of three (3) members who shall have the following qualifications: A member shall be a registered elector of the city, and shall have been a resident of the city for at least one (1) year immediately prior to the date of appointment. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation.
- (b) The members of the Board of Review shall be appointed by the council and may be removed for reasons of nonfeasance or misfeasance by a majority vote of the council. The first such Board of Review appointed by the council under the provisions of this charter shall be made up of three (3) qualified members appointed for two (2), three (3), and four (4) year terms. Thereafter, when terms expire, the council shall appoint a member for a three (3) year term at the first regular council meeting in January of each succeeding year. Upon a vacancy due to resignation or otherwise, the council shall appoint a member to fill the remainder of the vacant term. The council shall fix the compensation of the members of the Board.
- (c) An annual organizational meeting of the Board of Review shall be held on the first Monday in March to select one (1) of its members as chairperson for the ensuing year, to review the assessment roll and to examine the guidelines and practices followed in preparing the assessment roll. The city assessor shall be the secretary of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.
- (d) Being elected to an office of the city while serving as a member of the Board of Review shall constitute a resignation from the Board of Review.

Section 10.8 DUTIES AND FUNCTIONS OF BOARD OF REVIEW

- (a) The members of the board of review shall be officers of the city and shall take the oath of office, which shall be filed with the city clerk.
- (b) For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties, in all respects, as are, by law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter.
- (c) At the time, and in the manner provided in the following section, the board of review shall hear the complaints of all persons considering themselves aggrieved by assessments. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board of review shall correct the roll in such manner as it deems just. In all cases, the assessment roll shall be reviewed according to the facts existing on the most recent tax day.
- (d) Except as otherwise provided by law, no person other than the Board of Review shall make any change upon, or addition or correction to, the assessment roll.
- (e) The city assessor shall make a permanent record of all proceedings of the Board of Review and enter therein all its resolutions and decisions. Such record shall be filed with the city clerk on or before the first day of May following the meeting of the board of review.

Section 10.9 NOTICE OF MEETING

Notice of the time of the sessions of the board of review shall be published by the city assessor in a newspaper having general circulation in the city at least one (1) week prior to each session of the board and printed on the assessment notice sent as described in Section 10.6b of this charter.

Section 10.10 MEETINGS; EXAMINATION OF PERSONS APPEARING

The board of review shall meet in two (2) sessions in each year at such place as shall be designated by the council. The first session of the board shall convene on the first Monday in March of each year and may continue in session for three (3) days and as much longer as may be necessary for the purpose of considering and correcting the roll. In each case where the assessed value is increased or any property added to the rolls by the board, the secretary of the board shall give notice to the owners thereof according to the last assessment roll of the city by first class mail as prescribed by statute. The second session of the board shall convene on the third Monday of March of each year and shall continue in session for one (1) day and as much longer as may be necessary for the purpose of hearing appeals of property assessments. The board shall remain in session during such hours as the council may designate.

Section 10.11 CERTIFICATION OF ROLL

After the Board of Review has completed its review of the assessment roll, the majority of its members shall sign a certificate to the effect that the same is the assessment roll of the city for the year in which it has been prepared, as approved by the Board of Review, which certificate, when attached to any volume of the roll, shall constitute a conclusive presumption of the validity of the entire roll.

Section 10.12 VALIDITY OF ASSESSMENT ROLL

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

Section 10.13 CLERK TO CERTIFY LEVY

Within three (3) days after the adoption of the budget for the ensuing year, the city clerk shall certify to the city assessor the total amount which the council determines shall be raised by general taxation, together with such other assessments and lawful charges and amounts which the county and other taxing authorities shall authorize or require to be assessed, reassessed, or charged upon the city tax roll against property or persons.

Section 10.14 CITY TAX ROLL

After the Board of Review has completed its review of the assessment roll, the city assessor shall prepare a tax roll, to be known as the "City Tax Roll." Upon receiving the certification of the several amounts to be raised, assessed, and charged for city taxes, as provided in the preceding section, the city assessor shall proceed forthwith to:

- (a) Spread the amounts of the general city tax according to and in proportion to the several valuations set forth in said assessment roll;
- (b) Place such other assessments and charges upon the roll as are required and authorized by the council and;
- (c) Complete other said tasks as required by law.

