

Code of Ord

PART I

CHARTER*

Preamble

Article I. Powers of the City

- Sec. 1.01. Powers of the City.
- Sec. 1.02. Intergovernmental relations.

Article II. City Council and Mayor

- Sec. 2.01. Composition of Council; Mayor; eligibility, election and terms.
- Sec. 2.02. Office of Mayor.
- Sec. 2.03. Compensation; expenses.
- Sec. 2.04. Mayor Pro Tem.
- Sec. 2.05. General powers and duties.
- Sec. 2.06. Filling of vacancies.
- Sec. 2.07. Independent audit.
- Sec. 2.08. Procedure.
- Sec. 2.09. Action requiring an ordinance.
- Sec. 2.10. Ordinances in general.

Article III. Appointive Office

- Sec. 3.01. Appointive offices, appointment, terms, remuneration.

Article IV. Administrative Departments

- Sec. 4.01. General provisions.
- Sec. 4.02. Powers of appointive officers.

Article V. Financial Procedures

- Sec. 5.01. Fiscal year.
- Sec. 5.02. Submission of budget and budget message.
- Sec. 5.03. Budget message.

***Editor's note**—Printed herein is the Charter of the City of Marlette, Michigan, as adopted by the electors on September 24, 1984. Amendments to the Charter are indicated by a parenthetical history note following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State constitutional law reference—Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.

State law reference—Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.

MARLETTE CODE

- Sec. 5.04. Budget.
- Sec. 5.05. Council action on budget.
- Sec. 5.06. Lapsed appropriation.
- Sec. 5.07. Uniform Budgeting and Accounting System Act.

Article VI. Taxation

- Sec. 6.01. Subject of taxation.
- Sec. 6.02. Taxation procedure.
- Sec. 6.03. Assessment roll.
- Sec. 6.04. Board of Review.
- Sec. 6.05. Duties and Function of the Board of Review.
- Sec. 6.06. Meeting of the Board of Review.
- Sec. 6.07. Notice of meeting.
- Sec. 6.08. Endorsement of assessment roll.
- Sec. 6.09. Certification of tax levy to Assessor.
- Sec. 6.10. Collection of taxes.
- Sec. 6.11. When taxes due.
- Sec. 6.12. Return to County Treasurer.
- Sec. 6.13. State, County, and School taxes.
- Sec. 6.14. Erroneous assessment.

Article VII. Elections

- Sec. 7.01. Qualifications.
- Sec. 7.02. Election procedure.
- Sec. 7.03. Regular elections.
- Sec. 7.04. Special elections.
- Sec. 7.05. Notice of elections.
- Sec. 7.06. Voting hours.
- Sec. 7.07. Nominations.
- Sec. 7.08. Primary elections.
- Sec. 7.09. Form and approval of petition.
- Sec. 7.10. Form of ballot.
- Sec. 7.11. Election Commission.
- Sec. 7.12. Canvassing of ballots.
- Sec. 7.13. Tie vote.
- Sec. 7.14. Recount.

Article VIII. General Provision Regarding Officers and Personnel

- Sec. 8.01. Eligibility.
- Sec. 8.02. Oath of office.
- Sec. 8.03. Surety bonds.
- Sec. 8.04. Notice of election.
- Sec. 8.05. Vacancy.
- Sec. 8.06. Restrictions concerning officers.

PREAMBLE

We, the People of the City of Marlette, County of Sanilac, by virtue of the authority granted by the Constitution and laws of the State of Michigan, in order to secure the benefit of self-government, and otherwise to promote the common welfare of all citizens, do hereby ordain and establish this Charter for the City of Marlette.

ARTICLE I. POWERS OF THE CITY**Section 1.01. Powers of the City.**

The City of Marlette, hereinafter called the City, shall have all powers possible for a city to have under the Constitution and laws of Michigan, as fully and completely as though they were specifically enumerated in this Home-Rule Charter.

Section 1.02. 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 the State of Michigan, or civil divisions or agencies thereof; any one or more of the counties in the State of Michigan or civil divisions or agencies thereof, or the United States or any agency thereof.

State law reference—Permissible that in providing for the public peace, health and safety, a city expend funds or enter into contracts with a private organization, the federal or state government, a county, village or township, or another city for services considered necessary by the municipal body vested with legislative power, MCL 117.3(j), MSA 5.2073, (j).

ARTICLE II. CITY COUNCIL AND MAYOR**Section 2.01. Composition of Council; Mayor; eligibility, election and terms.**

(a) *Composition.* There shall be a City Council of six persons and a Mayor elected by the qualified electors of the City at Large.

(b) *Eligibility.* Only qualified electors of the City shall be eligible to hold the office of Council person or Mayor.

