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LINDEN CITY CHARTER

PREAMBLE

We, the people of Linden, in the County of Genesee, State of Michigan are grateful to God and our forefathers for the establishment of this community. In accordance with authority granted by the Constitution and Laws of the State of Michigan, we establish this Charter for the City of Linden. The purpose of this Charter is to provide to the fullest extent the advantages of self-government.

CHARTER

CHAPTER I

NAME AND BOUNDARIES

SECTION 1.1 NAME AND BOUNDARIES.

(a) The people within the City of Linden boundaries, by adoption of this home rule Charter, create and continue a body corporate known as the City of Linden, and shall include the territory constituting the City of Linden, Genesee County, State of Michigan, on this Charter's effective date, together with all territories that may be annexed thereto and less any detachments therefrom that may be made 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 for defining the city's current boundaries.

SECTION 1.2 WARD DESCRIPTION.

The city shall consist of a single (1) ward.

CHAPTER II

GENERAL MUNICIPAL POWERS

SECTION 2.1 GENERAL POWERS.

The City of Linden and its officers, shall be vested with any and all powers and immunities, expressed and implied, which cities are or hereafter may be permitted to exercise or provide for, in their Charters under the Constitution and Laws mandated by the State of Michigan. It shall include 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.

SECTION 2.2 INTERGOVERNMENTAL COOPERATION.

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, any property, facility or service which each would have the power to own, operate or perform separately.

SECTION 2.3 EXERCISE OF POWERS.

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, the council may resort 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 decreed by 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 or resolution a reasonable procedure for the exercise thereof.

SECTION 2.4 FURTHER DEFINITION OF POWERS.

In addition to the powers possessed by the city under the Constitution and statutes, and those set forth throughout this Charter, the city shall have power with respect to, and may, by ordinance and other lawful acts by its officers,

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provide for the following, subject to any specific limitations placed thereon by this Charter or by law:

(A) The acquisition by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, property of every type and nature for public use, which property may be located within or without the County of Genesee and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;

(B) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by this Charter or by law;

(C) Establishing and vacating streets, alleys, public ways and other public places; and by use, regulation, improvement and control of the surface of such streets, alleys, public ways and other public places and the space above and beneath them;

(D) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of reasonable compensation to the owner thereof;

(E) The using, controlling and regulating of lakes, waters and streams within its boundaries, subject to any limitations imposed by law;

(F) Establishing districts or zones within which the use of land and structures, the heights, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;

(G) Regulating trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for prohibiting such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants;

(H) Licensing, regulating, restricting and limiting the number, size and locations of advertising signs or displays and billboards within the city;

(I) Preventing injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive or unhealthy, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;

(J) Prescribing the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, otherwise conditioning such licenses as the council may prescribe;

(K) Prohibiting or regulating aircraft landings within its boundaries, for promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the city by aircraft of all types;

(L) The council shall see that provision is made for the public peace and health and for the safety of persons and property;

(M) Requiring any owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants within the city or within a reasonable time after the council notifies him that such hazard or nuisance exists; and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazards or nuisances and assess the cost thereof against such property;

(N) All the powers of municipal government possessed by the city are hereby divided into two (2) general divisions:

(1) Legislative or policy forming as represented by the City Council; and

(2) Administrative as represented by the appointed city officials.

It shall be the duty of every officer of the city to preserve the divisions of the city government distinct and separate.

CHAPTER III

ELECTIONS

SECTION 3.1 QUALIFICATIONS FOR ELECTIVE OFFICE.

Every city official holding elective office shall be a registered elector in the City of Linden and shall be a city resident.

SECTION 3.2 TERMS OF OFFICE.

(A) There shall be a City Council of six (6) members and a Mayor elected by the qualified voters of the city at large.

(B) Each councilor shall have a term of three years terminating at 7:00 p.m., fourteen (14) days after the election, and shall serve until the election and qualification of a successor.

(C) The Mayor shall serve a term of two years, terminating at 7:00 p.m., fourteen (14) days after the election, and shall serve until the election and qualification of a successor.

(D) The term of office of the councilors shall be staggered so that two councilors elected at large shall stand for election every year.

SECTION 3.3 PROHIBITIONS.