Section 10.15 TAX ROLL CERTIFIED FOR COLLECTION

After extending the taxes and placing other assessments and charges upon the roll, the city assessor shall certify said tax roll and attach the city assessor's warrant by the tenth day of June in each year, directing and requiring the city treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting the city treasurer for the purpose of collecting the taxes, assessments, and charges on such roll, all the power and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

Section 10.16 LIENS

All taxes thus assessed shall become a debt due the city as provided by general law and, as of the first day of July of the year of assessment, the said taxes with any applicable charges, fees or penalties shall become a lien upon the property against which they are assessed until paid.

Section 10.17 TAX PAYMENT DATE

City taxes shall be due and payable on the first day of July each year and be delinquent after September 15. Other property taxes as permitted by law shall be due December 1 and be delinquent after February 28th. Unpaid tax assessment charges and penalties shall be turned over for collection by March 1st as provided by statute.

Section 10.18 TAXES DUE – NOTIFICATION THEREOF

The city treasurer shall not be required to make personal demand for the payment of taxes, but, upon receipt of the city tax roll, shall, forthwith, give notice to the taxpayers of the city by forwarding a tax statement to each person named in the tax roll, which mailed statement shall be a sufficient demand for the payment of all taxes assessed. Neither the failure on the part of the city treasurer to mail such statement nor the failure of any person to receive the same, shall invalidate the taxes on the tax roll or release any person or property assessed from the liabilities provided in this charter in case of nonpayment.

Section 10.19 TAX PAYMENT SCHEDULE

The council shall provide by ordinance, for a tax payment schedule and the amount of collection charges, penalties and interest to be added to taxes, charges, and assessments on the city tax roll. When so added, such collection charges, penalties and interest shall be treated in all respects as an item of taxes and collected as such. Any collection charges, penalties and interest shall be collectable in the same manner as taxes, assessments, and charges to which they are added.

Section 10.20 FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX

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

Section 10.21 STATE, COUNTY AND SCHOOL TAXES

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

Council may by ordinance, establish up to one percent (1%) property tax administration fee to add to all taxes levied by other taxing jurisdictions on real or personal property within the boundaries of the city.

Section 10.22 PROTECTION OF CITY LIEN

The city shall have the power, insofar as the exercise thereof shall not conflict with or contravene the provisions of law, to acquire such interest in any premises within the city, by purchase at any tax or other public sale, or by direct purchase from or negotiation with the State of Michigan or the owner, as may be necessary to assure to the city the collection of its taxes, special assessments, charges and any interest thereon which are levied against any lot or parcel of real property or to protect the lien of the city therefore, and may hold, lease, or sell the same. Any such procedure exercised by the city to assure the collection of its taxes or the protection of its tax or other liens shall be deemed to be for a public purpose. The council may adopt any ordinance, which may be reasonably necessary to make this section effective.

Section 10.23 TAX ROLL TO COUNTY TREASURER

All taxes, special assessments, charges, and collection fees, on the city tax roll which remain unpaid on the first day of March following the date when said roll was received by the city treasurer shall, on that date, become delinquent and shall be returned to the County treasurer at the time and in the same manner and with like effect as returns by township treasurers of township, school, and county taxes.

Such returns shall be made upon a delinquent tax roll to be prepared by the city treasurer and shall include all the additional charges which shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes, assessments, charges, and fees, thus returned shall be collected in the same manner as taxes returned to the County Treasurer are collected under the provisions of the general laws of the State of Michigan and shall be and remain a lien upon the lands against which they are assessed until paid.

Section 10.24 CITY INCOME TAX

No City income tax shall be levied without an approving vote of a majority of city electors voting thereon at a special or city election or as otherwise permitted by law.

CHAPTER XI

SPECIAL ASSESSMENTS

Section 11.1 GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS

The council shall have the power to determine the necessity of public improvements within the city, and to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property or properties especially benefited in proportion to the benefits derived or to be derived. The council shall also have the power of reassessment with respect to any such public improvement.

Section 11.2 PROCEDURE FIXED BY ORDINANCE

The council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, the preparation of plans and cost estimates, the creation of special assessment districts, notices and hearings, making and confirming the assessment rolls, the correction of errors in such rolls, the collection of special assessments, and any other matters concerning the making and financing of improvements by special assessment.

Section 11.3 RECONSIDERATION OF PETITIONS

In the event that the council shall fail to make any public improvement petitioned for as required by ordinance during the calendar year during which the petition is filed because of lack of funds therefore, such petition shall be reconsidered by the council prior to the first day of March of the succeeding calendar year for the purpose of determining whether such improvement should be made during such fiscal year.