(c) *Election and Terms.* The regular election of Council persons and Mayor shall be held as provided in this charter after its adoption. The Council persons and Mayor shall each be elected for a term of four years, except as hereinafter provided during the transitionary period following adoption of this Charter.

At the 1986 regular election following adoption of this Charter there shall be three Council persons and a mayor elected; thereafter, at the 1988 regular election, there shall be three Council persons elected.

The person holding the office of President of the Village of Marlette at the time of adoption of this Charter shall continue to act as and shall be known as Mayor until the 1986 regular

election, at which time there shall be elected a Mayor whose term shall be four years. The three Village of Marlette Trustees elected in 1984 shall continue to hold office as and be known as Council persons after the adoption of this Charter until the 1988 regular election. The three Village of Marlette Trustees elected in 1982 shall continue to hold office as and be known as Council persons after the adoption of this Charter until the 1986 regular election.

Thereafter, the term of office for all Council persons shall be four years, with three Council persons to be elected at each regular election.

Regular elections shall be held biannually on the same day of the statewide general November election each even numbered year beginning in 1986.

The City shall consist of one ward, which shall consist of at least one Precinct, unless a greater number of precincts is established by the Election Commission.

State law references—Mandatory that Charter provide for qualifications of the city's officers, MCL 117.3(d), MSA 5.2073, (d); mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073, (c); mandatory that Charter provide for the establishment of one or more wards, MCL 117.3(e), MSA 5.2073, (e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

Section 2.02. Office of Mayor.

The Mayor shall be the Chief Executive Officer of the City.

The Mayor shall preside at meetings of the Council and shall be recognized as the head of City government of all ceremonial purposes and by the Governor for purposes of military law.

The Mayor shall not vote on any issue before the Council except in case of a tie vote.

Except as otherwise provided by law or this Charter, the Mayor shall appoint Council persons to committees to carry out Council business and shall appoint members of committees and boards from outside the Council with the consent of the Council. The Mayor shall appoint to each such committee or board one or more Council members as ex officio members thereof. Each such board or committee shall name its own officers and establish its own rules of procedure. Members of each such committee or board shall serve during the term of the Mayor.

State law references—Mandatory that Charter provide for a mayor, who shall be the chief executive officer of the city, MCL 117.3(a), MSA 5.2073, (a); mandatory that Charter provide for the duties of the city's officers, MCL 117.3(d), MSA 5.2073, (d).

Section 2.03. Compensation; expenses.

The Council may determine the annual salary of Council persons and the Mayor by resolution, but no such resolution increasing such salary shall become effective until the date of commencement of the terms of Council persons or Mayor elected at the next regular election provided that such election follows the adoption of such resolution by at least six months. No

reduction of the annual salary of a Council person or Mayor shall be imposed during the term of office of such Council person or Mayor. Council persons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

State law reference—Mandatory that Charter provide for the compensation of the city's officers, MCL 117.3(d), MSA 5.2073, (d).

Section 2.04. Mayor Pro Tem.

At the regular meeting at which Council persons take office following the regular election, the Council shall select from its members a Mayor Pro Tem to serve in the absence of the Mayor.

Section 2.05. General powers and duties.

(a) All powers of the City shall be vested in the 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.

(b) Through the established departments of the City government, the Council shall have the power to provide for the public peace and health and for the safety of persons and property as permitted by law.

Section 2.06. Filling of vacancies.

(a) Whenever a vacancy occurs in the office of Mayor, the Mayor Pro Tem shall fill the vacancy the remainder of the term.

(b) If the Mayor Pro Tem should decline to serve as Mayor, after receiving notice of the vacancy, the Council by majority of Council members serving shall select one of its members to fill the office of Mayor.

(c) Whenever a vacancy exists in the office of a member of the City Council, the Council, by a majority vote of members serving, shall appoint a qualified person to fill the office until the earliest City general election at which a successor can be elected to fill the office for the remainder of the term.

Section 2.07. Independent audit.

The Council shall provide for an independent annual audit of all City accounts by a certified public accountant who has no personal interest in the fiscal affairs of the City. More frequent audits may be provided as Council deems necessary. If the State of Michigan makes such an audit, the Council may accept it as satisfying the requirements of this section.

State law reference—Local units less than a 1,000,000, local audit, MCL 141.425, MSA 5.3228(25).

Section 2.08. Procedure.

(a) *Meetings of Council.* Council shall meet regularly at least once in every month at such times and at such places as the Council may prescribe by resolution. All meetings shall be open to the public except in those limited instances where executive sessions are authorized by State law.

(b) *Rules and Journal.* The Council shall determine its own rules and shall keep a journal of its proceedings which shall be a public record and shall be recorded in the English language.

(c) *Voting.* Voting, except on procedural matters, shall be by roll call and the ayes and naves shall be recorded in the journal. Four members of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum of the Council.

