



**TY OF
SKEGON
RIGHTS
ARTER**

CHARTER OF THE CITY OF MUSKEGON HEIGHTS

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PREAMBLE TO THE CHARTER OF THE CITY OF MUSKEGON HEIGHTS

This revision to the Charter of the City of Muskegon Heights reflects present concerns and sensitivities of local government in its current work and as it prepares for the future. The document is a further expression of Michigan home rule which provides community self-determination within the framework of law.

It is imperative that a high degree of professionalism be maintained in order to keep pace with changes in the environment in which the City operates. Maintaining the community's dedication to the Council-Manager form of government, which combines the strong political leadership of elected officials in the form of the City Council, with the strong managerial experience of an appointed local government manager, will allow the City to continue serving its residents in an efficient and effective manner.

The Charter recognizes the need to plan for inevitable change and to direct it where possible. Expansions of law and advances in technology signal changes in the governing process. Persons in municipal service are therefore advised to continue related education and training programs.

As the community changes and the demand for services intensifies, imperatives arise for joint ventures with neighboring municipalities. The Charter recognizes the need for cooperative efforts.

Every community is defined by its culture. The citizens of the City of Muskegon Heights recognize the economic and social importance of having cultural amenities which will allow a desired quality of life to be enjoyed here.

Conservation of precious resources, both natural and human, is a health, safety, and welfare consideration central to local government. It is hoped that policy-making will focus on the protection of the environment at every step.

Plans which affect citizens generally are to be shared by government. The Charter recognizes that the good of the community is the paramount concern of the government and that citizen input should be utilized to determine what is in the best interest of the City of Muskegon Heights. Accordingly, the City will undertake to keep the public informed about issues affecting the community.

The Charter claims the broadest powers available within the home rule framework. It is hoped that the advantages afforded by this system will be valued by future generations who live and prosper within the City of Muskegon Heights.

ARTICLE I
POWERS OF THE CITY

Section 1.01 **Powers of the City.** The City of Muskegon Heights shall have all powers possible for a Home Rule City to have under the constitution and laws of the State of Michigan as fully and completely as though they were specifically enumerated in this charter.

The City shall have, without limitation to those powers not enumerated, the power to: 1) borrow money; 2) special assess; 3) acquire, own, purchase, construct or operate any public utility; 4) acquire and dispose of real estate and improvements; 5) condemn property; 6) acquire employment and property for rapid transit; 7) provide for the use, regulation, improvement and control of public ways, streets, alleys and waters; and, 8) regulate and restrict locations of entities by way of zoning. The City's power is limited to those powers granted to a City by state statute or the Michigan constitution.

Section 1.02 **Construction.** 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 article.

Section 1.03 **Intergovernmental Relations.** The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies. The City's power is limited to those powers granted to a City by state statute or the Michigan constitution.

Section 1.04 **Public Welfare and Safety.** The City shall provide, in its ordinances and in the administration of city funds and affairs, for the public peace and health and for the safety of persons and property.

ARTICLE II
CITY COUNCIL

Section 2.01 **General Powers and Duties.** All powers of the City shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 2.02 **Composition, Eligibility, Election and Terms.**

(a) **Composition.** There shall be a city council of seven (7) members, consisting of six (6) city council members and a mayor. The city council may establish committees to make recommendations to the city council.

(b) **Term.** The six (6) city council members shall serve for overlapping four (4) year terms beginning the first Monday following the regular City election.

(c) **Eligibility.** Only registered voters of the City shall be eligible to hold the office of council member or mayor. The individual must have been a resident of the City for at least one (1) year immediately preceding the election and shall remain a resident in the City throughout the term in office.

(d) **Wards.** There shall be one ward covering the entire geographic area of the City. All city council members and the mayor shall be elected from the ward.

Section 2.03 Mayor. A mayor shall be elected for a term of four (4) years at a regular election. The mayor shall be the chief executive officer of the City and a member of the city council. The mayor shall preside at meetings of the council, represent the City in intergovernmental relationships, appoint, with the advice and consent of the council, members of citizen advisory boards, committees and commissions, present an annual state of the City message, and perform other duties specified by the council. The mayor shall be recognized as head of the City government for all ceremonial purposes, shall be the spokesperson for the City, and shall be recognized by the governor for purposes of military law but shall have no administrative duties. The council shall elect from among its members a mayor pro tem who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor until a mayor is selected pursuant to Section 2.06.