A person who holds or has held any elective city office shall not be eligible for appointment to the non-elective office or employment for which compensation is paid by or through any agency of the city until the person has been out of office for one year, except as otherwise provided by this Charter.

SECTION 3.4 COMPENSATION OF OFFICERS.

(A) The City Council shall, by ordinance, determine the compensation for all city officers and employees.

(B) The City Council, by ordinance, may alter any procedure for determining compensation of any officer or employee.

(C) The City Council shall have power to make available to the administrative officers and city employees and its departments and boards, an actuarial pension plan, and any

recognized standard group plan of life, hospital, health, or accident insurance, or any one or more thereof.

SECTION 3.5 OFFICER BONDS.

(A) All officers and employees who receive, distribute or are responsible for city funds, shall be bonded in the sum determined by the City Council.

(B) The City Council may require bonds from other officers and employees.

(C) The bonds shall be approved by the City Attorney and filed with the City Clerk.

SECTION 3.6 OATH OF OFFICE.

Every elective officer and every appointee before assuming official duties, shall take and subscribe the following oath:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this State and that I will faithfully discharge the office of _____, according to the best of my ability."

and shall file that oath, duly certified by the officer before whom it was taken, with the City Clerk.

SECTION 3.7 ELECTION TIME.

The general city election shall be held the first Tuesday succeeding the first Monday in November.

SECTION 3.8 NON-PARTISAN BALLOT.

The clerk shall prepare ballots which shall conform to the provisions of law. No party vignette or emblem or other designation shall appear on the ballot in regard to city officers.

SECTION 3.9 REPRESENTATION.

The City of Linden shall elect officers at large.

SECTION 3.10 METHOD OF NOMINATION.

(A) Nomination for all elective offices in the city shall be by petition.

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(B) Nominating petitions submitted by candidates for office to be filled by the voters of the city at large shall be signed by twenty (20), but not more than forty (40) electors of the city registered on the date of the most recent general election.

(C) The City Clerk shall assist members of the public by providing information regarding the requirements for candidacy, and in the preparation of petitions.

(D) No nominating petitions shall be accepted for filing unless accompanied by an affidavit sworn to or affirmed by the candidate, stating that the candidate possesses the legal qualifications for the office and requesting that the candidate's name be printed on the ballot. The filing deadline for nominating petitions shall be 4 p.m. on the ninth Tuesday preceding the August Primary.

SECTION 3.11 PRIMARY.

A primary election shall be held on those occasions when the number of persons submitting valid nominating petitions exceeds three times the number of positions to be filled in the office. When a primary is necessary, it shall be held every year on the Tuesday succeeding the first Monday in August preceding every General November Election.

SECTION 3.12 ELECTION COMMISSION.

(A) The conduct of city elections shall be the responsibility of the Election Commission consisting of the clerk and two registered electors of the city, appointed by the council.

(B) The Election Commission shall prescribe the procedures to be followed in the conduct of city elections in accord with state law.

SECTION 3.13 STATE LAW TO APPLY.

The general election laws of the state as supplemented by the provisions of this Charter and relevant ordinances shall apply to the qualifications and registration of voters, the filing for office by candidates, and the conduct and canvass of the city elections.

SECTION 3.14 ABSENCE FROM OFFICE.

Whenever an elective officer of the city has failed to perform the duties of the office for three consecutive regularly scheduled meetings, the council shall vote to excuse or not to excuse the inability at each council meeting until the

officer resumes the duties of the office. If the council does not excuse the absence at any meeting after the second meeting, the office shall be forfeited at the close of the meeting.

SECTION 3.15 FORFEITURE AND REMOVAL FOR CAUSE.

(A) The City Council shall declare the forfeiture of the office of any elective officer or appointee and may remove for cause any person appointed to an office for a fixed term. In every case there shall be a public hearing before the City Council with notice to the individual involved and to the public. A councilor charged with conduct constituting grounds for forfeiture may not participate in the resolution of the charge.

(B) The position of an elective city officer or an appointee shall be forfeited if he:

(1) Lacks at any time any qualifications required by this Charter,

(2) Is convicted of a felony while holding the office or appointment,

(3) Violates a provision of this Charter punishable by forfeiture.

(C) Decisions made by the City Council under this section are subject to judicial review in a hearing *de nova*. Any city resident may petition an appropriate court to require the City Council to hold a public hearing on the forfeiting of an office if the City Council has unreasonably refused to proceed.