State law references—Mandatory that Charter provide that all sessions of the legislative body and all records of the municipality shall be public, MCL 117.3(l), MSA 5.2073, (l); mandatory that Charter provide for keeping in the English language a written or printed journal of each session of the legislative body, MCL 117.3(m), MSA 5.2073, (m); freedom of information act, MCL 15.231 et seq., MSA 4.1801 et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

Section 2.09. Action requiring an ordinance.

(a) The Council may adopt, continue, amend or repeal ordinances as permitted by the State Constitution, the laws of the State of Michigan, or this Charter.

(b) In addition to the acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City shall be by ordinance which:

- (1) Adopt or amend an administrative code.
- (2) Provide for a fine or other penalty.
- (3) Grant, renew, or extend a franchise.
- (4) Authorize the borrowing of money and issuing bonds for the borrowing of money as provided by law.

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

State constitutional law reference—General authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

State law references—Mandatory that Charter provide for a body vested with legislative power, MCL 117.3(a), MSA 5.2073, (a); mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073, (k); limitation on penalties, MCL 117.4i(10), MSA 5.2082, (10).

Section 2.10. Ordinances in general.

(a) *Form.* Every proposed ordinance shall be introduced in writing and shall express only one subject which shall be clearly expressed in each title. The enacting clause shall be "The City of Marlette ordains"

(b) *Enactment, Amendment, Repeal and Effective Date of Ordinances.* Subject to the statutes and to the exceptions which follow hereafter, (1) resolutions, motions or orders shall be enacted by the affirmative vote of not less than a majority of the members of the Council present; provided, however, ordinances shall be enacted by the affirmative vote of not less than four (4) members of the Council; (2) no ordinance shall be amended or repealed except by an ordinance adopted as aforesaid; (3) no ordinance shall be enacted at the meeting at which it is introduced nor until after publication thereof, and (4) the effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than twenty five (25) days after enactment nor before publication thereof.

(c) [*Publication.*] Before an ordinance may become operative, it shall be published in a newspaper of general circulation in the City to be selected by the Council. Immediately after such publication the Clerk shall enter in his records a certificate of publication made by the printer of the newspaper or by some representative of the newspaper in which such publication was made. The certificate of publication of the ordinance shall be entered in the "Ordinance Book" in the blank space which shall be left for such purpose just following the ordinance to which it refers. Such certificate shall be prima facie evidence of the due publication of such notice, proceedings, or ordinance.

(d) [*Recordation.*] All ordinances, when enacted, shall be recorded by the Clerk in a book called the "Ordinance Book," and it shall be the duty of the Mayor and the Clerk to authenticate such record by their signatures.

(e) *Emergency Ordinances.* Emergency ordinances may be enacted to meet a public emergency affecting life, health, property, or the public peace. However, an emergency ordinance may not levy taxes, grant, renew or extend a franchise. An emergency ordinance shall be introduced in the form and manner required for ordinances generally, except that it shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted or given immediate effect at the meeting at which it is introduced by an affirmative vote of two-thirds (2/3rds) of the Council members present. No emergency ordinance shall be effective for more than sixty days.

(f) *Technical Codes.* All technical codes and other ordinances permitted by law to be adopted by reference shall be adopted in the manner permitted and required by law.

State law reference—Mandatory that Charter provide for publication of all ordinances before they become operative and authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073, (k).

ARTICLE III. APPOINTIVE OFFICE

Section 3.01. Appointive offices, appointment, terms, remuneration.

(a) *Appointive Officers, Appointment.* The Mayor, by and with the consent of the Council, shall appoint a City Manager, City Clerk, City Treasurer, City Assessor, City Attorney, Chief of Police, and any other administrative officers as required or authorized by law. The Council

may, by resolution, create such additional administrative offices as it may deem necessary for the proper operation of the City government. To the extent permitted by law, any two or more of such offices or any of the powers of any of them, may be combined in any one person by resolution of the Council. The Council shall establish a description of the duties and qualifications of each such appointive position.

(b) *Terms.* The employment of any appointive officer may be terminated by the majority vote of the Council, provided, however, that no appointive officer who has been in the service of the City for one year or more prior to the regular election may be removed during the six months immediately following the regular election except by a two-thirds vote of the Council.

(c) [*Remuneration.*] The Council shall set the remuneration of each appointive officer.

State law reference—Mandatory that a Charter provide for the election or appointment of certain officers, MCL 117.3(a), MSA 5.2073, (a).

ARTICLE IV. ADMINISTRATIVE DEPARTMENTS*

Section 4.01. General provisions.

Each of the appointive officers shall head a city department which shall be established by resolution of the Council. The operation of the City departments, with the exception of the police department and legal department shall be under the direction of the City Manager. The police department and legal department shall be under the direction of the Council.

