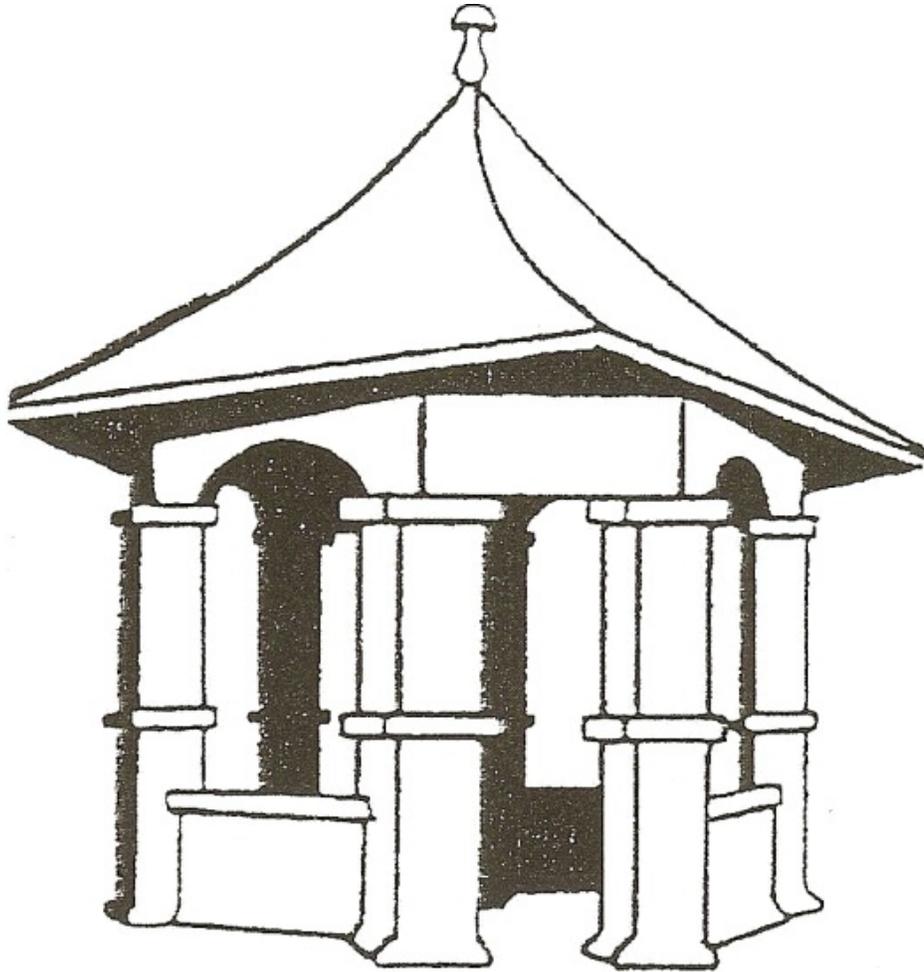


CITY OF PLAINWELL, MICHIGAN



CHARTER

CITY OF PLAINWELL, MICHIGAN, CHARTER

PREAMBLE

We, the people of the City of Plainwell, County of Allegan, State of Michigan, pursuant to the authority granted by the constitution and the statutes of the State of Michigan, In order to secure the benefits of self-government, and to provide for the public peace and health and for the safety of persons and property, do hereby ordain and establish this Charter of the City of Plainwell, Michigan.

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CHAPTER I — NAME AND BOUNDARIES

NAME:

Section 1.1

(a) The municipal corporation now existing and known as the City of Plainwell shall continue as a body corporate and shall include the territory constituting the city of Plainwell on the effective date of this charter, together with all territories that may be added in a manner prescribed by law.

(b) The clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the city.

WARD:

Section 1.2 - The city shall consist of one ward.

CHAPTER II — POWERS**GENERAL MUNICIPAL POWERS GENERAL POWERS:**

Section 2.1 - The City of Plainwell and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities and their officers are, or hereafter may be permitted to exercise or to provide for in their charters under the constitution and laws of the state of Michigan, including all the powers and immunities which are granted to cities and officers of cities as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this charter. In no case shall any enumeration of particular powers or immunities in this charter be held to be exclusive.

INTERGOVERNMENTAL COOPERATION:

Section 2.2 - The city may join with any municipal corporation or with any other unit or agency of government, whether local, state or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all of any property, facility or service which each would have the power to own, operate, or perform separately.

EXERCISE OF POWERS:

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

CHAPTER III — ELECTIONS**QUALIFICATION OF ELECTORS:**

Section 3.1 - The residents of the city having the qualifications of electors in the state of Michigan shall be eligible to vote in the City.

ELECTION PROCEDURE:

Section 3.2 - The general election laws shall apply to and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The clerk shall give public notice of general elections in the state.

PRECINCTS:

Section 3.3 - The election precincts of the city shall remain as they existed on the effective date of this charter unless altered by the city election commission in accordance with statutes.

ELECTION COMMISSION:

Section 3.4 - An election commission is hereby created, consisting of the clerk, assessor, and one other appointive city officer whom the council shall designate, and such person shall serve at the pleasure of the council. The clerk shall be chairman. The commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the council.

REGULAR ELECTIONS:

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

SPECIAL ELECTIONS:

Section 3.6 - Special city elections shall be held when called by resolution of the council at least sixty (60) days in advance of such election, or when required by law. Any resolution calling a special city election shall set forth the purpose of such election.

ELECTIVE OFFICERS AND TERMS OF OFFICE:

Section 3.7 - For elections, reference Section 4.11 of this charter. The term of office of the council members shall commence at the second regularly scheduled city council meeting following the election.

NOMINATIONS PROCEDURE:

Section 3.8

(a) The candidates for elective office shall be nominated from the city at large by petitions, blanks for which shall be furnished by the city clerk. Each such petition shall be signed by not less than thirty (30) nor more than sixty (60) registered electors of the city, and shall be filed at the clerk's office before four o'clock P.M. local time, on the Tuesday following the first Monday in August in each even-numbered year.

(b) Each elector signing shall add his residential street and number and the date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office, and should he do so, the signatures bearing the most recent date shall be invalidated, and if he should sign more than one on the same date neither shall be validated. No petition shall be left for signatures in any public place unless accompanied by the circulator of the petition. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

APPROVAL OF PETITIONS:

Section 3.9

(a) The clerk shall accept only nomination petitions which conform substantially with the forms required by statute and which contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices as set forth in this charter. The clerk shall forthwith, after the filing of the petitions notify in writing any candidates whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements.

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

FORM OF BALLOT:

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

CANVASS OF VOTES:

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

TIE VOTE:

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

RECOUNT:

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

RECALL:

Section 3.14 - Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by state law.

CHAPTER IV — THE ELECTIVE OFFICERS OF THE CITY THE CITY COUNCIL**ELECTIVE OFFICERS:**

Section 4.1 - The legislative power of the city, except as reserved by this charter, shall be vested in a council consisting of five (5) council members elected at large on a non-partisan basis.