SECTION 3.16 RECALL.

Any official holding an elective office may be recalled and the vacancy created be filled in the manner provided by law.

CHAPTER IV

STRUCTURE OF LEGISLATIVE BRANCH

SECTION 4.1 MAYOR.

(A) The Mayor shall preside at all council meetings and for all ceremonial purposes shall be recognized as the executive head of the city. He shall have a voice and vote in all proceedings of the council equal with that of the other council members, but shall have no veto power.

(B) The Mayor shall authenticate by his signature such documents as the council, this Charter or general laws shall require.

(C) The Mayor shall exercise only such powers as this Charter or the laws of this state shall require of him.

SECTION 4.2 CITY COUNCIL.

(A) The city's legislative and investigative powers are vested in the City Council. The City Council shall have all the powers and duties provided by law or this Charter.

SECTION 4.3 ORGANIZATION OF COUNCIL.

(A) The City Council shall meet and organize each year at its first regularly scheduled meeting in December.

(B) At its annual organizational meeting the City Council shall select from its members a Mayor Pro-tem who shall serve a one year term.

(C) There shall be no standing committees of the council. The council may establish special committees limited in time and purpose.

(D) The chairperson and members of each committee established by council shall be named by the Mayor, not later than the next regular City Council meeting after the establishment of the committee. All committee members shall be subject to council approval.

(E) The City Council may, at any of its meetings, deliberate as a committee of the whole.

SECTION 4.4 RULES.

(A) The council shall by resolution adopt rules and procedures for the orderly conduct of its meetings.

(B) The rules shall direct the City Manager to prepare the agenda for the council meetings and make it public in the manner set forth in the rules.

(C) The rules shall provide for a time on the agenda of each council meeting for a report from the City Manager and a time to respond to questions.

(D) The rules shall provide a reasonable opportunity for members of the public to be heard at council meetings.

SECTION 4.5 MAINTENANCE OF ORDER.

The City Council shall have the authority to maintain order at meetings of the council and its committees, and shall have the assistance of city police whenever the council deems it necessary.

SECTION 4.6 COUNCIL MEETINGS.

(A) The City Council shall meet at least monthly at such times and places as shall be stated in the council rules.

(B) City Council meetings shall be open to the public except in those limited instances where closed meetings are authorized by state law. A journal of legislative activities shall be kept in the English language.

(C) Notices of all City Council meetings shall be posted at City Hall and other locations considered appropriate by the council and shall set forth the topics of business to be discussed, the dates, times and locations of the meetings.

SECTION 4.7 SPECIAL MEETINGS.

(A) Special meetings of the council shall be held at the call of the clerk upon the written request by the Mayor, City Manager or any two councilors.

(B) At least eighteen (18) hours before the meeting, the clerk shall give public notice of the meeting and shall serve each councilor personally with a notice of the meeting or shall deliver notice to the usual place of residence of the councilor.

(C) The rules shall provide that no business shall be transacted at any special meeting except that stated in the notice.

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SECTION 4.8 QUORUM.

(A) Four members of the council shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may recess any meeting or hearing to a later time.

SECTION 4.9 ATTENDANCE AT MEETINGS.

(A) The City Council may compel the attendance of absent members at a duly called meeting by a majority vote of the council members present whether or not a quorum is present.

(B) The City Council may by ordinance provide penalties for non-attendance, including the penalty of forfeiture of office.

SECTION 4.10 VOTING.

(A) Council action shall become effective by majority affirmative vote of council members voting, except as otherwise provided by this Charter for the filling of vacancies and resolving a conflict of interest of a council member.

(B) Each member of the council shall vote on each question before the council for a determination, except that no member shall vote on any question upon which that member has a conflict of interest or financial interest other than as a citizen of the city as determined by the City Attorney.

(C) The affirmative and negative votes shall be taken and recorded on all ordinances, and whenever requested by one or more council members, on any other matter.

SECTION 4.11 INVESTIGATIONS.

(A) The City Council may make investigations into the affairs of the city and the conduct of any city agency.

(B) The City Council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it.

(C) To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the City Council shall apply to the appropriate court.