Section 4.02. Powers of appointive officers.

The head of each department, except the police department and the legal department, shall have the power to hire, suspend, discharge or otherwise take other appropriate disciplinary action against the employees of the department, with the consent of the City Manager. The Police Chief shall have the power to hire, suspend, discharge or otherwise take other appropriate disciplinary action against the employees of the department. An employee, other than a probationary employee, who has been suspended, discharged or otherwise disciplined may within ten days thereafter petition the Council to hear the facts regarding such action, and in such case the Council may in its sole discretion order a hearing and inquire into such facts and may make such decisions in the manner as it considers proper.

ARTICLE V. FINANCIAL PROCEDURES†

Section 5.01. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June of the following year.

***State law reference**—Permissible that Charter provide for the establishment of city departments, MCL 117.4j, MSA 5.2083.

†**State law reference**—Uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

Section 5.02. Submission of budget and budget message.

On or before the first regular Council meeting in April of each year, the City Manager shall submit to the Council a budget for the ensuing year and an accompanying message.

Section 5.03. Budget message.

The 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 Manager deems desirable.

Section 5.04. Budget.

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 Council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and objective. It 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; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections all of the items required by 1968 PA 2, as amended by 1978 PA 621, § 15(1). The total of proposed expenditures shall not exceed the total of estimated income, and the budget shall conform to the limitations set forth in Section 15(2) of said Act.

State law reference—Mandatory that Charter provide for an annual appropriation of money for municipal purposes, MCL 117.3(h), MSA 5.2073, (h).

Section 5.05. Council action on budget.

(a) *Notice and Hearing.* The 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, not less than two weeks after such publication, for a public hearing on the budget.

(b) *Amendment Before Adoption.* After the public hearing, the 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 estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(c) *Adoption.* Not later than the first Monday in June, the Council shall, by resolution, adopt the budget for the next fiscal year and shall provide, by resolution, for a levy of the amount necessary to be raised by taxation for municipal purposes which shall not exceed 1.85 percent (18.5 mills) of the assessed valuation of all real and personal property subject to taxation by the City.

(d) [*Transfers for emergency appropriations.*] To meet a public emergency, the Council may make emergency appropriations and may transfer funds from one department to another provided that no appropriation for debt service may be reduced or transferred.

State law reference—Restrictions on rate of taxation, MCL 117.5(a), MSA 5.2084, (a).

Section 5.06. Lapsed appropriation.

Every unexpended appropriation except that for capital expenditures shall lapse at the close of the fiscal year.

Section 5.07. Uniform Budgeting and Accounting System Act.

The City shall maintain a system of accounts as required by the Uniform Budgeting and Accounting System Act, 1968 PA 2, as amended, or such other statute as may apply.

ARTICLE VI. TAXATION*

Section 6.01. Subject of taxation.

The subjects of taxation for municipal purposes shall be the same as for the State, County and School purposes under the general laws of the State.

State law reference—Mandatory that Charter provide that the subjects of taxation for municipal purposes be the same as for state, county and school purposes under the general law, MCL 117.3(f), MSA 5.2073, (f).

Section 6.02. Taxation procedure.

Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by State law.

State law references—Mandatory that Charter provide for the levy, collection and return of state, county, and school taxes, in conformance with the general laws of the state, MCL 117.3(i), MSA 5.2073, (i); general property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

***State law reference**—General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

Section 6.03. Assessment roll.

On or before the first Monday in March of each year, the assessor shall make and certify an assessment roll of all persons and property in the City liable to taxation.

State law references—Mandatory that Charter provide for the preparation of the assessment roll, MCL 117.3(i), MSA 5.2073, (i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

Section 6.04. Board of Review.

The Council shall appoint three persons who are electors of the City who shall constitute a board of review for all general and special tax assessments. Members of the board of review shall serve until new members are appointed by the next succeeding Council, unless sooner removed by the Council. No Council member shall serve on the board. The assessor shall be the secretary of the board of review, shall keep a record of its proceedings, and may be heard at its meetings, but he may not be a member of the board.

State law reference—Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073, (a).

Section 6.05. Duties and Function of the Board of Review.

The Board of Review shall have the power to correct or amend the assessment roll and to increase or decrease any assessment or valuation of taxable property wrongfully listed, or add any property rightfully taxable, either on its own motion or at the request of any person. Any person considering himself aggrieved by reason of any assessment may complain thereof, either verbally or in writing to the Board. The Board may establish reasonable regulations for the conduct of its hearings, require the filing of a brief written memorandum of the arguments by those appealing to it, require any appellant to appear in person or in writing, and otherwise provide for expediting its work. The concurrence of a majority of the membership of the Board shall be necessary to decide any question. The assessor shall make any changes, additions, or corrections to the roll as directed by the Board of Review. Thereupon the Board shall complete and adopt the roll, and a majority thereof shall endorse it as provided by law. When so endorsed, the roll shall be conclusively presumed by all courts to be valid and shall not be set aside except for causes mentioned in the general laws. The omission of the endorsement or any other formality herein prescribed shall not affect the validity of the roll. A summary report of the assessment roll shall be delivered to the county by the assessor immediately thereafter.