The council shall have power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

QUALIFICATIONS:

Section 4.2 - Each elective city official must be a duly registered elector in the city, and shall have been a resident of the city for four (4) months immediately prior to the election at which he is a candidate for office.

NOTICE OF ELECTION:

Section 4.3 - Notice of the election of any officer of the city shall be given by the clerk, in writing, within seven (7) days after the canvass of the vote in which he was elected. If within ten (10) days from the date of notice such officer shall not take, subscribe, and file with the clerk his oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall, for good cause, extend the time in which such officer may qualify as above set forth.

OATH OF OFFICE:

Section 4.4 - Each elective or appointive officer of the city, before entering upon the duties of this office and within the time specified in this charter, shall take and subscribe to the oath of office prescribed by the state constitution, which shall be filed and kept in the office of the clerk.

SURETY BONDS:

Section 4.5 - Any city officer may be required to give a bond, to be approved by the council, for the faithful performance of the duties of his office in such sum as the council shall determine. All officers receiving or disbursing city funds shall be bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. All official bonds shall be filed with the clerk, except that of the clerk, which shall be filed with the treasurer.

VACANCY DEFINED:

Section 4.6 - In addition to other provisions of this charter, a vacancy shall be deemed to exist in any elective office on the day when the officer dies, files his resignation with the city clerk, is removed from office, moves from the city, is convicted of a felony, or of misconduct in office under this charter, is judicially declared to be mentally incompetent, or, in the case of the mayor and council members, is absent from three (3) consecutive regular meetings of the council, unless excused by the council for cause to be stated in the record of council proceedings.

VACANCIES:

Section 4.7 - Except as otherwise provided in this chapter, any vacancy occurring in any elective office shall be filled within thirty (30) days after such vacancy shall have occurred by the concurring vote of at least three (3) members of the council. The person appointed by the council shall serve for the remainder of the unexpired term. If the council fails to do so within the thirty (30) days following the occurrence of the vacancy, the election commission shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the election provisions of the charter and state statutes.

RESTRICTIONS CONCERNING OFFICERS:

Section 4.8

(a) Except where authorized by law, no council member shall hold any other city office or city employment during the term for which he was elected to the council, and no former council member shall hold any compensated appointive city office or city employment until one (1) year after the expiration of the term for which he was elected to the council. This shall not apply to appointed city boards or commissions.

(b) No member of the council shall in any manner dictate the appointment or removal of any city or administrative officer or employee whom the administrator or any of his subordinates are empowered to appoint. The member may express his views, and fully and freely discuss with the administrator anything pertaining to the appointment and removal of such officers or employees.

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

SALARIES OF MEMBERS OF THE COUNCIL:

Section 4.9

(a) Each member of the council shall receive, as remuneration for service to the city, the sum of ten dollars (\$10) per regular or special city council meeting payable quarterly. No member shall be compensated for more than six hundred dollars (\$600) per annum and then only for actual attendance at meetings. The Mayor shall receive an additional stipend of one hundred dollars (\$100) payable annually.

(b) Provisions of this section shall be subject to the review of a compensation commission, to be established by ordinance in accordance with statute. Said ordinance shall be adopted within six (6) months of the adoption of this charter.

JUDGE QUALIFICATIONS OF MEMBERS:

Section 4.10 - The council shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office, and for that purpose, shall have power to subpoena witnesses, administer oaths, and require production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers for general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the courts.

ORGANIZATION OF THE COUNCIL:

Section 4.11 - For the Election of November, 2006, two (2) City Council seats shall be filled for terms of two (2) years each and three (3) City Council seats shall be filled for terms of four (4) years each. Each subsequent elected term shall be for a period of four (4) years.

At the first City Council meeting following the election of November, 2006, the Council shall select a Mayor from the Council's members. The Mayor's term of office shall be for two (2) years. A ballot shall be conducted at which Council Members shall vote publicly. Any person receiving three (3) or more votes shall be elected Mayor. If no person receives at least three (3) votes, then the person receiving the highest number of votes shall be elected Mayor. If two (2) or more persons receive the same number of votes, then the City Council shall engage in debate on the subject in open session and shall vote again.

The Mayor shall be elected in the same manner identified above. If two (2) or more persons receive the same number of votes again, then the same procedure will be followed until a Mayor is elected or successive ballots result in identical results. At that point, the Mayor shall be elected by lot as provided by statute.

Following the election of a Mayor, the same procedure shall be followed for the election of a Mayor pro-tem.

Editor's note:

This section was added to the charter by an amendment passed 9-13-2004 and replaces all prior language.

MAYOR:

Section 4.12 - The mayor shall be the executive officer of the city. He shall preside at all its meetings and shall speak and vote in such meetings as any other member of the council. He shall be the official head of the city for ceremonial purposes and for the purpose of military law and in the service of legal process upon the city.

REGULAR MEETINGS OF THE CITY COUNCIL:

Section 4.13 - The council shall by resolution provide for the time and place of its regular meetings and shall hold at least two (2) such meetings each month.

SPECIAL MEETINGS OF THE CITY COUNCIL:

Section 4.14 - Special meetings of the council may be called by the clerk on the written request of the mayor, city administrator or any two (2) members of the council on eighteen (18) hours notice to each member of the council designating the purpose of such meeting, and served personally or left at his usual place of residence by the clerk or someone designated by him. Notice of such meetings including time, date, place and topic shall be posted in accordance with statute.

BUSINESS AT SPECIAL MEETINGS:

Section 4.16 - All regular and special meetings of the council shall be open to the public. The rules of order of the council shall provide that the citizens shall have reasonable opportunity to be heard at any such meeting on matters within the jurisdiction of the council.

QUORUM:

Section 4.17 - Three (3) members of the council shall be a quorum for the transaction of business, but in the absence of a quorum, two (2) or more members may adjourn any regular or special meeting to a later date.

RULES OF ORDER:

Section 4.18 - The council shall determine its own rules and order of business and keep the written or printed journal of all its proceedings in the English language, which shall be signed by the clerk. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be taken by "yes" and "no" votes and entered upon the record, except that where the vote is unanimous it shall only be necessary to so state in such record. Each member of the council who shall be recorded as present at any meeting, shall be required to vote on all questions decided by the council at such meeting unless excused by three (3) of the members present of any case where the matter personally affects the member not voting. The member not excused can be considered in violation of this charter when so determined by the council.

VOTE REQUIRED:

Section 4.19 - Except as otherwise provided in this charter, no ordinance or resolution shall be adopted or passes except by affirmative vote of at least three (3) members of the council.

RESTRICTIONS OF THE POWERS OF THE COUNCIL:

Section 4.20

- (a) The council shall make no contract with any person who is in default to the city.
- (b) There shall be no standing committees of the council.

DISCIPLINE:

Section 4.21

(a) The council may by a vote of not less than three (3) of its members demand the attendance of its members at its regular meeting and enforce orderly conduct therein. Any member of the council who refuses to attend such meetings and to conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The council may require attendance of any elected or appointed officer of the city for the purpose of securing from them any information upon the affairs of the city within their jurisdiction.