Section 11.4 CONDEMNATION COSTS

The cost of condemning or otherwise acquiring property needed for any public improvement shall constitute a part of the cost of the improvement.

Section 11.5 LIEN AND COLLECTION OF SPECIAL ASSESSMENTS

Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid shall be a lien upon the property assessed for the amount of such assessments and all interest and charges which may accrue thereon. Such lien shall be of the same character and effect as that created by this charter for city taxes and shall be treated as such in all procedures for the collection of special assessments and all collection fees or charges and interest, which may have been added or accumulated thereto.

Section 11.6 SPECIAL ASSESSMENT ACCOUNT

Moneys raised by special assessment for any public improvement shall be credited to a special assessment account, and shall be used to pay the special assessment portion of the cost of the improvement for which the assessment was levied and of expenses incidental thereto, including the repayment of the principal of and interest on money borrowed therefore, and to refund excessive assessments if refunds be authorized.

Section 11.7 CERTAIN POSTPONEMENTS OF PAYMENTS

The council may provide that any person who, in the opinion of the city assessor and not less than five (5) members of the council, by reason of poverty is unable to continue payments toward the cost of the making of a public improvement, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by him or her and benefited by any public improvement, which lien will mature and be effective from and after the execution of such instrument, shall be recorded with the Register of Deeds of Tuscola County, and shall not be discharged or released until the terms thereof are met in full. The council shall establish the procedure for making this section effective.

Section 11.8 ALL REAL PROPERTY LIABLE FOR SPECIAL ASSESSMENTS

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

Section 11.9 SPECIFIC ASSESSMENT POWERS

In accordance with its general power to determine the necessity for any public improvement and to defray the cost, in whole or in part, by special assessments, the city shall have the power:

- (a) To install and connect sewers and waterworks for property within the city and to finance the same, in whole or in part, by special assessments;
- (b) To construct, grade and pave local streets within the city and to finance the same, in whole or in part, by special assessments provided that any subsequent cost of repaving or maintaining such local streets shall not be financed by special assessments but shall be paid from the general funds of the city and;
- (c) To require of an owner of real property within the city to abate public hazards and nuisances thereon which are dangerous to the health, safety or general welfare of the inhabitants of the city within a reasonable time after the council notifies the owner that such hazard or nuisance exists, and if the owner fails to comply with such requirements to abate such hazard or nuisance, to assess a reasonable cost against such property.

Section 11.10 CORRECTION OF INVALID SPECIAL ASSESSMENTS

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for in the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment, refunds shall be made. Unless challenged by a successful appeal to the courts, no act of the council vacating a special assessment shall destroy or impair the lien of the city upon

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

CHAPTER XII

BORROWING

Section 12.1 GENERAL POWER

Subject to the applicable provisions of law, the city may borrow money for any purpose within the scope of its powers, and may issue bonds or other evidence of indebtedness therefor.

Section 12.2 LIMITS OF BORROWING AUTHORITY

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

Section 12.3 USE OF BORROWED FUNDS

Each bond or other evidence of indebtedness shall contain on its face a statement of the purpose for which the same is issued and no officer of the city shall use the proceeds thereof for any other purpose, except that whenever the proceeds of any bond issue, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of such unexpended and unencumbered funds as provided in this section, which use shall be subject to the approval of the Michigan Department of Treasury where required:

- (a) For an additional extension or improvement of facility or project for which the bond issue was made;
- (b) For the retirement of such bond issue;
- (c) If such bond issue has been fully retired or funds are segregated which are adequate for such purpose, then for the retirement of other bonds or obligations of the city;

- (d) If there is no other indebtedness, or funds are segregated which are adequate for such purpose, then for such other purposes as may be permitted by law.

Section 12.4 SEPARATION OF SPECIAL ASSESSMENT COLLECTIONS; PAYMENT OF DEFICIENCY IN SPECIAL ASSESSMENTS

All collections on each special assessment roll or combination of rolls, in anticipation of which bonds have been issued, shall be set apart in a separate fund (but not necessarily in a separate bank account) and shall be used for the purpose for which levied and for the payment of the principal and interest on such bonds. If there is any deficiency in a special assessment fund to meet the payment of the principal or interest to be paid therefrom, money shall be advanced from the general funds of the city to meet such deficiency and shall be replaced in the general fund when the special assessment fund shall be sufficient therefor.