Section 2.04 Compensation: Expenses.

(a) **Local officers compensation commission, creation; composition, population; qualifications; terms of office; time of appointment; vacancies; eligibility restrictions.** A local officers compensation commission is created which shall determine the salaries of each local elected official. The commission shall consist of five (5) members. The members shall be registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members elected and servicing on the city council. The terms of office shall be five (5) years, except that of the members first appointed, one (1) each shall be appointed for terms of one, two, three, four and five years. The first members shall be appointed within thirty (30) days after the effective date of this charter. Members other than the first members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. The mayor, city council member or employee of the City or a member of the immediate family of the mayor, city council or employee of the City shall not be a member of the commission.

(b) **Determination of salaries; rejection by legislative resolution; effective date; existing salary; expenses.** The commission shall determine the salary of the mayor and city council. The determination shall be the salary unless the city council, by resolution adopted by 2/3 of the members elected to and serving on the legislative body, rejects it. The determination of

the commission shall be effective thirty (30) days following its filing with the city clerk unless rejected by the legislative body. If the determination is rejected, the existing salary shall prevail. The expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(c) **Meetings and time of determination; quorum; chairman; session days; compensation and expenses.** The commission shall meet for not more than fifteen (15) session days in each odd numbered year and shall make its determination within forth-five (45) calendar days after its first meeting. A majority of the members of the commission constitutes a quorum for conducting the business of the commission. The commission shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairperson from among its members. As used in this section, "session day" means a calendar day on which the commission meets and a quorum is present. The members of the commission shall not receive compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(d) **Open Meetings Act, compliance.** The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting of the commission shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(e) **Freedom of Information Act, compliance.** A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being Sections 15.231 to 15.246 of the Michigan Compiled Laws.

Section 2.05 Prohibitions.

(a) **Holding other office.** Except where authorized by law, no councilmember shall hold any other elected public office while a member of the council. No councilmember shall hold any other City employment while a member of the council. No former council member shall hold any compensated appointive office or employment with the City until six (6) months after the expiration of the term during which the member served on the council. Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the City on the governing board of any regional or other intergovernmental agency.

(b) **Administration.** Except for the purpose of inquiries and investigations under Section 2.08, the council or its members shall direct City officers and employees, who are subject to the direction and supervision of the city manager, through the city manager. Neither the council nor its members shall give orders to any such officer or employee, either publicly or privately, except through the City Manager.

Section 2.06 Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) **Vacancies.** The office of a council member and mayor shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) **Forfeiture of office.** A council member and mayor shall forfeit that office if the council member:

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law;
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or,
- (4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) **Filling of vacancies; Mayor.** In the event of the death, resignation or removal of the mayor, replacement shall occur as follows:

- (1) If less than fifty (50%) percent of the term has been served at the time the city council is informed of the death, resignation or removal of office, then the city council shall call for a Special Election;
- (2) If more than fifty (50%) percent of the term has been served at the time the city council is informed of the death, resignation or removal of office, then the council shall choose one of its members mayor within sixty (60) days of being notified of the death, resignation or removal. If the city council is unable to select a mayor, the city council shall call a Special Election.

(d) **Filling of vacancies; City Council.** In the event of the death, resignation or removal of a member of the city council, replacement shall occur as follows:

- (1) If less than fifty (50%) percent of the term has been served at the time the city council is informed of the death, resignation or removal of office, then the city council shall call for a Special Election;
- (2) If more than fifty (50%) percent of the term has been served at the time the city council is informed of the death, resignation or removal of office, then the council shall choose an individual eligible to be elected to the

position within sixty (60) days of being notified of the death, resignation or removal. If the city council is unable to select an individual, the city council shall call a Special Election.

Section 2.07 Judge of Qualifications. The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. In order to exercise these powers, the council may call witnesses, administer oaths and request the production of evidence.