(b) Removals by the council at elective or appointive officers or members of boards or commissions may be made for any of the following reasons: (I) for any reason specified by law for removal of city officer by the governor; (II) for any act constituting a violation of this charter. Such removals by the council shall be made only after a hearing of which such officer has been given notice by the clerk at least ten (10) days in advance, either personally or by delivering the same at his last known place of residence according to the records of the city. 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 attorney, to be heard in his defense, to cross examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the council in office at the time, exclusive of any member whose removal may be considered, shall be required for any such removal.

PUBLICATION OF COUNCIL PROCEEDINGS:

Section 4.22 - Minutes of the council shall be published within (15) days after the passage thereof. A synopsis of such minutes, prepared by the clerk showing the substance of each separate proceeding of the council, shall be a sufficient compliance with the requirements of this section.

INVESTIGATIONS:

Section 4.23 - The council may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence, to conduct formal investigation into the conduct of any department, office or officer of the city and make investigations as to malfeasance, nonfeasance, or irregularities in municipal affairs. Failure to obey such subpoena or produce books, papers, or other evidences ordered under the provision of this section shall constitute misconduct in office.

PUBLIC HEALTH AND SAFETY:

Section 4.24 - The council shall see that provision is made for public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the council shall constitute the board of health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

LICENSES:

Section 4.25 - The council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require and collect payment of such reasonable sums for any licenses that it may deem proper.

RIGHTS AS TO PROPERTY:

Section 4.26 - The council shall have the power to acquire by purchase, gift, condemnation, lease, construction, or otherwise, either within or without its corporate limits, private property, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not, and to maintain and operate the same to promote the public health, safety and welfare.

CEMETERIES:

Section 4.27 - The council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with improvements thereon and appurtenances there to owned or hereinafter acquired by the city either within or without its corporate limits.

TRUSTS:

Section 4.28 - The council may at its discretion receive and hold any property in trust for parks, cemeteries, or other municipal purposes. Any trust now existing of benefit to the city of Plainwell shall be continued in full force and in accordance with the cy pres doctrine.

TRAFFIC VIOLATIONS BUREAU:

Section 4.29 - The council shall have the power and authority to establish by ordinance a traffic violations bureau, as provided by law, for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any such ordinances may, within the time specified, answer at the traffic violations bureau to the charges set forth in such notice. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given receipt which so states.

The creation of such a bureau shall not operate as to deprive any person of a full and impartial hearing in court should a person so choose.

ADVISORY COMMITTEES OR BOARDS:

Section 4.30 - The mayor or city administrator, with the advice and consent of the city council, may from time to time appoint such committees or boards as are deemed appropriate to advise and consult with him, and with the appropriate departments, regarding a municipal activity. Such committees or boards shall serve temporarily and without compensation.

CHAPTER V — LEGISLATION**LEGISLATIVE POWERS:**

Section 5.1 - The legislative power of the city of Plainwell is vested exclusively with the city council, except as otherwise provided by law.

PRIOR LEGISLATION:

Section 5.2 - All valid ordinances, resolutions, rules and regulations of the city of Plainwell, which are not inconsistent with this charter and which are in force and in effect on the effective date of this charter, shall continue in full force and effect until repealed or amended. Those provisions of any effective valid ordinance, resolution, rule or regulation which are inconsistent with this charter are hereby repealed.

ORDINANCES:

Section 5.3 - The style of all ordinances shall be “The City of Plainwell ordains.” No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised or altered shall be published in full, except as otherwise provided in this charter. An ordinance may be repealed by reference to its number and title only. The effective date of any ordinance shall be prescribed therein, and shall not be less than ten (10) days after its adoption and publication unless the council shall, upon attaching a declaration of emergency affecting the public peace, health and safety, fix an earlier date. No ordinance shall take effect until after publication thereof and no measure making or amending a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as emergency measure.

PUBLICATION AND RECORDING OF ORDINANCE:

Section 5.4 - All ordinances when enacted shall be recorded by the clerk in a book called “The Ordinance Book” and shall be the duty of the clerk to authenticate such record by his official signature. Before any ordinance may become operative it shall be published. Any ordinance may be published by setting it forth in full as a part of the published proceedings of the council for either the meeting at which it was introduced or at which it was adopted, or as a part of the summary of the proceedings at either of such meetings.

PENALTIES:

Section 5.5 - The council may provide in any ordinance for the punishment of those who violate its provisions. The punishment for any violation of any city ordinance shall not exceed a fine of five hundred dollars (\$500) or the imprisonment for more than ninety (90) days, or both at the discretion of the court.

INITIATIVE AND REFERENDUM:

Section 5.6 - Any ordinance may be initiated by petition. A referendum on an enacted ordinance may be had by petition, as hereinafter provided.

PETITIONS:

Section 5.7 - An initiatory or a referendary petition shall be signed by qualified electors registered in the city in a number equal to fifteen percent of the active registration file of voters at the preceding even-numbered year general election prior to the filing of the petition. All signatures on said petitions shall be obtained within thirty (30) days before the filing date of the petition with the clerk. Before being circulated for signatures, all such petitions shall be approved as to form by the clerk. Any such petition shall be addressed to the city council and may be the aggregate of two (2) or more petition papers identical as to the contents and simultaneously filed by one person. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance, or the part thereof it proposes to have repealed.

The signer of a petition shall sign his name, his place of residence by street and number, and the date of signature. 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. Such petition shall be filed with the clerk who shall, within fifteen (15) days verify the signature thereon. If the petition does not contain a sufficient number of registered electors of the city, the clerk shall notify forthwith, by certified mail, the person filing such petition and fifteen (15) days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed as required and allowed by this section, the clerk shall present the petition to the council at the next regular meeting.

CITY COUNCIL PROCEDURE ON INITIATORY AND REFERENDARY PETITIONS:

Section 5.8 - Upon receiving a certified initiatory or referendary petition from the clerk, the council shall within thirty (30) days, unless otherwise provided by statute either:

- (a) Adopt the ordinance as submitted by the initiatory petition.
- (b) Repeal the ordinance or part thereof referred to by a referendary petition.
- (c) Determine to submit the proposal provided for in the petition to the electors. The result shall be determined by a majority vote of electors voting thereon, except in cases where otherwise required by law or this charter.

SUBMISSION TO ELECTORS:

Section 5.9 - 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.

GENERAL PROVISIONS:

Section 5.10 - Presentation to the council by the clerk of a valid referendary petition shall automatically suspend the operation of the ordinance in question pending repeal by the council or final determination by the electors.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the council for a period of two (2) years after the date of the election at which it was adopted, and then only by the affirmative vote of not less than four (4) council members. Should two (2) or more ordinances adopted at the same election have conflicting provisions the one receiving the highest vote shall prevail.