Section 12.5 BOND INTEREST RATES

No bond or other evidence of indebtedness of the city shall bear interest at a rate that exceeds a rate ceiling imposed by state law.

Section 12.6 EXECUTION OF BONDS

All bonds issued by the city shall be signed by the mayor and countersigned by the city clerk and shall bear the corporate seal of the city. Said signatures of the mayor and the city clerk and the seal of the city may be by facsimile if permitted by law.

Section 12.7 RECORDS OF BONDS AND OTHER EVIDENCE OF INDEBTEDNESS; CANCELLATION

The city treasurer shall keep a detailed record of all bonds and other evidence of indebtedness. Upon payment of bonds or other evidence of indebtedness the same shall be cancelled.

Section 12.8 PREPARATION AND RECORDS OF BONDS

Each bond or other evidence of indebtedness shall contain a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of said funds for the retirement of bonds of said issue or for any other purpose permitted by law.

CHAPTER XIII

PURCHASES, SALES, CONTRACTS AND LEASES

Section 13.1 ESTABLISHMENT OF PROCEDURES BY ORDINANCE

The city council shall provide for, by ordinance based upon a national standard, a purchasing procedure to be followed in purchasing city supplies, materials, equipment, contractual service, or other forms of personal property. Before making any such purchase or contract to purchase, competitive bids shall be obtained, except:

- (a) In the securing of professional services for the city;
- (b) When the purchasing agent for the city is exempted by the purchasing ordinance because of value or when the city council shall determine that no advantage to the city would result from competitive bidding or;
- (c) Upon the occurrence of an emergency.

The city council shall provide in the ordinance required by this section the definition of “lowest responsible bidder,” the dollar limit within which the purchasing agent of the city may make purchases without the necessity of obtaining competitive bids and the dollar limit within which purchases may be made without the necessity of council approval.

Section 13.2 PURCHASE, SALE AND LEASE OF PROPERTY

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

Section 13.3 LIMITATIONS ON CONTRACTUAL POWER

- (a) No contract shall be made with any person, firm or corporation in default to the city.
- (b) The council’s power to sell or dispose of any real property shall be conditioned on the conducting of a public hearing thereon and receiving five (5) affirmative council votes and the requisite electoral approval if required by law.

Section 13.4 INSTALLMENT CONTRACTS

The city may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than that permitted by law nor shall the total amount of principal payments under all such contracts exceed a sum permitted by law. Each such payment shall be included in the budget for the year in which each respective installment is payable.

Section 13.5 RESTRICTION ON POWERS TO SELL OR LEASE PROPERTY

The city may not sell any park or cemetery or any part thereof unless the sale is permitted by an affirmative majority of five (5) persons on council and a majority of the city electors voting on the proposed sale.

The transfer or assignment of any agreement or contract for the renting or leasing of public property may be made only upon approval of the council, but approval of such transfer shall not be subject to referendum.

CHAPTER XIV

UTILITIES, FRANCHISES AND PERMITS

Section 14.1 GENERAL POWERS

The city shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, maintain, encumber, convey, dispose of or sell, either within or without its corporate limits, public utilities, including, but not by the way of limitation public utilities for treating and supplying water and for supplying light, heat, power, gas, sewage treatment, garbage disposal; and also to sell and deliver the products or services thereof, both within and without its corporate limits, subject to the limitations herein contained. The power to supply said utilities services, as herein possessed and reserved, shall include the power to extract, process, manufacture, transport or purchase the same from others.

Section 14.2 ADMINISTRATION OF MUNICIPALLY OWNED AND OPERATED UTILITIES

- (a) All municipally owned and operated utilities shall be administered as a regular department of the city government under the management and supervision of the city manager.
- (b) The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the city may, in any manner acquire, own, or operate and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the city by the provisions of this charter and by law.

Section 14.3 RATES

- (a) The council shall fix just and reasonable rates and such other charges as may be deemed advisable for supplying municipal utility services and as permitted by law. Discrimination in rates by the council, within any classification of users, shall not be permitted, nor shall free service be permitted other than to the city, but higher rates may be charged for utility services delivered or furnished beyond the corporate limits of the city.
- (b) The rates and charges for any municipal utility shall be fixed on a basis at least adequate to compensate the city for the cost of such service and to make reasonable provision for the extension thereof according to the needs of the city. Transactions pertaining to the ownership and operation of each municipal utility shall be recorded in a separate group of accounts, which shall be classified in accordance with generally accepted accounting practices. Charges for all service furnished to, or rendered by, other city departments or administrative units shall be recorded, whether collected or not. An annual report shall be prepared to show the financial position of each utility and the results of its operation. A copy of such reports shall be available for inspection at the office of the city clerk.