Section 6.06. Meeting of the Board of Review.

The Board of Review shall convene on the Tuesday next following the first Monday in March of each year, and the day following, if necessary, for the purpose of examination and review of the assessment roll as prepared by the Assessor as provided by Statute.

The Board of Review shall also meet on the second Monday in March at 9:00 a.m. and continue in session during the day and the day following for the purposes of public review of the assessments as provided by statute.

State law reference—Mandatory that the Charter provide for a meeting of the board of review, MCL 117.3(i), MSA 5.2073, (i).

Section 6.07. Notice of meeting.

Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least ten (10) days prior to the Board's first session. In each case where assessed value of any property is increased or any property added to the rolls by the Board, the City Assessor shall give notice to the owners thereof, according to the first assessment roll, by letter mailed first class not later than midnight following the end of the session at which the board made the increase or addition. Such notice shall state the date, time and place that the Board of Review will hear objections to the changes made by the Board of Review, which date shall not be less than five (5) days after the mailing of such notice. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereof.

Section 6.08. Endorsement of assessment roll.

On or before the first Monday in April, the Board of Review shall endorse the assessment roll as provided by general law. Such roll shall be the assessment roll of the City for all tax purposes.

State law reference—Completion of review of assessments, MCL 211.30a, MSA 7.30(1).

Section 6.09. Certification of tax levy to Assessor.

Within three (3) days after the adoption by the Council of the budget for the next fiscal year, the Clerk shall certify to the assessor the amount of the tax levy fixed by the Council, which the Assessor shall proceed to rateably assess to each person and piece of property on the assessment roll, together with all special assessments, as well as any other amounts which the Council may require under authority of State law or this Charter, or determine to be assessed or reassessed against any property or person.

State law reference—Mandatory that Charter provide for the confirmation of the assessment roll, MCL 117.3(i), MSA 5.2073, (i).

Section 6.10. Collection of taxes.

After extending the taxes on the assessment roll, and certifying to such roll in the manner required of assessing officers by State law, the assessor shall, on or before the fifteenth (15th) day of June, deliver such assessment roll to the Clerk together with a copy or duplicate thereof. The Clerk shall forthwith annex his warrant to the original roll directing the collection from the several persons named in such roll the several sums, or the total thereof, opposite their respective names. The taxes thus assessed shall become at once a debt to the City from the persons to whom they are assessed, and together with all charges thereon, shall on the first (1st) day of July become a lien, until paid, on the property assessed, of the same character and effect as a lien created by general law for State and County taxes.

Section 6.11. When taxes due.

City taxes shall be due and payable on July 1st of each year. All taxes paid on or before the 31st day of August shall be collected by the City Treasurer without additional charge. On the

first (1st) day of September, the City Treasurer shall add to all taxes paid thereafter the maximum collection charges as provided by State law, and on the 1st day of each succeeding month beginning October 1, he shall add the maximum monthly tax delinquency charges provided by State law. Such collection charges shall not exceed the maximum allowed by State law, and 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 the taxes to which they are added. If mailing of the tax bills is delayed for any reason for more than fifteen (15) days after July 1st, the application of the collection charge provided herein shall be postponed thirty (30) days or major fraction thereof of such delay. The collection fees herein provided and all penalty charges shall be credited to the general fund. In the collection of taxes on both real and personal property, the Treasurer shall have and exercise all the powers possessed by City and Township Treasurers for the collection of taxes.

Section 6.12. Return to County Treasurer.

All City taxes on real property remaining uncollected by the City Treasurer at the end of the last day for collection of County and School taxes shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by Township Treasurers of Township, School, and County taxes. Such returns shall include all the additional assessments, charges, and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be, and remain, a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the County Treasurer is no longer charged with the collection of delinquent real property taxes, such taxes shall be collected in the manner then provided by statute for the collection of delinquent Township, School, and County Taxes.

Section 6.13. State, County, and School taxes.

For the purpose of assessing, levying, and collecting taxes for State, County and School purposes, the City shall be considered the same as a Township, and all provisions of the law relative to the collection and accounting of such taxes shall apply. For these purposes, the City Treasurer shall perform the same duties and have the same powers as are granted and imposed upon Township Treasurers by law.

State law reference—Mandatory that Charter provide for the levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073, (i).