CHAPTER VI — ADMINISTRATIVE SERVICE**ADMINISTRATIVE OFFICERS:**

Section 6.1

(a) The administrative officers of the city shall be the city administrator, city attorney, clerk, treasurer, superintendent of public works, assessor, police chief, and such additional administrative officers as may be created by ordinance. The duties of one or more of the administrative officers of the city may be performed by one person when determined by the council. The city administrator and city attorney shall be appointed by the council for an indefinite period, shall be responsible to and serve at the pleasure of the council, and shall have their compensation fixed by the council.

(b) All administrative officers of the city, except the city administrator and city attorney, shall be appointed by the city administrator for indefinite terms of office, subject to the confirmation of the council. Such officers' compensation shall be fixed by the city administrator in accordance with budget appropriations and subject to approval by the council.

(c) All personnel employed by the city who are not elected officers of the city, or declared to be administrative officers, or under the authority of this charter, shall be deemed to be employees of the city. The head of each department shall have the authority to hire and discharge the employees of his department upon the advice and consent of the city administrator, subject to the provisions of any merit or civil service system.

CITY ADMINISTRATOR:

Section 6.2

(a) The city administrator shall be the chief administrative officer of the city government. He shall be selected by the council on the basis of training and ability. He shall serve at the pleasure of and be subject to removal by the council, but he shall not be removed from office during a period of sixty (60) days following any regular city election except by the affirmative vote of four (4) members of council. His compensation shall be fixed by the council.

(b) The council shall appoint the city administrator within ninety (90) days after any vacancy exists in such position and they may appoint an acting administrator during the period of vacancy in the office. The city administrator with the consent and approval of the council, may designate an administrative officer or employee of the city to act as city administrator, if he is temporarily absent from the city or unable to perform the duties of his office. No person who holds or has held elective office in the city of Plainwell shall be eligible for appointment as city administrator or acting city administrator during a vacancy in that office until two (2) years have elapsed following the expiration of the term for which he was elected. The city administrator shall become a resident of the city, unless this requirement is waived by the majority of the council.

CITY ADMINISTRATOR - FUNCTIONS AND DUTIES:

Section 6.3

(a) The city administrator shall be responsible to the council for the proper administration of the affairs of the city. It shall be his responsibility to recommend appointments and removals of administrative officers, except the City Attorney, subject to the confirmation of the council. He shall establish administrative officers' and employees' compensation in accordance with budget appropriations. He shall supervise and coordinate the work of the administrative officers and departments of the city, except the work of the city clerk in keeping the council records and as clerical official of the council.

(b) He shall see that all laws and ordinances are enforced. He shall prepare and administer the annual budget under the policies formulated by the council and shall keep the council advised as to the financial condition and needs of the city. He shall furnish the council with information concerning city affairs and prepare such reports as may be required, or which the council may request, including an annual report encompassing the activities of the several departments. Subject to any employment ordinance of the city formulated by the council, he shall be responsible for the employment of all city employees and supervise and coordinate personnel policies and practices of the city. He shall establish and maintain a central purchasing service for the city and he or his authorized representative shall be the purchasing agent for the city.

(c) He shall attend all meetings of the council, with the right to be heard in all council proceedings but without the right to vote. He shall possess such other responsibilities and perform such additional duties as may be granted to or be required of him by the council, so far as may be consistent with the provision of law. He shall establish any rules necessary to carry out any of the foregoing duties.

CITY CLERK:

Section 6.4

(a) The clerk shall be the clerical officer of the council and shall keep its journal. He shall keep a record of all action of the council at its regular and special meetings. He shall certify all ordinances and resolutions adopted by the council.

(b) He shall have the power to administer all oaths required by the law and by the ordinances of the city. He shall be the custodian of the city seal and shall affix the same to documents required to be sealed. He shall be the custodian of all papers, documents, and records pertaining to the city, unless otherwise provided by this charter. He 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. He 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. The clerk shall perform such other duties in connection with his office as may be required by law, the ordinances, or resolutions of the council, or by the city administrator.

CITY TREASURER:

Section 6.5 - The treasurer shall have the custody of all monies of the city, the clerk's bond, and all evidences of value or indebtedness belonging to or held in trust by the city. He shall keep and deposit all monies or funds in such a manner and only in such places as the council may determine, and shall report the same to the city administrator.

CITY ASSESSOR:

Section 6.6

(a) The assessor shall possess all the powers vested in and shall be charged with the duties imposed upon assessing officers by law. He shall make and prepare all regular and special assessment rolls in a manner prescribed by law or ordinances of the city.

(b) He shall perform such other duties as may be prescribed by law, the ordinances of the city, or by the city administrator.

CITY ATTORNEY:

Section 6.7

(a) The council shall appoint and fix the salary of the city attorney, who shall hold office at the pleasure of the council, and who need not be a resident of the city. The city attorney shall be legal advisor and counsel for the city and for all the officers and departments thereof in all matters related to their official duties, and shall file with the city a copy of all written opinions given by him. He 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 administrator, and shall promptly give his opinion as to the legality thereof.

(b) 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 shall defend officers and employees of the city in actions arising out of the performance of their official duties.

(c) Upon the recommendation of the attorney, or upon its own initiative, the council may retain special legal counsel to handle any matter in which the city has an interest, or to assist in counsel with the attorney therein.

(d) He shall perform such other duties in connection with his office as may be prescribed by law, by this charter, or the council.

ADDITIONAL ADMINISTRATIVE POWERS, DUTIES, AND RESTRICTIONS:

Section 6.8

(a) The council shall by ordinance establish departments of city government and determine and prescribe the functions and duties of each department. Upon the recommendation of the city administrator, the council may by ordinance prescribe additional powers and duties and diminish any powers and duties in a manner not inconsistent with the charter, to be exercised and administered by appropriate officials in department of the city.

(b) Anti-nepotism. Unless the council shall determine by unanimous vote, which vote shall be recorded as part of its official proceedings, that the best interests of the city shall be served, the following relatives of any elected or appointed officer are disqualified from holding any appointive office or employment during the term of which said elective or appointive officer is elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-sister, half-brother, or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bonafide appointive officers or employees of the city at the time of the election or appointment of said official.

CITY PLANNING:

Section 6.9 - The council shall provide for and maintain a city planning commission, which shall possess all powers and perform the functions of planning commissions as set forth by statute. The members of the planning commission shall be appointed by the mayor subject to the confirmation of the council. The members of the commission shall serve without compensation, except for necessary expenses in connection with their work.

ZONING BOARD OF APPEALS:

Section 6.10 - The council shall provide for and maintain a zoning board of appeals, which shall possess all powers and perform all functions of zoning boards of appeal as set forth by statute. The members of the zoning board of appeals shall be appointed by the mayor subject to the confirmation of the council. The members of the board shall serve without compensation, except for necessary expenses in connection with their work.

LIBRARY BOARD:

Section 6.11 - The council shall provide for and maintain a library board, which shall possess all powers and perform all functions of library boards as set forth by statute. The members of the library board shall be appointed by the mayor and subject to the confirmation of the council. The members of the board shall serve without compensation, except for necessary expenses in connection with their work.