Section 14.4 COLLECTION OF MUNICIPAL UTILITY RATES AND CHARGES

- (a) The council shall provide by ordinance for the collection of rates and charges for public utility services furnished by the city. When any person fails or refuses to pay to the city any sums due on utility bills, the service upon which such delinquency exists may be discontinued and suit may be brought for the collection thereof.
- (b) Except as otherwise provided by law, the city shall have a lien upon the premises to which utility services are supplied and, for such purposes, shall have all the powers granted to cities by law. The lien shall become effective immediately on the distribution or supplying of utility services to such premises. In each case where a lien to secure the payment of utility charges is not available to the city by operation of law or otherwise, the council shall require that an adequate deposit be made by the person to whom city utility services are furnished, for the purpose of guaranteeing the collection of charges for such utility services.
- (c) Insofar as permitted by law, all unpaid charges for utility services to any such premises, which, on the thirty-first day of March of each year, have remained unpaid for a period of six (6) months or more, shall be reported to the council by the city manager at the first meeting thereof in the month of April. The council thereupon shall order the publication in a newspaper of general circulation in the city of notice that all such unpaid utility charges not paid by the thirtieth day of April will be spread upon the city's tax roll against the premises to which such utility services were supplied or furnished, and such charges shall then be spread upon the city's tax roll and shall be collected in the same manner as the city taxes.

Section 14.5 ACCOUNTS AND FINANCES OF PUBLIC UTILITIES

Separate accounts termed Enterprise Funds shall be kept for each public utility owned and operated by the city. Such accounts shall be classified and made in accordance with general accounting practice. Charges for all services furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show more accurately the financial position of the utility and the results of its operations which report shall be on file in the office of the city clerk for inspection. Such system of accounts shall conform to the Uniform System of Accounts as required by State law.

Section 14.6 DISPOSAL OF MUNICIPAL UTILITY PLANTS AND PROPERTY

The city shall not sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of any municipal public utility, unless the proposition to do so is approved by at least three-fifths (3/5) of the electors of the city voting on the question at a regular or special city election. All contracts, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of any municipally owned public utility, which are no longer useful or which are replaced by new machinery or equipment, or to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or interests in property.

Section 14.7 PUBLIC UTILITY FRANCHISES

Insofar as permitted by law the city may grant a franchise to any person for the use of the streets, alleys, bridges, and other public places of the city for the furnishing of any public utility,

electronic, telephonic, video or communications service to the city and its inhabitants as may be permitted by law. Franchises and renewals, amendments, and extensions thereof shall be granted only by ordinance. Public utility franchises shall include provisions for fixing rates and charges and may provide for readjustments thereof at periodic intervals. The city may, with respect to any public utility franchise granted after the effective date of this charter, whether or not so provided in the granting ordinance:

- (a) Terminate the same for the violation of any of its provisions, for the misuse or nonuse thereof, for failure to comply with any provision thereof, or any regulation imposed under authority of this section;
- (b) Require proper and adequate extension of plant and the maintenance thereof at the highest practicable standard of efficiency;
- (c) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (d) Impose other regulations determined by the council to be conducive to the health, safety, welfare, and convenience of the public;
- (e) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, and public places, by the city and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor, and, in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- (f) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges and public places, that arises from its use thereof, and to protect and save the city harmless from all damages arising from such use and;
- (g) Require the public utility to file with the city manager such drawings and maps of the location and nature of its facilities, as the council may request.

Section 14.8 PUBLIC UTILITY FRANCHISES – GRANTING

- (a) Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted only by ordinance or as otherwise provided by law. No franchise shall be granted for a longer period than thirty (30) years.
- (b) Unless otherwise preempted by state or federal law, no franchise ordinance, which is not subject to revocation at the will of the council, shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths (3/5) of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application therefore has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the city clerk his or her unconditional acceptance of all the terms of such franchise. No special election

for such purpose shall be ordered unless the expense of holding such election, as determined by the council, shall have been first paid to the city treasurer by the grantee.

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

Section 14.9 PUBLIC UTILITY FRANCHISES – CONDITIONS

Unless otherwise preempted by state or federal law, all public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the council to insert in such franchise any provision within the power of the city to impose or require:

- (a) To repeal the same for misuse, non-use, or failure to comply with the provisions thereof;
- (b) To require adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire length thereof;
- (e) To use, control, and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them and;
- (f) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare and accommodation of the public.