Section 6.14. Erroneous assessment.

When there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, and the error or mutual mistake is verified by the local assessing officer and approved by the Board of Review at a meeting held only for that purpose, on Tuesday following the second Monday in December, the Board of Review shall file an affidavit within 30 days relative to the errors or mutual mistake with the proper officials who are involved with the

assessment figures, rate of taxation, or mathematical computation and all official records relative thereto shall be corrected. Where the error or mutual mistake results in an overpayment or underpayment, the rebate shall be made to the taxpayer or the taxpayer notified and payment made within 30 days of the notice. A correction under this section may be made in the year in which the error was made or in the following year only.

ARTICLE VII. ELECTIONS*

Section 7.01. Qualifications.

Each person who meets the qualification of an elector of the State of Michigan or who will have such qualifications at the next ensuing regular or special election shall be entitled to register as an elector in the City of Marlette in the voting district in which such person resides.

State law references—Mandatory that Charter provide for the registration of electors, MCL 117.3(c), MSA 5.2073, (c); registration of electors, MCL 168.491 et seq., MSA 6.1491 et seq.

Section 7.02. Election procedure.

The general election laws of the State shall apply to elections except as such laws relate to political parties or partisan procedure. In any circumstances, where the application of said laws may be uncertain, the election commission shall construe the same and prescribe the procedure.

State law reference—Michigan election law, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 7.03. Regular elections.

A non-partisan regular city election shall be held in the month of November of each even numbered year for the election of City officers, as hereinbefore provided in Article II.

State law references—Odd year general elections; applicability to home rule city, MCL 168.644j, MSA 6.1644(10).

Section 7.04. Special elections.

Special 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 the Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more special elections shall be held in any one calendar year than are allowable by State law.

State law references—Restrictions on number of special elections, MCL 117.5(c), MSA 5.2084, (c); special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

***State law references**—Mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073, (c); Michigan election law, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 7.05. Notice of elections.

Notices of the time and place of holding any elections and the officer to be elected and the questions to be voted upon shall be given by the City Clerk as provided for by State law.

State law reference—Notices of election, MCL 168.647 et seq., MSA 6.1647 et seq.

Section 7.06. Voting hours.

The polls of all elections shall be opened at 7:00 a.m. on election day and shall remain open until 8:00 p.m. of the same day. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

State law reference—Opening and closing of polls, hours, MCL 168.720, MSA 6.1720.

Section 7.07. Nominations.

The method of nomination for all candidates for the city election shall be by petition. Such petition for each candidate shall be signed by not less than twenty (20) nor more than forty (40) registered electors of the City, and shall be filed with the clerk not later than 4:00 p.m. on the ninth (9th) Tuesday preceding the primary election and not later than the ninth (9th) Tuesday preceding a special election. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following city election. Where the signature of any individual appears on more petitions than he is permitted to sign, the signature bearing the most recent date shall be invalidated. The Clerk shall publish notice of the last day permitted for filing nominating petitions and of the number of persons to be elected to each office at least one week before, and not more than three (3) weeks before the filing deadline. The petition for the nomination of non-partisan officers shall be in a form prescribed by law. The Clerk shall provide and maintain a supply of official petition forms.

State law references—Mandatory that Charter provide for the nomination of elective officers, MCL 117.3(b), MSA 5.2073, (b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 7.08. Primary elections.

A primary election shall be held on those occasions when the number of persons submitting valid nominating petitions exceeds two times the number of positions to be filled in the office. In the event a primary election is necessary, it shall be held on the same date as the general primary preceding the general November election and it shall be conducted pursuant to the general election laws of the State as they pertain to non-partisan primary elections.

State law reference—Primary elections, MCL 168.531 et seq., MSA 6.1531 et seq.

Section 7.09. Form and approval of petition.

The clerk shall accept for filing only nominating petitions containing the required number of signatures for candidates having those qualifications required for elective city officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The clerk shall

forthwith determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of qualified signatures, he shall immediately notify the candidate, who may file an amended petition not later than five (5) days after the date for filing the original petition. Each petition which is found by the clerk to contain the required number of signatures shall be marked "in order" with the date thereof, and the clerk shall so notify the candidate whose name appears thereon, in writing. All nominating petitions filed shall be open to public inspection in the office of the clerk.

Section 7.10. Form of ballot.

The form of the ballot used in any city election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any city ballot. The names of qualified candidates for each office shall be listed in a single column and shall be rotated on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the State relating to elections.

State law reference—Preparation and distribution of ballots, MCL 168.559 et seq., MSA 6.1559 et seq.

Section 7.11. Election Commission.