SECTION 4.12 RIGHTS AND RESPONSIBILITIES OF COUNCIL MEMBERS.

(A) The responsibilities and activities shall be to establish policy of the city and shall be legislative in nature.

(B) 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 manager solely through the manager. The council or its members shall not give orders to any such officer or employee, either publicly or privately.

SECTION 4.13 FILLING VACANCIES.

(A) Whenever a vacancy occurs in the office of Mayor, the Mayor Pro-tem shall fill the vacancy for 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 councilors 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 fourteen (14) days following the earliest city general election at which a successor can be elected to fill the office for the remainder of the term.

SECTION 4.14 TEMPORARY ABSENCE OF MAYOR.

During a temporary absence of the Mayor from the city or the inability of the Mayor to perform the duties of the office, the Mayor Pro-tem shall perform the duties of the office of Mayor.

CHAPTER V

LEGISLATION

SECTION 5.1 LEGISLATIVE POWERS.

The legislative power in the City of Linden is vested exclusively with the City Council, except as otherwise provided by law.

SECTION 5.2 FORMS OF LEGISLATION.

(A) All city legislation shall be by ordinance or resolution.

(B) A resolution is the official council action in the form of a motion adopted by a majority vote of the council members present.

(C) The council's power to act by resolution is limited to matters required or permitted by law, this Charter, and to matters pertaining to the city's internal concerns.

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

SECTION 5.3 ACTION REQUIRING AN ORDINANCE.

In addition to other acts required by law or by specific Charter provisions to be done by ordinance, those City Council acts shall be by ordinance which:

(A) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;

(B) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(C) Levy taxes, except as otherwise provided in Chapter VIII, with respect to the property tax levied by budget adoption;

(D) Grant, renew or extend a license or franchise;

(E) Authorize borrowing money (subject to the Charter's provisions);

(F) Convey, lease or authorize the conveyance or lease of any city lands;

(G) Adopt, with or without amendment, ordinances proposed under the initiative power; and

(H) Amend or repeal any ordinance previously adopted, except as otherwise provided by Charter with respect to repealing ordinances reconsidered under the referendum power. Acts other than those referred to in the preceding sentence may be done either by ordinance or resolution.

SECTION 5.4 ORDINANCES.

The style of all ordinances shall be "The City of Linden ordains." No ordinance shall be revised, altered or amended by reference to its title only, but the sections(s) or 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.

SECTION 5.5 EMERGENCY ORDINANCES.

(A) 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; regulate the rate charged by any public utility for its services; make or amend a grant; or other special privilege.

(B) 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.

(C) An emergency ordinance may be adopted and given immediate effect, at the meeting it is introduced, by an affirmative vote of two-thirds ($\frac{2}{3}$) of council members present.

(D) No emergency ordinance shall be in effect for more than sixty (60) days.

SECTION 5.6 ORDINANCES PUBLICATION AND RECORDING.

Ordinances when enacted shall be recorded by the clerk in a book called "The Ordinance Book," and it shall be the clerk's duty to authenticate such record by official signature. Before any ordinance may become operative it shall be published in a newspaper of general circulation.

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SECTION 5.7 CODIFICATION.

(A) Within three (3) years of this Charter's effective date and at least every ten (10) years thereafter, the council shall provide for preparing a general codification of all city ordinances and resolutions having the effect of law;

(B) The general codification shall be enacted by ordinance and be known as the Linden City Code; copies shall be furnished to city officials, placed in the city library, and at least fifty (50) copies deposited in the City Clerk's office for free public reference, and made available for purchase by the general public at cost.

(C) After publishing of the first Linden City Code, new ordinances and resolutions shall be printed annually in a form for integration with the code currently in effect.

SECTION 5.8 TECHNICAL REGULATIONS.

The council may adopt any detailed technical regulation, law, or rules which have been promulgated and adopted by an authorized state agency, or code which has been promulgated by the state or by a department, board or other state agency, by an organization or association which is organized and conducted for the purposes of developing the code, by reference. The code shall be clearly identified in the ordinance, and its purpose shall be published with the adopting ordinance. Printed copies involving any technical regulation, law, rule or code shall be kept in the City Clerk's office, available for inspection and distribution to the public at all times. Publication shall contain a notice stating that a complete copy of the code is made available to the public at the City Clerk's office. Any amendments to or revisions of such technical regulations, laws, rules or codes may be adopted in the same manner.