Section 14.10 AVAILABILITY OF PROPOSED ORDINANCES

Every ordinance granting a franchise, license, or right to occupy or use streets, alleys, bridges, or public places shall remain on file with the city clerk for public inspection in its final form for at least four (4) weeks before the final adoption thereof, or the approval thereof for referral to the electorate.

Section 14.11 PLANS OF FACILITIES IN STREETS AND PUBLIC PLACES

- (a) The council may, by ordinance, require as a condition to the placing or installment thereof, that each public utility conducting a business in the city, file with the city manager a duplicate copy of layout plans of pipes, conduits, and other facilities which are to be placed on, under, or above the surface of the city's streets, alleys, bridges, and public places.

- (b) To the extent permitted by law, every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city, by the city and other utilities insofar as such joint use may be reasonably practicable, and upon payment of reasonable rental therefore. In the absence of agreement and upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor.

Section 14.12 TEMPORARY PERMITS

Temporary permits for public utilities, revocable at any time at the will of the council, may be granted by the council by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. A temporary permit shall be subject to the rights of the city to make independent audit and examination of accounts at any time and to require reports annually or at more frequent intervals as prescribed by resolution of the council. When the council deems it in the public interest, such permits may be exclusive.

Section 14.13 EXISTING FRANCHISES AND PERMITS

All franchises and permits to which the Village of Caro is a party when this charter becomes effective shall remain in full force and effect according to each agreement.

Section 14.14 PURCHASE – CONDEMNATION

The city shall have the right to acquire by condemnation, or otherwise, the property of any public utility in accordance with general law.

CHAPTER XV

MISCELLANEOUS

Section 15.1 LIABILITY OF CITY; PROCEDURE FOR FILING CLAIM

The city shall have all the governmental immunities from claims for damages for injury to persons or property as may be permitted by state law. The procedures in regard to filing of claims and disposition of the same shall be as permitted by state law.

Section 15.2 RECORDS

All records of the city shall be made available to the general public in compliance with the Freedom of Information Act, MCL 15.231 to 15.246 and shall be kept in city offices except when required for official reasons or for purpose of safe keeping to be elsewhere.

Section 15.3 ESTOPPEL AGAINST CITY

No estoppel may be created against the city.

Section 15.4 PROCESSES AGAINST CITY

All processes against the city shall run against the city in the corporate name thereof, and may be served by delivering a true copy to the mayor or city clerk.

Section 15.5 TRUSTS FOR MUNICIPAL PURPOSES

All trusts established for any municipal purpose shall be used and contained in accordance with the terms of such trust subject to the cy pres doctrine. The council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes, except in cases where the cy pres doctrine shall apply.

Section 15.6 QUORUM GENERALLY

Except as provided otherwise in this charter, a quorum of any board or commission created by and pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but not less than two (2) members.

Section 15.7 SATURDAYS, SUNDAYS OR CITY HOLIDAYS

Whenever the date fixed by this charter for the doing or completion of any act falls on a Saturday, Sunday or city holiday, such act shall be done or completed on the next succeeding day that is not a Saturday, Sunday or city holiday.

Section 15.8 CHAPTER, SECTION AND SUBSECTION HEADINGS OF CHARTER

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

Section 15.9 AMENDMENT OF CHARTER

This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments adopted at the same election have conflicting provisions, the one (1) receiving the largest affirmative vote shall prevail as to those provisions.

Section 15.10 SEVERABILITY OF CHARTER PROVISIONS

Should any provision or section, or portion thereof, of this charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section, it being hereby declared to be the intent of the charter commission, and of the electors who voted thereon, that such unconstitutionality or illegality shall not affect the validity of any other part of this charter.

Section 15.11 DEFINITIONS - GENERALLY

Except as otherwise specifically provided or indicated by the context or is further extended and defined:

- (a) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.
- (b) The singular number shall include the plural, the plural number shall include the singular and masculine gender shall extend to and include the feminine gender and the neuter.
- (c) The word “person” may extend and be applied to an individual, partnership, corporation, association, other legal entities, or a combination of them.
- (d) The word “printed” and “printing” shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar reproduction method.
- (e) Except in reference to signatures, the words “written” and “in writing” shall include printing and typewriting and any other currently acceptable similar method.
- (f) The word “officer” shall include the mayor and other members of the council and administrative officers.
- (g) The word “employee” shall mean those persons not holding elective or appointive office, one who is generally subordinate to the officer and performs only those duties specifically assigned by a contract, department head, or other governmental body.
- (h) The word estoppel shall mean “as being estopped or prevented from denying or asserting something, on the ground that to do so contradicts what has already been admitted or denied, either explicitly in words or implicitly by actions.”
- (i) The word “default” shall include being delinquent in payment of taxes or municipal utility charges for more than thirty (30) days unless the default is being tested in a court or tribunal.