A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.08 Investigations. The city council may request investigations into the affairs of the City and the conduct of any city department, office or agency and for this purpose may request witnesses, hear comments and request the production of evidence.

Section 2.09 Independent Audit. The city council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Section 2.10 Procedure.

(a) **First council meeting after election.** At the first regularly scheduled council meeting following the election of any city council members or the mayor, the council, including as its members city council members with unexpired terms, shall meet at 5:30 p.m. at city council chambers in the City of Muskegon Heights, City Hall, for the purpose of electing the mayor pro-tem and establishing the schedule of Regular City Council Meetings.

(b) **Meetings.** The council shall meet regularly at least once in every month at such times and places as the council may prescribe by resolution or rule. Special meetings may be held on the call of the mayor or of three (3) or more members. The business which the legislative body may perform shall be conducted at public meetings held in compliance with Act No. 267 of the Public Acts of 1976 as amended being Sections 15.261 to 15.275 of the Michigan Compiled Laws, otherwise known as the Open Meetings Act of the State of Michigan, and any successor laws.

(c) **Rules and journal.** The city council shall determine its own rules and order of business and shall provide for keeping a journal, including minutes and records, of its proceedings in the English language. All records of the City shall be made available to the general public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being Sections 15.231 to 15.246 of the Michigan Compiled Laws, otherwise known as the State of Michigan Freedom of Information Act and any successor laws.

(d) **Voting.** The method of voting shall be determined by the city council. The results of voting shall be recorded in the minutes and records. Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise specifically provided, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council. Every council member shall vote on every question unless otherwise prohibited by law, this charter or regulations under this charter.

(e) **Super majority.** Five (5) affirmative votes of the council shall be necessary for the:

- (1) Levying of any tax or setting a millage rate;
- (2) Establishing a special assessment district or confirming the tax role for a special assessment district;
- (3) Vacating a street, alley or other public property;
- (4) Purchasing, authorizing the taking of property by eminent domain, or selling of any real property by the City;
- (5) Acquiring or constructing a public utility;
- (6) Adoption of the annual budget; or,
- (7) Granting a franchise.

Section 2.11 Action Requiring an Ordinance. In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code;
- (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) Regulate the rate charged for its services by a public utility;
- (5) Regulate land use and development; and,
- (6) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 2.12 Ordinances in General.

(a) **Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Muskegon Heights hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full those portions of the ordinance, sections or subsections to be amended. In case an entire ordinance is to be repealed, it shall not be necessary to set forth the same in the repealing ordinance.

(b) **Procedure.** An ordinance may be introduced by any member at any regular or special meeting of the council. As soon as practicable after adoption, the clerk shall have the ordinance in an outline format and a notice of its adoption published and the full text available at a reasonable price at the city clerk's office.

(c) **Effective date.** Except as otherwise provided in this charter, every adopted ordinance shall become effective no sooner than ten (10) days after the first publication.

(d) **Publication of all ordinances required.** When any ordinance has been adopted pursuant to this charter or state law, it shall be published in full or outline format in a newspaper of general circulation in the City once within ten (10) days of its final adoption either by return of election or action of the city council. This requirement shall apply to all ordinances whether general, initiatory, emergency or transitional.

(e) **"Publish" defined.** As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the City the following:

- (1) The ordinance or a brief summary thereof; and,
- (2) The places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 2.13 Codes of Technical Regulations. The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of Section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and,
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to Section 2.14(a).

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 2.14 Authentication and Recording; Codification; Printing.

(a) **Authentication and recording.** The city clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

(b) **Codification.** Within three (3) years after adoption of this charter and at least every ten (10) years thereafter, the city council shall publish in bound or loose-leaf form, together with this charter and any amendments thereto, a copy of all ordinances. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) **Printing of ordinances and resolutions.** The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first Muskegon Heights city code compiled after adoption of this charter and at all times thereafter, the ordinances shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the codes of technical regulations and other rules and regulations included in the code.

Section 2.15 Initiative and Referendum.