MERIT SYSTEM OF PERSONNEL MANAGEMENT:

Section 6.12 - The council shall provide by ordinance a merit system of personnel management for the city.

COMPENSATION AND EMPLOYEE BENEFITS:

Section 6.13 - The council shall have the power to make available to the administrative officers and employees of the city and its departments, an annually funded pension plan by ordinance, and any recognized group plan of life, hospital, health, or accident and income protection service, or anyone or more thereof.

CHAPTER VII — GENERAL FINANCE**FISCAL YEAR:**

Section 7.1 - The fiscal year of the city shall begin on July 1 of each year.

BUDGET PROCEDURE:

Section 7.2 - On or before the second Monday in March of each year, each officer, department and board of the city shall submit to the city administrator an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The city administrator shall compile and review such budget requests and shall then prepare his budgetary recommendations and submit them to the city council at its meeting nearest to the first Monday in May of each year.

BUDGET DOCUMENT:

Section 7.3 - The budget document shall present a complete financial plan for the ensuing year and provide for a uniform chart of accounts and reports as required by statute. It shall include at least the following information:

(a) Detailed estimates of all proposed expenditures for each department and office of the city, showing expenditures for each department and office of the city, showing expenditures for corresponding items for the current and pertinent preceding fiscal years, with reasons for increases and decreases recommended as compared with appropriations for the current year.

(b) Statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unmissed and the condition of sinking funds if any.

(c) Detailed statements of estimates of all anticipated income of the city from taxes and sources other than current taxes and borrowing, compared with the amounts received by the city from each of the same or similar sources for the last preceding year and the current year.

(d) A statement of the estimated unencumbered balances or deficits at the end of the current fiscal year.

(e) An estimate of an amount of money to be raised from current and delinquent taxes, and the amount to be raised from bond issues, which together with income from other sources will be necessary to meet the proposed expenditures.

- (f) Such other supporting schedules as the council may deem necessary or may require.

BUDGET HEARING:

Section 7.4 - Before its final adoption, a public hearing on the budget proposal shall be held as provided by law. Notice of the time and place of holding such hearings 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 clerk for a period not less than one (1) week prior to such public hearing.

ADOPTION OF THE BUDGET:

Section 7.5 - The council shall, not later than the second regular meeting in June, adopt by resolution a budget for the ensuing fiscal year and make appropriations therefore. After consideration of probable other revenues, the council shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this charter or by law.

TRANSFER OF APPROPRIATIONS:

Section 7.6 - After the budget has been adopted, no money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of the money be incurred, except pursuant to the budget appropriation. The council may transfer any unencumbered appropriation, balance or any portion thereof from one department, fund, or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year may be reappropriated during the next fiscal year as determined by Council.

BUDGET CONTROL:

Section 7.7 - The city administrator shall submit to the council quarterly financial reports showing the relationship between the estimated and actual income and expenses to date, and if it shall appear that the income is less than anticipated, the council may reduce appropriations except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. If the revenues exceed the amounts estimated in the budget, the council may make supplemental appropriations. Expenditures shall not be charged directly to the contingency account, except in those cases where there is no other logical account to which expenditures can be charged; instead, a necessary part of the appropriation from the contingency account shall be transferred to the logical account, and expenditure charged to such account.

DEPOSITORY:

Section 7.8 - The council shall designate the depository or depositories for city funds and shall provide for the regular deposit of all city monies.

INVESTMENTS:

Section 7.9 - Idle monies may be invested in obligations issued by the city and obligations of the United States or any state thereof, in other municipal bonds or other highly rated securities, or investments as the council may determine in accordance with statute.

INDEPENDENT AUDIT:

Section 7.10 - An independent audit shall be made of all accounts of the city government annually, and more frequently if deemed necessary by the council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the council may determine. An annual report of the city business shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finance of the city government.

CHAPTER VIII — TAXATION**POWER TO TAX:**

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

TAX LIMITS:

Section 8.2 - Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds, and exclusive of any other levies authorized by law to be made beyond charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed 1.6 mills (1.6 per cent) on the assessed value of all real and personal property in the city.

EXEMPTIONS:

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

TAX DAY:

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

ASSESSMENT ROLL:

Section 8.5

(a) On or before the first Monday in March of each year, the assessor shall, in accordance with the state law, make and certify an assessment roll of all persons and property in the city liable to taxation.

(b) On or before the first Monday in March, the assessor shall, by first class mail, give notice of any increase in the previous year in the assessed value of any property, or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give such notice, or of the owner to receive it, shall not invalidate any assessment roll or assessment thereon.

BOARD OF REVIEW:

Section 8.6

(a) The board of review shall consist of three (3) qualified electors of the city but not city officers or employees. The assessor is to be the clerk of the board of review and non-voting. The board shall be entitled to such remuneration as shall be fixed by the council.

(b) The first such board of review appointed under the provisions of this charter shall be made up of three (3) qualified members appointed for one, two and three year terms. The council shall appoint a new member for a three (3) year term at the first regular council meeting in February of each succeeding year.

DUTIES AND FUNCTIONS OF THE BOARD OF REVIEW:

Section 8.7 - For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are conferred by law and required of boards of review in townships, except as otherwise provided by this charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just. In all cases, the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after that day shall be considered by the board in making its decision. Except as otherwise provided by law, no person, other than the board of review, shall make or authorize any change upon or addition or correction to the assessment roll. It shall be the duty of the assessor to keep a permanent record of all the proceedings of the board and to enter therein all resolutions and decisions of the board. Such proceedings shall be filed in the office of the clerk not later than the first day of August following the meeting of the board of review.

NOTICE OF MEETINGS:

Section 8.8 - Notice of the time and the sessions of the board of review shall be published by the city clerk at least ten (10) days prior to the first Monday in March of each year.

MEETINGS OF THE BOARD OF REVIEW:

Section 8.9 - The board of review shall first convene on the first Tuesday following the first Monday in March of each year to review and correct the assessment roll. The second meeting of the board of review shall be on the second Monday in March and shall remain in session for not less than two

(2) days. It shall choose its own chairman and a majority of its members shall constitute a quorum. On or before the first Monday in April, the board of review shall endorse the assessment roll as provided hereafter.

CERTIFICATION OF ROLL:

Section 8.10 - After the board of review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll for the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

CLERK TO CERTIFY TAX LEVY:

Section 8.11 - Within three (3) days after the council has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the council determines shall be raised by the general ad valorem tax. The clerk shall also certify all amounts of current or delinquent special assessments, and all other amounts which the council requires or orders to be assessed, reassessed, or charged upon said roll against any property or any person, in accordance with the provisions of this charter or ordinances of the city.