- (j) The word “statute” shall denote the Public Acts of the State of Michigan and any amendments thereto in effect at the time the provision of the charter containing the word “statute” is to be applied.
- (k) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.
- (l) The words “state law” shall denote the statutes of the State of Michigan and the applicable common law.
- (m) All reference to section numbers shall refer to section numbers of this charter.
- (n) The word “city” shall mean the City of Caro.
- (o) The word “council” shall mean the council of the City of Caro.
- (p) The words “public utility” shall include all common carriers in the public streets; water; sewage disposal; electric light and power; gas; telephone and telegraph lines and systems; cable television; garbage and refuse collection and disposal and reduction plants; and such other and different enterprises as the council may determine or designate.
- (q) For the purpose of this charter, the offense of “misconduct in office” includes doing a wrongful act, doing a lawful act in a wrongful manner, and failure to perform an act required by the duties of the office or by rule established by the city council.
- (r) “Public record” means any writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. A Public record is subject to the Freedom of Information Act, MCL 15.231 to 15.246.
- (s) The word “family” shall include: spouse, child, grandchild, father, mother, grandmother, grandfather, sister, half-sister, brother, half-brother and spouse of any of them, and all such relationships arising from adoption.
- (t) The term “member of the council” shall mean all elected or appointed members of the council.
- (u) The word “situs” shall mean where the property is treated as being located for legal purposes.
- (v) The word “cy pres” shall mean “as near as possible” or “as near as may be.”
- (w) “Department Head” shall include any Police Chief, any Fire Chief, any Public Safety Director, any DPW Superintendent, any WWTP Superintendent, any Zoning Administrator and the head of any other department established by the council.

Section 15.12 DEFINITION OF PUBLICATION AND MAILING OF NOTICES

Unless as otherwise required by law, the requirement contained in this Charter for the publishing or publication of notices, ordinances or proceedings of city council or other city boards, commissions or authorities, shall be met by publishing (a) at least once in a newspaper published in the English language for news of general character, with general circulation at regular intervals in the city for at least one (1) year immediately prior to the publication of the notice (b) by posting in at least three (3) conspicuous places within the city, or (c) by posting on the City's web site, cable site and/or the internet. Prima facie evidence of such publication shall be in the form of an affidavit of the printer or publisher of the newspaper, or his or her foreman or principal clerk attached to a copy of the notice.

In the case in which the charter requires the mailing or posting of notices around the city or on the internet, the affidavit of the officer or employee responsible for such mailing or posting, that such notice was mailed or posted shall be prima facie evidence of such mailing or posting.

Section 15.13 VESTED RIGHTS

After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the Village of Caro. No right or liability, either in favor or against the village, existing at the time of this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the village shall be the debts and liabilities of the city and all fines and penalties imposed at the time of such change shall be collected.

CHAPTER XVI

TRANSITION

Section 16.1 PURPOSE

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

Section 16.2 ELECTION TO ADOPT

This charter shall be submitted to a vote of the registered electors of the territory comprising the proposed City of Caro, as described in Section 1.2 BOUNDARIES of this charter, at an election to be scheduled by resolution of the Charter Commission, subsequent to the approval of this charter by the Governor, to be held between the hours of 7 a.m. and 8 p.m. local time. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. The Charter Commission shall conduct the election, provided that the Charter Commission may delegate such responsibilities, as it deems proper to the village clerk and other local officials.

Section 16.3 FORM OF BALLOT

The form of the ballot for the submission of this charter shall be as follows: Instructions: A mark in the square before the word "Yes" is in favor of the proposed charter, and a mark in the square before the word "No" is against the proposed charter. Shall the proposed Charter for the City of Caro, drafted by the Charter Commission elected on November 4, 2008 be adopted?