An Election Commission is hereby created consisting of the City Clerk as chairman, the chairman of the Board of Review and a person appointed by the Council who shall not be a Council member. The Election Commission shall appoint the board of election inspectors for each precinct and shall have charge of all activities and duties required of it by law relating to the conduct of elections in the City including the division of the city into precincts. The compensation of the election personnel shall be determined in advance by the City Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

State law reference—Boards of city election commissioners, MCL 168.25 et seq., MSA 6.1025 et seq.

Section 7.12. Canvassing of ballots.

The votes cast at all City elections shall be canvassed in accordance with State law. The candidate or candidates, where more than one are to be elected to the same office, who shall receive the greatest number of votes, shall be elected.

State law reference—Canvass of returns, MCL 168.801 et seq., MSA 6.1801 et seq.

Section 7.13. Tie vote.

If at 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 County Canvassers shall name a date for the appearance of such candidates for the purpose of determining the election of such candidates by lot, as provided by State law.

State law reference—Determination of election by lot, MCL 168.851 et seq., MSA 6.1851 et seq.

Section 7.14. Recount.

A recount of the votes cast at any City election for any office or upon any proposition may be had in accordance with election statutes. Any official elected prior to a recount of the votes cast for his or her office shall hold office until and unless the recount specified herein finally determines that an error has been made which would result in another person being elected to that office.

State law reference—Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

ARTICLE VIII. GENERAL PROVISION REGARDING OFFICERS AND PERSONNEL**Section 8.01. Eligibility.**

(a) *Elective Office.* No person shall hold any elective office of the City unless such person has been a resident of the City or the territory incorporated as a City for at least six (6) months immediately prior to the last day for filing nominating petitions for such office or prior to the time of appointment to fill a vacancy to such office. The officer must, at the time of his election or appointment be a citizen of the United States during the term of office, and be a qualified and registered elector of the City on the last day for filing for election or at the time of such appointment. A person shall not be in default to the City and the holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith contest the liability for such default.

(b) *Appointive Office.* Appointed officers are all officers of the City, excluding elective officers and employees, who are required or authorized to be appointed by the terms of this Charter or the provisions of State law to exercise a sovereign function of government. Such officer shall not be in default to the City. The holding of office by such person who is in such default shall be eliminated within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith contest the liability for such default.

Section 8.02. Oath of office.

Each elective officer of the City, before entering upon the duties of his office, and within the time specified in this Charter, shall take and subscribe to the oath of office prescribed by the State Constitution for officers of the State, which shall be filed and kept in the office of the Clerk.

State constitutional law reference—Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

Section 8.03. Surety bonds.

Except as otherwise provided in this Charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement, or both and all other officers and employees so required by the Council shall,

before they enter upon the duties of their respective office, file with the City an official bond in such form and amount as the Council shall direct and approve. The official bond of every officer or employee whose duty it may be to receive or pay out money shall be conditioned that he will, on demand, pay over or account for to the City, or any proper officer or agent thereof, all monies received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, City employees and officers. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The Clerk shall be custodian of all bonds of all officers or employees.

Section 8.04. Notice of election.

Notice of the election of any officer of the City, and of the requirement of any official bond, is to be given such officer by the clerk in writing within five (5) days after the canvass of the vote by 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, or shall not execute and file with the Clerk the required bond, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the Council shall extend the time in which such officer may qualify.

Section 8.05. Vacancy.

A vacancy shall be deemed to exist in any elective or appointive office when any such officer dies, resigns, is removed, or holds another elective or appointive governmental office as hereinafter stated in Section 8.06 of this Charter, is convicted of a felony while in office, or of misconduct in office under this Charter, is judicially declared to be mentally incompetent, or if residence is a requirement of the office, moves from the City. A vacancy on the City Council shall occur if a member of the Council shall miss four (4) consecutive regular meetings of the City Council or twenty-five percent (25%) of all regular and special meetings in any fiscal year of the City, unless such absence be excused by the City Council and the reason therefore entered in its proceedings.

Section 8.06. Restrictions concerning officers.

Subject to State conflict of duties statutes, no elective or appointive officer shall be entitled to hold any other elective or appointive governmental office unless permission is first obtained from the Council by an affirmative vote of two-thirds ($\frac{2}{3}$) of the Council. This provision shall not prevent government employees or civil service workers from serving in City office, nor shall it prevent City officers from seeking other governmental office while in office, to the extent such activity is permitted by State or Federal statute.

ARTICLE IX. SPECIAL ASSESSMENT

Section 9.01. Power to assess.

(a) The Council shall have power to determine, with or without a petition therefore, that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessment upon the parcels of property especially benefited, and so declare by

resolution. Such resolution shall state the estimated cost of the improvement, what portion of the cost shall be paid by special assessment, what portion, if any, shall be a general obligation of the City, the number of installments in which assessment may be paid, the interest to be charged, and designate the districts or land and premises upon which special assessments shall be levied.