(a) **Initiatory petition; signatures required.** Any proposed ordinance, amendment of an ordinance or repeal of an ordinance which deals with a legislative matter may be submitted

to the council by petition signed by registered voters of the City equal in number to fifteen (15%) percent of the highest vote cast in the City for an individual city council member or fifteen (15%) percent of the votes cast for the mayor in the last general election in which either was voted upon, whichever is the highest number. The petition shall contain a request that the ordinance be submitted to a vote of the people if not passed by the council and the ordinance shall either be contained in the petition or shall accompany it. This provision does not extend to the making of appropriations.

(b) Same; council determination required. Within thirty (30) days after such petition is presented to the council, the council shall either pass the proposed ordinance without alterations or it shall amend the ordinance if it deems advisable, for purposes of clarity only, retaining, however, the general purpose thereof, or it shall submit the same without amendment to the vote of the electors of the City.

(c) Same; amendment by council; publication, protest. In case the council shall amend the ordinance it shall publish the same as amended in one or more newspapers of general circulation in the City and if within fifteen (15) days thereafter a protest against the adoption of the ordinance as amended be filed, signed by registered voters of the City equal in number to ten (10%) percent of the highest vote cast in the City for an individual city council member or ten (10%) percent of the votes cast for the mayor in the last general election in which either was voted upon, whichever is the highest number, the ordinance as amended shall be submitted to the registered voters. If no such protest shall be filed the ordinance shall take effect at the time prescribed by the ordinance, or if that has expired, at the expiration of said period of fifteen (15) days.

(d) Electors; conflicting ordinances, adoption; determination. In case the amended ordinance is submitted to the electors, the original ordinance shall be submitted at the same time as an alternative. If each ordinance shall have a majority of votes cast on the adoption of the same, the one having the greater number of votes shall be considered adopted. If a single ordinance is submitted and the majority of qualified electors voting thereon shall vote in favor thereof, it shall be adopted.

(e) Referendum on ordinances, effective date, objections. No ordinance passed by the council except when otherwise required by the general laws of the state or by the provisions of this charter (such exceptions including temporary ordinances under 11.05(d)), shall go into effect until ten (10) days after publication. If prior to the effective date of the ordinance there shall be presented to the council a protest against the passing of said ordinance signed by registered voters of the City equal in number to at least fifteen (15%) percent of the highest vote cast for a candidate for mayor or individual council member at the last preceding general election in which either office was voted upon, whichever is highest, said ordinance shall thereupon be suspended from taking effect, and it shall be the duty of the council to reconsider said ordinance and if the same is not entirely repealed the council shall submit it to the vote of the electors.

(f) **Electors; ordinances, adoption; number unrestricted.** Any number of proposed ordinances may be voted upon at the same election in accordance with the provision of the charter.

(g) **Ordinances; repeal; submission to electors.** The city council may submit a proposition for the repeal of any such ordinance or for amendments thereto to be voted upon at any City election and if such proposition receives a majority of the votes cast thereon at such election the ordinance shall thereby be repealed or amended.

(h) **Same; submission to electors, time.** All ordinances submitted to the registered voters shall be submitted at the next general municipal election after final action taken by the council if one is held within ninety (90) days; but, if no general election shall be held within that time, a special election shall be called by the city council for that purpose and held within that time, subject to the limitations of this section and Section 8.01. Not more than one special election shall be held for such purpose in the period of six (6) months and no more than two (2) special elections within one (1) year.

(i) **Same; adoption; electors; effective date.** Whenever the registered voters shall adopt an ordinance, it shall go into effect at the time prescribed therein, or if that time shall have expired, ten (10) days after publication, which shall follow the election.

(j) **Ordinances; adoption, electors; repeal, restriction.** No ordinance which has been adopted by the vote of the electors shall be repealed or amended within five (5) years except by vote of the electors.

(k) **Ordinances; submission to electors; publication required.** All ordinances or propositions for amendment or repealing of ordinances submitted to the voters shall be published at least once in one or more newspapers of general circulation in the city not more than thirty (30) nor less than ten (10) days prior to the elections.

(l) All ordinances adopted pursuant to Section 2.15 shall be published as required in Section 2.12(d).

Section 2.16 Ordinance Penalties. All ordinances which provide for criminal penalties shall provide for a maximum fine of \$500 and a maximum jail sentence of ninety (90) days, or both, or such additional penalties allowed by state law. Ordinances, where authorized by state law, may provide for civil infraction penalties or treatment.