SECTION 5.9 PENALTIES.

The council shall provide in each ordinance for the punishment of violations; but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed the maximum fine, imprisonment, or both, provided by statute, in the court's discretion. Imprisonment for violations of ordinances may be in the county jail.

SECTION 5.10 INITIATIVE AND REFERENDUM.

Any ordinance may be initiated by petition. A referendum on an enacted ordinance may be initiated by petitions, as provided.

SECTION 5.11 PROCEDURE.

(A) Initiative. The city's qualified electors shall have power to propose ordinances to the council. If the council fails to adopt the proposed ordinances or adopts the proposed ordinance but changes its substance, the proposed ordinance shall be submitted to the electors for adoption or rejection at a city election, provided that such power shall not extend to the annual operating budget, capital program or any ordinance relating to appropriation of money or levy of taxes.

(B) Referendum. The city's qualified electors shall have power to require the council to reconsider any adopted ordinance. If the council fails to repeal an ordinance so reconsidered, the ordinance shall be submitted to the electors for approval or rejection at a city election, provided that such power shall not extend to the annual operating budget, capital programs or any emergency ordinance relating to the appropriation of money or levy of taxes.

SECTION 5.12 INITIATION.

Any qualified city elector may commence initiative or referendum proceedings by filing an affidavit with the City Clerk stating the person(s) who will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form. The affidavit shall state their names and addresses, shall specify the address to which all notices to the committee are to be sent, and shall set forth in full the proposed initiative ordinance or cite the ordinance to be reconsidered.

SECTION 5.13 PETITIONS.

(A) Initiative and referendum petitions must be signed by at least fifteen (15) percent of the qualified city electors.

(B) All petition papers shall be uniform in size and style and shall be executed in ink or indelible pencil, followed by the address of the person signing and date signed. Throughout their circulation, the petitions shall contain or have attached the full text of the ordinance proposed or to be reconsidered.

(C) Each paper of a petition shall have attached, when filed, an affidavit executed by the circulator stating that the circulator personally circulated the paper, the number of signatures, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they

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purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or to be reconsidered.

(D) Referendum petitions must be filed with the City Clerk within thirty (30) days after the council adopts the ordinance to be reconsidered. Initiative petitions must be filed with the City Clerk within one hundred eighty (180) days after filing the affidavit of the petitioner's committee.

SECTION 5.14 CERTIFICATION.

(A) Within twenty (20) days after the petition is filed, the City Clerk shall complete a certificate of sufficiency. If it is sufficient, the particulars in which it is insufficient shall be specified and a copy of the certificate sent by certified mail to the petitioner's committee within three (3) days. A petition certified insufficient for lack of the required number or signatures may be amended once if the petitioner's committee files a notice of intention to amend the petition with the City Clerk within three (3) days after receiving the copy of the City Clerk's certificate, excluding weekends and holidays. The amended petition shall comply with the requirements of subsections (b) and (c) of Section 5.13. Within five (5) days after it is filed, excluding weekends and holidays, the City Clerk shall complete a certificate as to the sufficiency of the amended petition and promptly send a copy to the petitioner's committee by certified mail. If a petition or amended petition is certified sufficient or insufficient and the petitioner's committee does not elect to amend or request council review under subsection (b) of this section within the time required, the City Clerk shall promptly present the certificate to the council and it shall then be a final determination as to the sufficiency of the petition.

(B) The signer of a petition shall sign his name, place of residence by number and street, and the date of signature. To each petition paper there shall be attached a sworn affidavit by the circulator, stating the number of signers and that each signature is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the petitioner. Such petition shall be filed with the clerk who shall, within fifteen (15) days, verify the signatures. If the petition does not contain a sufficient number of registered city electors, the clerk shall notify 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.

SECTION 5.15 CITY COUNCIL PROCEDURE ON INITIATORY AND REFERENDARY PETITIONS.

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 the part 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 except where otherwise required by law or this Charter.

SECTION 5.16 SUBMISSION TO ELECTORS.

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 purpose, or at the council's discretion, at a special election called for that specific purpose.

SECTION 5.17 GENERAL PROVISIONS.