(b) No such improvement shall be made if the owners of more than one-half ($\frac{1}{2}$) of the property to be assessed shall object thereto in writing, but if the Council shall determine and declare by a resolution adopted by five-sixths ($\frac{5}{6}$) of the Council that the proposed improvement is immediately necessary for the public health, welfare, and safety, such improvement may be made, and such special assessment may be levied therefor, notwithstanding such objections thereto. The whole amount to be levied upon the premises subject to special assessment shall not be limited by the assessed valuation of the property subject to such special assessment.

State law reference—Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

Section 9.02. Procedure ordinance.

The Council shall prescribe by general ordinance the complete special assessment procedure to be used, including the preparing of plans and specifications, estimated costs, the preparation, hearing and correction of the special assessment roll, the collection of special assessments, and the assessment of single lots or parcels. Said ordinance shall provide for a public hearing by the Council on the necessity of making such public improvement and shall provide for a public hearing by the Council on the apportionment of the roll, as well as any other matters concerning the making of improvements by the special assessment method. It shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and costs incident thereto, or in case of invalidity in whole or in part, and it shall also provide for the refund of excessive assessments.

State law references—Special assessment notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.; deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.

Section 9.03. Assessment lien.

From the date of confirmation of any assessment or reassessment roll the same shall constitute a lien upon the respective premises assessed and shall also be a charge against the person to whom assessed until paid and, in case of delinquency, may be enforced by addition to any later return to the County Treasurer or regular taxes or by suit against such person.

ARTICLE X. GENERAL PROVISIONS

Section 10.01. Conflict of interest.

The participation of any City officer or employee respecting any contract with the City, in which he or she has an interest either directly or indirectly, shall be controlled by 1968 PA 312, as amended.

State law references—Conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

Section 10.02. Charter amendments.

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

State constitutional law reference—Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.

State law reference—Charter amendment procedure, MCL 117.21 et seq., MSA 5.2100 et seq.

Section 10.03. Records to be public.

All records of the City shall be public, except as provided by law, shall be kept in the City offices, except when required for official reasons or for purposes of safekeeping to be elsewhere and shall be available for inspection at all reasonable times.

State law references—Mandatory that Charter provide that all records of the municipality shall be public, MCL 117.3(1), MSA 5.2073, (1); freedom of information act, MCL 15.231 et seq., MSA 4.1801 et seq.

Section 10.04. Article and section headings.

The article, section and sub-section headings used in this Charter are for convenience only and shall not be considered as part of the Charter.

Section 10.05. 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.

ARTICLE XI. TRANSITION**Section 11.01. Continuity of Officers.**

(a) *Status of Officers.* Every person holding elective or appointive office on the effective date of this Charter not hereinbefore specifically mentioned shall continue in officer or equivalent office, until the election and qualification of a successor or unless removed in accordance with law or the provisions of this Charter.

(b) *Compensation of Officers.* The compensation of all persons holding office under this Charter shall continue according to the schedule of compensation in existence prior to the effective date of this Charter. Any change in compensation shall be made in the manner determined by law.

Section 11.02. Continuity of rights and legislation.

(a) *Existing Village Legislation and Rules.* All ordinances and resolutions of the Village and all rules and regulations made by any Village officer or agency of the Village which are not inconsistent in their content with this Charter shall remain in effect until changed by action taken under this Charter, or as permitted by law.

(b) *Vested Rights and Liabilities.*

1. After the effective date of this Charter, the City shall be vested with all property, monies, contracts, rights, credits, effects, and the records, files, books and papers belonging to it under any virtue of its previous status as a Village.
2. No right or liability, contract, lease, or franchise either in favor of or against the City, and no existing suit or prosecution of any character, shall be affected in any manner by any change resulting from the adoption of this Charter, but the same shall stand or proceed, as if no change had been made.
3. All debts and liabilities of the Village shall continue as debts and liabilities of the City, and all debts to it and fines and penalties, imposed and existing at the time of such change, shall be collected by the City. All trusts, established for any municipal purpose, shall be continued in accordance with the terms thereof, or as near as may be possible.

(c) *Changes of Time Schedules.* If the provisions in effect on the date of adoption of this Charter regarding the time of the elections or the time of the start of the fiscal year are superseded by subsequent statute, the Council shall, by ordinance, adjust the affected times and dates in this Charter accordingly.

(d) *Council Action on Transition.* In all cases not covered by this Charter, the Council shall by rule, resolution or ordinance prescribe procedures for transition from the government of the Village of Marlette to that required under this Charter.

Section 11.03. Commencement Of New Charter.

(a) *Effective Date of This Charter.* Except as otherwise specifically provided herein, this Charter shall become effective for all purposes when filed with the Secretary of State and the County Clerk pursuant to statute.