ARTICLE III
CITY MANAGER

Section 3.01 Appointment and Qualifications. The Mayor shall recommend and the city council shall appoint a city manager and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative qualifications. The manager need not be a resident of the city or state at the time of appointment, but must be a resident while acting as City Manager.

Section 3.02 Removal. The city manager may be removed by the city council with or without cause.

Section 3.03 Acting City Manager. By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The mayor with the advice and consent of the city council may revoke such designation at any time and appoint another officer of the City to serve until the city manager returns.

Section 3.04 Powers and Duties of the City Manager. The city manager shall be the chief administrative officer of the City, responsible to the city council for the administration of all City affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint, suspend or remove all City employees and administrative officers of the City, unless otherwise provided by charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise administrative powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, officers and agencies of the City, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by employees and officers of the City or any of its departments, offices and agencies under the supervision of the city manager, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council;

- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the city council concerning the affairs of the City;
- (10) Provide staff support services for the mayor and council members; and,
- (11) Perform such other duties as are specified in this charter or may be required by the city council.

ARTICLE IV
DEPARTMENTS, OFFICES AND AGENCIES

Section 4.01 General Provisions.

(a) **Creation of departments.** The city council may establish city departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies.

(b) **Direction by City Manager.** All heads of departments, offices and agencies, with the exception of the city clerk, city attorney and police chief, shall be under the direction and supervision of the city manager and shall be appointed by and subject to the direction and supervision of the manager. The mayor shall recommend and the city council shall appoint the city clerk, city attorney, and police chief. With the consent of city council, the city manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

(c) **Compensation.** The city council shall provide for the compensation of all officers, other than the mayor and city council members.

Section 4.02 City officers. There shall be the following City officers and such other officers as the council may from time to time establish or which may be required by state law. City officers may be City employees or may be hired from outside of City employment. All City officers shall have qualifications required by state law, those set forth herein and other qualifications required by the council, and they shall perform the duties set forth herein and otherwise required by law.

The city council shall require officers to file bonds as may be appropriate or required by state law. All City officers, unless specifically provided to the contrary, shall be appointed and removed by the city manager pursuant to Section 3.04.

(a) **City Clerk.** The city clerk shall publish and post all notices, keep the city seal, records and documents of the City and of the council's proceedings. The clerk shall have the power to administer all oaths required by law and by the ordinances of the City. The clerk shall give 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 any failure of any officer or employee required to take an oath of office or furnish any bond required of the officer or employee. The clerk shall perform such other duties as the City may require.

(b) **City Treasurer.** The city treasurer shall have custody of all monies, bonds and evidence of value belonging to the City or held in trust by the City. The city treasurer shall receive all monies belonging to and receivable by the City and shall keep correct accounts of all receipts and expenditures, deposit all funds as the city council may determine, keep and furnish detailed reports on a continuing and daily basis concerning all funds, collect and distribute all taxes and assessments as required by law and perform such other duties as may be prescribed by the laws of the state and this charter or by the City. The city treasurer shall keep the City's books of account. The treasurer shall establish and maintain the system of accounts suitable for all departments of the City which shall conform to any uniform system required by law. The city treasurer shall examine all accounts and claims against the City, verify the correctness of the account and its amount. Payments from any account shall not be allowed unless money has been appropriated therefor nor shall payments from any account be made unless sufficient money is in the fund on which it is drawn. The city treasurer shall perform such other duties as naturally pertain to the office and as may be required by the charter, the laws of the State of Michigan or by the city manager.

(c) **City Assessor.** The city assessor shall perform all the duties and have all the powers required of and vested in the office by the laws of the State of Michigan. The assessor shall prepare all regular and special assessment rolls as required by the charter and the laws of the state and perform such other duties as may be prescribed or required by the law and this charter. The city assessor must possess those qualifications required by state law to perform the office of assessor.

(d) **City Attorney.** The city attorney shall serve as chief legal adviser to the city council, the city manager, all city departments, officers, agencies and trust funds, shall represent the City in all legal proceedings and shall perform any other duties prescribed by this charter or by ordinance. The city attorney shall be an attorney at law admitted to practice in the State of Michigan.