CITY TAX ROLL:

Section 8.12 - After the board of review has completed its review of the assessment roll, the assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" Upon receiving the certification of the several amounts to be raised, as provided for in Section 8.11, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed, or reassessed against persons or properties. He shall also spread thereon the amounts of the general ad valorem city tax according to and in proportion to the several evaluations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the assessor may add to the amount of the several taxes to be raised no more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the city.

TAX ROLL CERTIFIED FOR COLLECTION:

Section 8.13 - After spreading the taxes, the assessor shall certify the tax roll and shall annex his warrant thereto, directing and requiring the treasurer to collect, prior to March 1 of the following year, from the several persons named in said roll, the several sums mentioned therein opposite their respective names as a tax, charge or assessment, and granting to him, for purpose of collecting the taxes, charges and assessments of such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes.

TAX LIEN:

Section 8.14 - On July 1 of each year, the taxes thus assessed shall become a debt due to the city from persons to whom assessed. The taxes and all interest and charges thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by law, and shall continue until such taxes, interests, and charges are paid.

TAXES DUE NOTIFICATION THEREOF:

Section 8.15 - City taxes shall be due on July 1 of each year. The treasurer shall not require to call upon persons named in the city tax roll, nor make personal demand for payment of taxes, but shall publish between June 15 and July 1 notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof, and mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed. Failure on the part of the treasurer to publish said notice or mail such bills shall not invalidate such taxes on said tax roll, nor release the person or property assessed from the penalties and fees provided in this chapter in the case of late or nonpayment of same.

COLLECTION FEES AND INTEREST:

Section 8.16 - No penalty shall be charged for city taxes paid on or before August 15. After August 15 a collection fee of four percent (4 per cent) shall be added to taxes paid after that date. Should August 15 fall on a Saturday, Sunday or holiday, the next business day for the city shall be considered the last day for payment without penalty. Taxes remaining unpaid after October 1 shall be subject to penalty interest of one per cent (1 per cent) per month (12 per cent per annum) added until paid. Such penalty charges shall belong to the city and constitute a charge, and shall be a lien against the property to which the taxes apply, collectible in the same manner as taxes to which they are added.

COLLECTION OF DELINQUENT TAXES:

Section 8.17 - All city taxes on real property remaining uncollected by the treasurer on March 1, or such date established by statute, following the date when said roll was received by him, shall be returned to the county treasurer in the same manner and with like effect as returned by township treasurers of township, school and county taxes. Such return shall be made upon a delinquent tax roll to be prepared by the treasurer, and shall include all the additional charges and assessments herein before provided. Such charges shall be added to the amount assessed in said tax roll against each description. Taxes thus returned shall be collected in the same manner as other taxes returned to the county treasurer, in accordance with the provisions of the general laws of the state, and shall be and remain a lien upon the property against which they are assessed until paid.

FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX:

Section 8.18 - If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the treasurer shall collect the same by seizing the personal properties of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes, and all charges, in accordance with statutory provisions. The treasurer may, if otherwise unable to collect a tax or, personal property, sue the person, firm or corporation to whom it is assessed, in accordance with the statute.

STATE, COUNTY AND SCHOOL TAXES:

Section 8.19 - The levy, collection and return of state, county and school taxes shall be in conformity with the general laws of the state.

CHAPTER IX — BORROWING AUTHORITY**GENERAL BORROWING:**

Section 9.1 - Subject to the applicable provisions of state law and this charter, the council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law, and may authorize the issuance of bonds or other evidences of indebtedness therefore. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

(a) General obligation bonds which pledge the full faith, credit and resources of the city for repayment of such obligations.

(b) Notes issued in anticipation of collection of taxes but the proceeds of such notes to be spent only in accordance with appropriations as provided in Section 7.6.

(c) In cases of fire, flood or other calamity, emergency loans due in not more than five (5) years for the relief of the inhabitants of the city and for the preservation of municipal property.

(d) Special assessment bonds used in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessment. Such special assessment bonds may be obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts and general obligation of the city.

(e) Mortgage bonds for the acquiring, owning, purchasing, construction, improving, or operation of any public utility which the city is authorized by this charter to acquire or operate.

(f) Bonds for the refunding of the funded indebtedness of the city.

(g) Revenue bonds authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation to the city.

(h) Budget bonds which pledge the full faith, credit and resources of the city, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of the taxation authorized by this charter.

(i) Bonds issued in anticipation of future payments from the motor vehicle highway fund, or any other fund of the state, which the city may be permitted by law to pledge for the payment of the principle and interest thereof.

LIMITS OF BORROWING AUTHORITY:

Section 9.2

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum percentage permitted by statute, provided that in computing such net bonded indebtedness there shall be excluded money borrowed on notes issued in anticipation of the collection of taxes, special assessments bonds, even though they are a general obligation to the city, mortgage bonds, revenue bonds, bonds in anticipation of state returned revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitations. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.

(b) The amount of emergency loans which may be made under the provisions of this charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the city to exceed the limit of the net bonded indebtedness fixed by this charter or by law.

(c) No bond 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 three (3) years after the authorization, such authorization shall be null and void.

(d) The issuance of any bonds not requiring approval of the electorate shall be subject to the applicable requirements of law with reference to public notice in advance of the authorization of such issues, filing petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

PREPARATION AND RECORD OF BONDS:

Section 9.3 - Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued, and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of violation of this charter, except that whenever the proceeds of any bond issue or part thereof shall remain unexpended and unencumbered for the purpose which said bond issue was made, the council may authorize the use of said funds for retirement of bonds of such issue or for any other purpose permitted by law. All bonds or other evidences of indebtedness issued by the city shall be signed by the mayor and countersigned by the clerk under the seal of the city. Interest coupons may be executed with the facsimile signature of the mayor and clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the clerk or other designated officer. On the payment of any bond or other evidence of indebtedness the same shall be cancelled.

DEFERRED PAYMENT CONTRACTS:

Section 9.4 - The city may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than that permitted by law. The total amounts of principle payable under all such contracts shall not exceed a sum permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER X — SPECIAL ASSESSMENTS**SPECIAL ASSESSMENTS - GENERAL POWERS:**

Section 10.1 - The council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution. Such resolutions shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, what part, if any, shall be a general obligation of the city, the number of installments in which the assessment shall be levied, and whether the assessment shall be based upon special benefits, frontage, area, valuation or factors permitted by law, or a combination thereof. The council shall also have power of reassessment with respect to any such public improvement.

PROCEDURE FIXED BY ORDINANCE:

Section 10.2 - The council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and confirming of the assessments, and any other matters concerning the making and financing of improvements by special assessment.

OBJECTIONS TO IMPROVEMENT:

Section 10.3 - If, at or prior to the meeting of the city council sitting to review the assessment, the owners of more than one-half (1/2) of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without a four-fifths (4/5) vote of the members of the council.