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 proceeding may not be amended or repealed by the council for a period of two (2) years after the date it was adopted, and then by the affirmative vote of not less than a majority of the council. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail.

CHAPTER VI

CITY ADMINISTRATION

SECTION 6.1 ADMINISTRATIVE OFFICERS.

(A) The city's administrative officers shall be the City Manager, City Clerk, City Treasurer and such additional administrative officers as may be created by ordinance. The duties of one or more of the administrative officers may be performed by one person, when determined by the council for an indefinite period. The city's administrative officers shall be responsible to and serve at the council's pleasure and shall have compensation fixed by the council.

(B) The City Manager shall be responsible for all city employees except as noted elsewhere in this Charter. Employee compensation shall be fixed by the City Manager in accordance with budget appropriations and subject to the council's approval.

(C) All personnel employed by the city who are not elected city officers, or declared to be administrative officers, or under the authority of this Charter, shall be deemed to be city employees. Each department head shall have the authority to hire and discharge that department's employees upon the advice and consent of the City Manager, subject to the council's approval.

SECTION 6.2 CITY MANAGER.

(A) The city's chief administrative officer shall be the City Manager. The City Manager shall be selected by the council on the basis of training and ability. The City Manager shall serve for an indefinite period and at the pleasure of and be subject to removal by the council, pursuant to the procedure for removal of the City Manager in Section 6.3. Compensation shall be fixed by the council.

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

SECTION 6.3 CITY MANAGER - REMOVAL.

The council may remove the manager from office in accordance with the following procedure:

(A) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

(B) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the council a written reply not later than five (5) days before the hearing.

(C) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal.

SECTION 6.4 CITY MANAGER - FUNCTIONS AND DUTIES.

(A) The City Manager shall be responsible to the council for the proper administration of city affairs. The manager's responsibility is to recommend appointments and removals of administrative personnel, subject to council confirmation. The manager shall establish administrative personnel and employees compensation in accordance with budget appropriations. The City Manager shall supervise and coordinate the work of the administrative employees and departments of the city, except the work of the City Clerk in keeping the council records, as clerical official of the council, and in conducting elections. The City Manager must have council approval before retaining for compensation any firm or individual.

(B) The City Manager shall see that all laws and ordinances are enforced. The manager 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 the city's needs. The manager shall

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furnish the council with and make available to the public 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. The City Manager shall be responsible for the supervising and coordinating personnel policies and practices of the city. The City Manager shall be responsible, subject to council approval, for the creating and maintaining an employee manual. The City Manager shall establish and maintain a central purchasing service, and he or an authorized representative shall be the purchasing agent for the city.

(C) The City Manager shall attend all council meetings with the right to be heard but without the right to vote. The manager shall possess such other responsibilities and perform such additional duties as may be granted or required by the council, as may be consistent with the provisions of the law. The manager shall establish any rules necessary to carry out the foregoing duties.

(D) The City Manager shall conduct all sales of personal and real property which the council may authorize.

(E) The City Manager shall perform such duties as specified in this Charter or required by the council.

SECTION 6.5 CITY CLERK.

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

(B) The clerk shall have power to administer all oaths required by law, this Charter or the city ordinances.

(C) The clerk shall be custodian of the City Seal, and shall affix it to all documents and instruments requiring the seal, attest the same, and shall also be custodian of all papers, documents and records pertaining to the City of Linden, the custody of which is not otherwise provided for by this Charter and shall attest the same whenever required to do so.

(D) The clerk shall give the proper city officials ample notice of expiration or termination of any official bonds, franchises, contracts or agreements.

(E) The City Clerk shall perform such other duties as may be prescribed in the capacity of City Clerk, by law or by this Charter.

(F) The council shall appoint a City Clerk within forty-five (45) days after any vacancy exists in such position and they may appoint an acting City Clerk during the period of vacancy in the office.

SECTION 6.6 DEPUTY CLERK.

The clerk may appoint a deputy subject to written confirmation by the City Manager. The clerk may terminate the status of the deputy upon written notice to the City Manager. The deputy clerk shall have the authority to assume the clerk's duties in the clerk's absence.

SECTION 6.7 CITY TREASURER.

(A) The City Treasurer shall be the city's general accountant and shall keep the city's books of account of assets, receipts and expenditures except as otherwise provided by state law or by this Charter. The city's account system shall conform to such uniform method as required by law.