Section 4.03 Planning. Consistent with all applicable federal and state laws with respect to land use, development and environmental protection, the city council shall:

- (1) Designate and appoint a planning commission under state law to carry on all responsibilities set forth by state statute including, but not limited to, the adopting, amending and revising of comprehensive and master plans of the City, making determinations as required or permitted by state law on all matters which may come before it, and making recommendations to the city council as to zoning ordinance amendments, zone changes and other actions requiring city council action.
- (2) Adopt zoning ordinances, zone changes and ordinance amendments, including, but not limited to, prescribing in ordinance form such development and land use regulations and standards as may be appropriate in its judgment and in accordance with state law.

ARTICLE V **FINANCIAL PROCEDURES**

Section 5.01 Fiscal Year. The fiscal year of the City shall begin on the first day of January and end on the last day of December

Section 5.02 Submission of Budget and Budget Message. Before the commencement of the fiscal year, the city manager shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

Section 5.03 Budget Message. The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the city manager deems desirable.

Section 5.04 Budget.

(a) **General provisions.** The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;

- (2) Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and,
- (3) The anticipated income and expense for the ensuing year for each utility or other enterprise fund operated by the City.

For any fund, the process of budgeting and appropriations shall comply with State law, which shall control if in conflict with this charter.

(b) **Capital improvement.** Any capital improvement items contained in the budget may be financed by the issuance of bonds as 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 5.05 City Council Action on Budget.

(a) **Notice and hearing.** The city council shall publish in one or more newspapers of general circulation in the City the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and,
- (2) The time and place of a public hearing on the budget.

The notice shall be published at least six (6) days prior to the public hearing.

(b) **Amendment before adoption.** After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

(c) **Adoption.** The city council shall adopt the budget prior to the start of the ensuing fiscal year.

Section 5.06 Appropriation and Revenue Ordinances. To implement the adopted budget, the city council shall adopt, prior to the beginning of the ensuing fiscal year:

- (a) an appropriation resolution meeting the requirements of state law;

(b) any ordinances or resolutions required in connection with tax levies or the raising of revenues;

(c) take any other action required by law in order to implement the budget of the City, including the establishment and maintenance of a system of accounts conforming to the uniform system of accounts required by state law.

Section 5.07 Amendments after Adoption.

(a) **Supplemental appropriations.** If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by resolution may make supplemental appropriations for the year up to the amount of such excess.

(b) **Emergency appropriations.** To meet a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may provide by ordinance or resolution for borrowing authorized by state law.

(c) **Reduction of appropriations.** If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it shall by resolution reduce one or more appropriations to avoid incurring a deficit at the end of the fiscal year.

(d) **Transfer of appropriations.** At any time during the fiscal year the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the council in writing in a timely manner.

(e) **Limitation; effective date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.08 Lapse of Appropriations. Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Section 5.09 Administration of the Budget. The city council may require the city manager to submit for review and approval written policies and procedures for administering the budget.

Section 5.10 Overspending of Appropriations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or the manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made shall be illegal. Any officer violating this provision shall be dealt with in accordance with the laws of the State of Michigan. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 5.11 Public Records. Copies of the budget, capital program and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the City.

ARTICLE VI **BONDS**

Section 6.01 Bonds, Issuance; City Council, Authority. The city council may borrow money and issue bonds for any purpose within the scope of the powers of the City, to the extent, in the manner, and for the purposes authorized by state law.

Section 6.02 Total Bonded Indebtedness, Restriction. The total amount of bonded indebtedness of the City shall at no time exceed that permitted by constitution or state law.

Section 6.03 Bonds; Terms, Forms. All details as to the terms and form of bonds and the issue thereof shall be determined by the city council.

ARTICLE VII
TAXATION

Section 7.01 Taxation; State Law. The City may annually levy and collect property taxes in a sum, except as otherwise provided by law, not to exceed two (2%) percent (20 mills per dollar) of the assessed value of the real and personal property in the City. All the provisions of the General Tax Law of the State of Michigan except as herein otherwise provided, shall apply to and control the assessment of property and the collection of taxes in the City of Muskegon Heights and the taxing officers of the City shall have the same powers and shall be subject to the same duties as like officers under the state law. The subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general state tax law. The levy, collection and return of state, county and school taxes shall be made in conformance with the general laws of the State.