CONTEST OF ASSESSMENT:

Section 10.4 - No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment unless, within thirty (30) days after confirmation of the special assessment roll, written notice is given to the clerk for the attention of the council indicating an intention to file such suit or action stating the grounds on which it is claimed that such assessment is illegal; and unless such suit or action shall be commenced within sixty (60) days after the confirmation of the roll. If the city attorney submits a written opinion finding said roll illegal, in whole or in part, the council may revoke its confirmation, correct the illegality if possible, and reconfirm same as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

CHAPTER XI — UTILITIES**GENERAL POWERS RESPECTING UTILITIES:**

Section 11.1 - 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 and maintain, either within or without its corporate limits, including but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, transportation, and garbage and refuse disposal facilities, and also to sell and deliver these and other public utility services within or without its corporate limits, as authorized by law.

ACQUISITION OF PRIVATE PROPERTY:

Section 11.2 - Private property may be taken and appropriated, either within or without the city, for any public use in connection with any acquisition, enlargement, or extension of public utilities.

(a) For supplying water, light, heat, power, gas, sewage treatment, and garbage and refuse disposal facilities, or any of them.

(b) For the purpose of opening, widening, altering and extending streets, alleys, avenues or the construction of bridges.

(c) For public buildings and other public structures.

(d) For public grounds, parking spaces, parks, market places and spaces.

(e) For the improvement of waters and water courses within the city, the sewers, drains, and ditches.

(f) For public hospitals and public cemeteries, and for other lawful and necessary public uses.

The ownership of such property shall be acquired by the city by negotiation and purchase, or in any other manner permitted by the general laws by the state for the taking of private property for public use.

CONTROL OF UTILITIES:

Section 11.3 - 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, buildings, 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 statute.

MANAGEMENT OF UTILITIES:

Section 11.4 - All municipally owned or operated utilities shall be administered as a regular department of the city government under the management and supervision of the city administrator.

RATES AND CHARGES:

Section 11.5 - The city council shall have the power to tax, from time to time, such just and equitable rates and charges as may be deemed advisable for supplying the inhabitants of the city and others with such utilities and services as the city may acquire or provide.

UTILITY CHARGES - COLLECTION:

Section 11.6 - The council shall provide by ordinance for the collection of all public utility charges made by the city, and for such purposes shall have all the powers granted to cities by statute. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the city any sums due on utility bills, which are not covered by deposit, the utility service or services upon which such delinquency exists may be shut off or discontinued, and suit may be instituted by the city for collection of the same in any court of competent jurisdiction.

ACCOUNTS:

Section 11.7 - Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show true and complete financial result of such city ownership of operation, or both, including all assets, liabilities, revenues, and expenses. These accounts shall show the actual cost to the city of each such public utility, the cost of all extensions, additions, improvements, all expenses of maintenance, the amount set aside for sinking fund purposes, and all operation expenses. They shall show, as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other city department. They shall also show a proper allowance for depreciation and insurance. The council shall annually cause to be made, and printed for public distribution, a report showing the audit and results for such city ownership or operation or both which report shall give for each utility the information specified in this section and such further information as the council shall deem necessary.

DISPOSAL OF PLANTS AND PROPERTY:

Section 11.8 - The city shall not sell, exchange, lease or in any way dispose of the property easements income or other equipment, privileges or assets belonging to and appertaining to any utility which it may acquire unless and except the proposition for such purpose shall have been

submitted, at a special election held for such purpose in the manner provided for in this charter, to the qualified voters of the city and approved by them by a majority vote of the electors voting thereon. All contracts, negotiations, grants, leases, or other forms of transfer in violation of this provision shall be void and have no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any article or equipment of any city-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER XII — BIDS, CONTRACTS, PURCHASES, FRANCHISES AND PERMITS**CONTRACTING AUTHORITY OF COUNCIL:**

Section 12.1 - The power to authorize the making of contracts on behalf of the city is vested in the council, and shall be exercised in accordance with the provisions of the law. All contracts, except as otherwise provided by ordinance in accordance with the provisions of this charter, shall be authorized by the council, and shall be signed on behalf of the city by the mayor and the clerk.

PURCHASE AND SALE OF PROPERTY:

Section 12.2 - The council shall establish by ordinance the procedures for the purchase or sale of personal property for the city for the direction of the city purchase or sale of personal property for the city for the direction of the city administrator. The ordinance shall provide a dollar limit within which purchases of property may be made without the necessity of securing competitive bids, and the dollar limit within which the purchases may be made without the necessity of prior council approval. No purchases or personal property shall be made unless a sufficient, unencumbered appropriation balance is available therefore.

LIMITATIONS ON CONTRACTUAL POWER:

Section 12.3

(a) The council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years, unless such contract shall first receive the approval of the majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for services with a public utility, or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

(b) Except as provided by ordinance authorized in this charter, each contract for construction of public improvements, or for the purchase or sale of personal property, shall be let after opportunity for competitive bidding.

(c) All bids shall be opened and read aloud in public by the city administrator authorized representative at the time designated in the notice of letting and shall be reported by him to the council at its next regular meeting. The council may reject any or all bids if deemed advisable. If,

after ample opportunity for competitive bidding, no bids are received, or such bids as are received are not satisfactory to the council, the council may either endeavor to obtain new competitive bids or authorize the city administrator or other proper officials of the city, to negotiate or contract on the open market. No contract shall be made with any person, firm or corporation in default to the city.

OFFICIAL INTEREST IN CONTRACTS:

Section 12.4 - No person holding any elective or appointive office of the city shall take any official action on any city contract in which he shall have a direct personal interest in the profits to be derived therefrom, or be a bondsman or surety on any contract or bond given to the city. Any officer violating the provisions of this section shall be deemed guilty of misconduct in office and upon conviction shall forfeit his office.

FRANCHISES:

Section 12.5

(a) No franchise ordinance, which is not revocable at the will of the council, shall be granted or become operative until same shall have been referred to the people at a regular or special election and has received the approval by a majority of the electors voting thereon at such election or as required by statute.

(b) All irrevocable public utility franchises, and all renewals, extensions and amendments thereof, shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefore has been filed with the council, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by a majority of the electors voting thereon. No such ordinance shall be submitted to the electors at a general election to be held less than sixty (60) days after the grantee named therein has filed its unconditional acceptance of all terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the council, shall have been paid to the city treasurer by the grantee.

(c) No exclusive franchise shall ever be granted, and no franchise shall be granted for a longer term than thirty (30) years.

(d) No such franchise shall be transferable, directly or indirectly, except with the approval of the council expressed by ordinance.

(e) Purchase of a franchised utility by the city shall require the approval of three-fifths (3/5) of the electors voting thereon.

RIGHT OF REGULATION:

Section 12.6 - All public utility franchises whether it be so provided in the granting ordinance or not, shall be subject to the right of the city to:

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

RATES OF FRANCHISED UTILITIES:

Section 12.7 - The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agencies. Those rates not pre-empted by the state for public utilities shall be set, after public hearing, by the city council.

REVOCABLE PERMITS:

Section 12.8 - 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.