_____ Yes _____ No

Section 16.4 EFFECTIVE DATE OF CHARTER

If the voters approve adoption of this charter, then two (2) printed copies thereof, with the vote for and against duly certified by the Board of Canvassers, within thirty (30) days after the vote is taken, shall be filed by the Village Clerk with the Secretary of State and a like number with the Tuscola County Clerk. On the date the aforementioned filings have been accomplished, this charter shall be effective for all purposes.

Section 16.5 FIRST ELECTION

An election to elect the first city mayor and city council shall be held on the same date as the election at which the charter is submitted for adoption as provided in 16.2 of this charter.

- (a) Candidates for Mayor and for City Council who shall be duly registered electors of the territory comprising the proposed City of Caro and who shall have been residents of the territory comprising the proposed City of Caro for one (1) year immediately prior to the election shall file petitions signed by not less than fifteen (15) registered electors of the territory comprising the proposed City of Caro and filed with the Village Clerk by 4:00 p.m. Local Time, on the Tuesday which is the eight (8) weeks prior to the election date. The Village Clerk shall publish notice of the last day and time of filing of petitions, which notice shall be published in the Tuscola County Advertiser. Such petitions shall be in the form designated by

statute for the use in nominations for nonpartisan office. The manner of approval of nominating petitions and of those who qualify to sign shall be as outlined in this proposed Charter and shall be administered by the Village Clerk or other election officials as appropriate.

- (b) The mayoral candidate receiving the highest number of votes shall have a term beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011.
- (c) The three (3) council candidates receiving the three (3) highest numbers of votes shall have terms beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2013.
- (d) The three (3) council candidates receiving the three (3) next highest numbers of votes shall have terms beginning at 12:01 a.m. on the date this charter becomes effective and ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011.

Section 16.6 SUBSEQUENT ELECTIONS

Henceforth, the elections for the city mayor and city council shall be held as set forth in Section 3.4 of this charter.

Section 16.7 ADMINISTRATIVE OFFICERS AND EMPLOYEES

- (a) Nothing in this charter except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are village officers or employees at the time of its adoption.
- (b) Except as specifically provided by this charter, if at the time this charter takes full effect a village administrative officer or employee holds an office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.
- (c) An employee holding a village position at the time this charter takes full effect, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in Section 7.2 of this charter.

Section 16.8 TRANSFER OF PROPERTY AND RECORDS

All property, records and equipment of any department, office or agency of the Village of Caro existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties.

Section 16.9 COUNCIL MEETINGS

The first meeting of the council shall be held on the first Monday following the effective date of the charter. The council shall meet at 7:30 p.m. at the City of Caro Offices, 317 South State Street, Caro, Michigan 48723, for the following purposes:

- (a) The adoption of ordinances and resolutions including those for appropriations necessary to affect the transition of government under this charter and to maintain effective city government during that transition and;
- (b) To conduct any other council business as may come before it.

Section 16.10 TEMPORARY ORDINANCES

In adopting ordinances as provided in Section 16.9(a), the council shall follow the procedures prescribed in Chapter VIII, except that at its first meeting or any meeting held within sixty (60) days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon its adoption, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, renewed or otherwise continued except by adoption in the manner prescribed in Chapter VIII for ordinances of the kind concerned. No ordinance shall be operative until published by the city.

Section 16.11 COUNCIL ACTION

In all cases involving the transition to the city government from that in existence prior to adoption of this charter, which are not covered by this Article, the council shall supply necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefor.

Section 16.12 INITIAL EXPENSES

Initial expenses of the city shall be paid by the city subject to an interim financial budget adopted by resolution of City Council. There shall be an audit of this interim fiscal period in accordance with the provisions of Section 9.10 of this charter.

Section 16.13 PENDING MATTERS

All rights, claims, actions, orders, contracts and legal administrative proceedings of the Village of Caro shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

Section 16.14 VESTED RIGHTS AND LIABILITIES

After the effective date of this charter, the city and all its agencies shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books and papers, belonging to the Village of Caro under and by virtue of the General Law Village Act, MCL 61.1 et seq. No right or liability, contract, lease, or franchise, either in favor of or against the village, existing at the time this charter became effective, and no suit or prosecution of any character shall be affected in any manner by any change resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All taxes, debts, and liabilities due to the village from any person, and all fines and penalties, imposed and existing at the time of such change, shall be collected by the city. All trusts established for any municipal purpose shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

Section 16.15 VILLAGE ORDINANCES, RESOLUTIONS, ORDERS AND REGULATIONS

All village ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or the ordinances or resolutions adopted pursuant thereto.