Section 7.02 Board of Review; Composition, Sessions; Regulations. The Board of Review shall consist of five members appointed by the city council. It shall meet for the purpose of reviewing the tax assessment roll in accordance with the state tax laws. It shall choose one of its members to be chairperson and one to be clerk of the board. It shall regulate for itself its order of proceeding, but no person who shall appear before it shall be refused a reasonable opportunity for a hearing. It shall remain in session for the times required by state law and such further times as it deems necessary to complete its work. Thereafter the chairperson and clerk shall certify the tax assessment roll provided for by general tax law.

Section 7.03 Same; Meetings, Notice Required. The city clerk shall give notice to the public of the time and place of meeting of the Board of Review by publication in at least one newspaper of general circulation in the City in accordance with state law.

Section 7.04 Taxes; Due Date; Collection Fees. Collection fees, penalties and interest on taxes shall be collected by the City Treasurer in accordance with the provisions of state law.

ARTICLE VIII
ELECTIONS

Section 8.01 City Elections.

(a) **Regular elections; nomination; petition.** The regular City election shall be an odd year general election as established by state law. Candidates for city council and mayor shall be nonpartisan and shall be nominated by petitions containing the signatures of at least twenty-five (25) qualified electors registered to vote or by paying a filing fee in the amount of Fifty (\$50) Dollars.

(b) **Registered voter defined.** All citizens legally registered under the constitution and laws of the state of Michigan to vote in the City shall be registered voters of the City within the meaning of this charter.

(c) **Conduct of elections.** The provisions of the general election laws of the state of Michigan shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of City elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, state election law shall be followed.

(d) **Special elections.** The city council may request a special election, which shall be conducted pursuant to the election laws of the State of Michigan, but no more than two special elections may be called within one (1) year.

(e) **Election commission.** The city council shall appoint the city election commission and such other election oversight bodies as state law permits.

ARTICLE IX GENERAL PROVISIONS

Section 9.01 Conflicts of Interest. No public officer or employee shall violate prescribed standards of conduct established by state law.

Section 9.02 Prohibited Activities. No public official or employee shall illegally discriminate in any personnel relationship, illegally discriminate in the providing of municipal services, or impugn the integrity of the public service by way of fraud or bribery. The city council shall further implement this provision by ordinance, which shall be limited and superseded by state law in matters which are covered in state statute.

Section 9.03 Special Assessments. Provisions for the creation of special assessment districts, rules and regulations, hearings and levying of special assessments shall be determined by ordinance. The City shall have the power to issue special assessment bonds in accordance with state law, which, when payable in whole or in part from special assessments, shall not be subject to debt limitations, except as otherwise provided by state law.

Section 9.04 Franchises. The City shall provide by ordinance for the requirements and conditions pursuant to which franchises may be granted to public utilities and other franchisees. Franchises may be granted pursuant to said ordinance in accordance with the Constitution and the laws of the State of Michigan.

Section 9.05 Public Works and Improvements. The City shall have the right to make and maintain public improvements and public works for municipal purposes, acquire lands therefor in

any legal manner and provide for the cost thereof from public funds, subject only to the limitations of the constitution and the laws of the State of Michigan. The city council shall have the right to apportion costs of such improvements and works between public expenditures and special assessments. The City shall have control of all public ways and the spaces above and below same, and further shall have the power to acquire, operate and maintain public utilities and issue revenue bonds in connection therewith. The city council shall implement said powers by appropriate ordinance.

Section 9.06 Zoning; Planning. The City may prescribe, by its zoning ordinance, zoning districts for land uses within the City. The City may provide for planning of streets and alleys within its limits and require conformance with said plans, and establish master plans.

Section 9.07 Licenses. The City may regulate and license trades, occupations and amusements within its boundaries by ordinance, not inconsistent with state or federal law.

Section 9.08 Building Regulations. The City may regulate construction, maintenance and repair of buildings within its boundaries.