USE OF STREET BY UTILITY:

Section 12.9 - Every public utility franchise shall be subject to the right of the city to use, control and regulate the use of streets, alleys, bridges and public places as shall arise from its use thereof, and shall protect and hold the city harmless from all damages arising from said use. The council shall by ordinance establish the terms and conditions for such joint use of public right-of-way and compensation to be paid therefore.

CHAPTER XIII — MUNICIPAL RIGHTS AND LIABILITIES**RIGHTS, LIABILITIES, REMEDIES:**

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

LIABILITY FOR DAMAGES:

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

STATEMENT OF CITY OFFICERS:

Section 13.3 - No officer of the city shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the city. Any such representation shall be void.

CHAPTER XIV — MISCELLANEOUS**PUBLIC RECORDS:**

Section 14.1 - All records of the city shall be public and in the English language.

HEADINGS:

Section 14.2 - The chapter and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

DEFINITIONS AND INTERPRETATIONS:

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

- (a) The word “state” shall mean the State of Michigan.
- (b) The word “city” shall mean the City of Plainwell.
- (c) The word “council” shall mean the City Council of the City of Plainwell.
- (d) The word “officer” shall include, but shall not be limited to, the mayor, the members of the council, and as herein provided, the administrative officers, deputy administrative officers, members of city boards and commissions created or pursuant to this charter.
- (e) The word “person” may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals.
- (f) The words “printed” and “printing” shall include printing, engraving, stencil, duplicating, lithographing, typewriting, and teletype and telegraphic communications.
- (g) The words “publish” or “published” shall include publication of any matter required to be published in the manner provided by law, or where there is no applicable law, in one (1) or more newspapers of general circulations in the city, qualified by law for publication of legal notices.
- (h) The words “public utility” shall include all common carriers in the public street and water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, cable television, garbage and refuse collection and disposal facilities, transportation, and such other different enterprises as the council may determine or designate.

(i) All words indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of happening of any event or requirement to which any provision of this charter is applied.

(j) The singular shall include the plural and plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter.

(k) All references to statute shall be considered to be references to such statutes as amended.

AMENDMENTS:

Section 14.4 - This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

EFFECTIVE LEGALITY OF ANY PART OF THIS CHARTER:

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

CHAPTER XV — SCHEDULE**PURPOSE AND STATUS OF SCHEDULE CHAPTER:**

Section 15.1 - The purpose of this schedule chapter is to inaugurate the government of the City of Plainwell under this charter and provide the transition of the government of the city under the previous charter to that under this charter. It shall constitute a part of this charter only to the extent and for the time required to accomplish that end.

ELECTION TO ADOPT CHARTER:

Section 15.2 - The charter shall be submitted to a vote of the qualified electors of the territory comprised of the City of Plainwell at a special election to be held on Tuesday, November 3, 1981, between the hours of 7:00 A.M. and 8:00 P.M. All provisions for the submission of the question of adopting this charter at such election shall be made within the manner provided by law. If, at such election, the majority of the electors voting thereon shall vote in favor of the adoption of this charter, then the city clerk shall perform all other acts required by law to carry this charter into effect.

FORM OF BALLOT:

Section 15.3 - The form of the question of submission of this charter shall be as follows: "Shall the proposed charter of the city of Plainwell, drafted by the Charter Commission, elected November 7, 1978, be adopted?"

ELECTIVE OFFICERS OF THE CITY:

Section 15.4

(a) The elected officers of the city holding office on the effective date of this charter shall continue to hold the offices to which they were elected for the balance of the terms for which they were elected, and shall conduct their several offices subject to the provisions of this charter. When the terms of these elected officials shall expire, they shall be selected in accordance with the provisions of this charter.

(b) For the November 1982 election only, the office of mayor shall be filled by a majority vote of the council. The purpose of this provision is to provide the two incumbent members equitable opportunity to serve as mayor, and applies only to the 1982 General Election.

(c) At the election regarding adoption of this charter, the city clerk for the city of Plainwell shall perform the duties required by law respecting such election inspectors for said election.

(d) The board of canvassers of the county of Allegan, as established by law, shall canvass the votes cast at such election.

EFFECTIVE DATE OF CHARTER:

Section 15.5 - If the canvass of votes upon the adoption of this charter shows it to have been adopted, it shall take effect and become law as the charter of the city of Plainwell for all purposes at the next regularly scheduled city council meeting following receipt of an affirmative declaration of the county board of canvassers

COUNCIL ACTION:

Section 15.6 - In all cases involving the transition of city government from that under the previous charter to that under this charter, which are not covered by this schedule, the council shall supply the necessary details and procedures and may adopt such rules, regulations and ordinances as may be required therefore.

CONTINUATION OF APPOINTIVE OFFICERS:

Section 15.7- Except as otherwise provided herein, after the effective date of this charter, all appointive officers and all employees of the city shall continue in city offices or employment which they held in the city prior to the effective date of this charter, and they shall be subject in all respects to the provisions of this charter.

BOARDS AND COMMISSIONS:

Section 15.8 - The present boards and commissions now established shall continue under their terms of the ordinance establishing them.

Plainwell - Charter**RESOLUTION OF ADOPTION**

At a Regular Meeting of the Charter Commission of the city of Plainwell, Michigan held on July 22, 1981, at the usual meeting place of the Commission, the following Commissioners were present:

At such meeting the following Resolution was offered by Commissioner Gradwell and supported by Commissioner Popp:

RESOLVED, THAT THE Charter Commission of the City of Plainwell, Michigan does hereby adopt the foregoing instrument as the Proposed Charter of the City of Plainwell, and the Clerk of this commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, for his approval.

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

AYES - Commissioners Gauthier, Gradwell, Gren, Hartleb, Johnson, Popp, Rosenberger, Slunick.

NAYS - None.

ABSENT - None.

Richard J. Leland.
City Clerk City of Plainwell

ATTESTED by the following Commissioners:

S/Brendan Gauthier
S/Gordon Gradwell
S/Robert Gren
Chairman S/Rochelle Hartleb
S/Roland Johnson
S/Arthur Popp
S/Sandra Rosenberger
S/Thomas Siunic

Richard Madison resigned May 23, 1979, replaced by Rochelle Hartleb on June 4, 1979; William McClintic resigned November 4, 1979, not replaced; Ed Lacey, Rosemary Gazella and Don Bartels resigned December 1, 1980.

Jay Earl, Arthur Popp, Thomas Siunic appointed April 22, 1981; Jay Earl resigned May 31, 1981; Roland Johnson appointed June 10, 1981.

I hereby certify this is a true copy of the signatures appended hereto:

S/Richard J. Leland, City Clerk

I hereby certify that the above Commissioners were those duly elected to the Plainwell Charter Commission on November 7, 1978, that Rochelle Hartleb was appointed by the Charter Commission to take the place of Richard Madison, resigned, and further that Ed Lacey, Rosemary Gazella and Don Bartels resigned and Jay Earl, Arthur Popp, Thomas Siunick and Roland Johnson were appointed to fill such vacancies, and further that Jay Earl resigned.

S/Richard J. Leland, City Clerk