(B) The City Treasurer shall examine and audit all accounts and claims against the city.

(C) The City Treasurer shall have the custody of all city monies and all evidences of value belonging to or held in trust by the city.

(D) The City Treasurer shall receive all monies belonging to and receivable by the city.

(E) The City Treasurer shall keep and deposit all monies in the manner and place as the council may determine and report to the City Manager and council.

(F) The City Treasurer shall have the power and duty to collect and disperse county, school district, city taxes upon real and personal property and state and federal monies.

(G) The City Treasurer shall perform all duties as may be prescribed in the capacity of City Treasurer by law or this Charter.

(H) The council shall appoint a City Treasurer within forty-five (45) days after any vacancy exists and may appoint an acting City Treasurer during the period of vacancy.

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SECTION 6.8 CITY ASSESSOR.

(A) The City Assessor shall be appointed by the council.

(B) The City Assessor shall possess all the power and duties imposed by law on assessing officials.

(C) The City Assessor shall prepare all regular and special assessment rolls in the manner prescribed by law.

(D) The City Assessor shall perform such other duties as prescribed by law, resolution, ordinance, or the City Manager.

SECTION 6.9 CITY ATTORNEY.

(A) The City Attorney shall be appointed by the council and shall act as the council's legal advisor.

(B) The City Attorney shall advise the City Manager and council concerning legal problems affecting the city and shall file with the City Clerk a copy of all written opinions.

(C) The City Attorney shall prosecute ordinance violations and shall represent the city in cases before courts and other tribunals.

(D) The City Attorney shall prepare or review all ordinances, regulations, contracts, bonds and other such instruments that may be required by this Charter or council, and shall promptly give an opinion.

(E) The City Attorney shall attend council meetings when requested.

(F) The City Attorney shall perform any duties prescribed by this Charter or the council.

(G) Upon the City Attorney's recommendation, or upon its initiative, the council may retain special legal counsel to handle any matter in which the city has an interest, or to assist the City Attorney.

SECTION 6.10 POLICE CHIEF.

The police chief shall be the administrative head of the police department and shall be accountable and responsible to the City Manager for the performance of duties. The chief shall perform all duties as prescribed by law, this Charter,

the City Manager, and/or ordinances or resolutions of the council.

SECTION 6.11 FIRE CHIEF.

The fire chief shall be the administrative head of the fire department and shall be accountable and responsible to the City Manager for the performance of his duties. The chief shall perform all duties as may be prescribed by law, this Charter, the City Manager, and/or ordinances or resolutions of the council.

SECTION 6.12 PUBLIC WORKS DIRECTOR.

(A) The public works director shall be the administrative head of the Department of Public Works and shall be accountable and responsible to the City Manager for the performance of duties.

(B) The public works director shall perform all duties prescribed by law, this Charter, the City Manager, ordinances or resolutions of the council.

SECTION 6.13 ADDITIONAL ADMINISTRATIVE POWERS, DUTIES AND RESTRICTIONS.

The council shall by ordinance establish departments of city government and determine and prescribe the functions and duties of each. 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 the appropriate officials in the city departments.

SECTION 6.14 CITY PLANNING.

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 planning commission members shall be appointed by the Mayor subject to council confirmation. The commission members shall serve without compensation, except for necessary expenses in connection with their work.

CHAPTER VII

GENERAL FINANCE

SECTION 7.1 FISCAL YEAR.

The fiscal year of the city shall begin on July 1, of each year.

SECTION 7.2 BUDGET PROCEDURE.

On or before the third Monday in January of each year, each officer, department and board of the city shall submit to the City Manager an itemized estimate of expected revenues and expenditures for the next fiscal year for all activities under its control. The City Manager shall compile and review such budget requests and shall prepare his budgetary recommendations and submit them to the City Council at its meeting nearest the first Monday in April of each year.

SECTION 7.3 BUDGET DOCUMENT.

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

(A) The budget shall contain all of the required information, chart of accounts and limitations as stated in 1968 PA2, section 15, as amended by 1978 PA621, section 15: MCLA 141.435: MSA 5.3228 (35).

SECTION 7.4 BUDGET HEARING.

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 such hearings shall be published in the 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.