Section 9.09 City Property. The City may purchase, own, and sell real estate both within the City limits and outside of the City limits.

ARTICLE X **CHARTER AMENDMENT**

Section 10.01 Proposal of Amendment. Amendments to this charter may be framed and proposed in the manner provided by state law.

Section 10.02 Election. A proposed amendment to this charter shall be presented to the voters of the City at an election in the manner and method provided by state law.

Section 10.03 Adoption of Amendment. If a majority of the registered voters of the City voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or as provided for in state law. If no time is thereby fixed, the amendment shall be effective thirty (30) days after its adoption by the voters.

Section 10.04 Charter Review. A charter review committee of at least five (5) members shall be appointed by the city council no later than ten (10) years after this Charter is adopted, and at least each ten (10) years thereafter. The committee shall examine the Charter and recommend to the council any amendments which appear to be necessary or desirable.

ARTICLE XI
TRANSITION/SEPARABILITY PROVISION

Section 11.01 Officers and Employees.

(a) **Rights and privileges preserved.** Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) **Continuance of office or employment.** Except as specifically provided by this charter, if at the time this charter takes full effect a City administrative officer or employee holds any 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.

Section 11.02 Departments, Offices and Agencies.

(a) **Transfer of powers.** If a City department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this charter or, if the charter makes no provision, designated by the city council.

(b) **Property and records.** All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the city council in accordance with this charter.

(c) **Termination of elected officials.** Any elected official whose position is eliminated by this charter and whose term commences prior to or contemporaneous with the effective date of this charter shall continue to hold such office through the expiration of the elected official's term. No re-election to a position which is not created or authorized pursuant to this charter appointment to fill such a position, if vacant, shall occur.

Section 11.03 Pending Matters.

(a) All rights, claims, actions, orders, contracts and legal administrative proceedings 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.

(b) This Charter shall supersede the existing Charter, but all rights and rights of action now existing, all suits in the course of prosecution for or against the City under the former Charter shall remain unimpaired and all taxes levied and uncollected shall be collected the same as if this Charter had not been adopted, and in case the course of proceeding provided for in this Charter shall differ from that in the one which it supersedes either method may be followed, it being the intention that no rights of any name or nature in existence at the time of the adoption of this Charter shall be lost or jeopardized.

Section 11.04 State and Municipal Laws. All city ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective shall remain in effect, provided, any ordinances are repealed to the extent that they are inconsistent with this charter.

Section 11.05 Schedule.

(a) **Effective date.** This charter shall take effect for all purposes, including but not limited to legislative, administrative, fiscal, budgetary, and regulatory powers and actions of the City, immediately upon certification of an election at which the registered electors of the City approve its adoption, except that the city council shall act with previously elected city council members as its council members, who shall continue to serve to the end of their existing terms as stated herein.

(b) **First election.** At the time of its adoption, this charter shall be in effect to the extent necessary in order that as present terms end, the position may be filled in accordance with the provisions of this charter.

(c) **First council meeting with elected Mayor.** At the first scheduled council meeting following the first election of any city council members or the mayor under this charter, the council including as its members city council members, with unexpired terms shall meet at 5:30 p.m. at city council chambers in the City of Muskegon Heights, City Hall:

- (1) For the purpose of electing the mayor pro-tem, appointing or considering the appointment of a city manager or acting city manager, and choosing, if it so desires, one of its members to act as temporary clerk pending appointment of a city clerk pursuant to Section 3.04 and Section 4.02; and,
- (2) For the purpose of adopting ordinances and resolutions necessary to effect the transition of government under this charter and to maintain effective City government during that transition.

(d) **Temporary ordinances.** In adopting ordinances as provided in Section 11.05(c), the city council shall follow the procedures prescribed in Article II, 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 publication or at such later time preceding automatic repeal under this subsection as it may specify, 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 91st day following the date on which it was adopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned. Temporary ordinances shall be published as required in Section 2.12(d).

Section 11.06 Separability. If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

CERTIFICATE

This charter was adopted at a special open meeting of the Charter Commission, held on June 23, 1997. The meetings were properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

City of Muskegon Heights Charter Commission

By Erma Waller

Erma Waller, Secretary