SECTION 7.5 ADOPTION OF THE BUDGET.

The council shall, no later than the first regular meeting in May, adopt by resolution a budget for the ensuing fiscal year and make appropriations. After consideration of anticipated 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 limited by this Charter or law.

SECTION 7.6 TRANSFER OF APPROPRIATIONS.

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. At the beginning of each fiscal year, the council shall authorize the City Manager to transfer or expend from unencumbered funds an amount for individual expenditures as the need arises.

SECTION 7.7 BUDGET CONTROL.

The City Manager shall submit to the council monthly financial reports showing the relationship between the estimated and actual income and expenses to date. If it should 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 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. A necessary part of the appropriation from the contingency account shall be transferred to the logical account, and expenditure charged to such account.

SECTION 7.8 DEPOSITORY.

The council shall designate the depositories for the city funds and shall provide for the regular deposit of all city monies.

SECTION 7.9 INVESTMENTS.

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.

SECTION 7.10 INDEPENDENT AUDIT.

An independent audit shall be made of all accounts of the city government annually, and more frequently if deemed necessary by the council. Such audits shall be made by qualified accountants experienced in municipal accounting.

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The results of such audits shall be made public in such a manner as the council may determine. An annual report of the city business shall be made available to the public in such a form as will disclose pertinent facts concerning the activities and finance of the city government.

CHAPTER VIII**TAXATION****SECTION 8.1 POWER TO TAX.**

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

SECTION 8.2 TAX LIMITS.

Excluding any levy for paying principal and interest on outstanding general obligation bonds, and excluding any other levies authorized by law to be made beyond Charter tax rate limitations, an ad valorem tax levy for general municipal purposes shall not exceed 13.5 mills on all real and personal assessed property values in the city.

SECTION 8.3 EXEMPTIONS.

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

SECTION 8.4 TAX DAY.

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

SECTION 8.5 PERSONAL PROPERTY - JEOPARDY ASSESSMENT.

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

SECTION 8.6

PREPARING THE ASSESSMENT ROLL.

On or before the first Monday in March in each year, the assessor shall prepare and certify an assessment roll for all property in the city subject to taxation, and shall file the same in the City Clerk's office for public examination. Such rolls shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized systematic assessment methods. The assessor's record shall show separate figures for the land, building improvements and personal property values; and the estimating method for such values shall be as nearly uniform as possible.

On or before the first Monday in March the assessor shall provide notice by first class mail of any increase over the previous year in the assessed value of any property, except where land has been added to the assessment roll that had not been on the assessment roll previously. The failure to give any such notice, or of the owner to receive it, shall not invalidate any assessment roll or assessment thereon.

SECTION 8.7

REVIEW BOARD.

(A) The review board shall consist of three (3) qualified electors of the city, who are not city officers or employees. The assessor will be the clerk for the review board and non-voting. The board shall be entitled to such remuneration as shall be fixed by the council.

(B) The council shall appoint the first such review board under this Charter's provisions. Board members shall be 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 December of each succeeding year, the appointment to become effective on the first day of the ensuing year.

SECTION 8.8

REVIEW BOARD - DUTIES AND FUNCTIONS.

For revising and correcting assessments, the review board shall have the same powers and perform like duties in all respects as are conferred by law and required of review boards. It shall hear all persons' complaints considering themselves aggrieved by assessment, and if it shall appear that any person or property has been wrongfully assessed or omitted from the rolls, the board shall correct the roll in such a 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(s), other than the review board, shall make or authorize any change upon or

addition or correction to the assessment. It shall be the assessor's duty to keep a permanent record of all board proceedings and to enter therein all board resolutions and decisions. Such proceedings shall be filed in the clerk's office.

SECTION 8.9 REVIEW BOARD - MEETING NOTICE.

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

SECTION 8.10 REVIEW BOARD - MEETINGS.

The review board shall convene in accordance with statute each year to review and correct the assessment roll. The review board shall convene on the third Monday of March of each year and shall continue in session for two (2) days or more as may be necessary.

SECTION 8.11 ROLL CERTIFICATION.

After the review board has completed reviewing 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.

SECTION 8.12 CLERK TO CERTIFY TAX LEVY.

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 current or delinquent special assessments amounts 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 any city ordinances.

SECTION 8.13 CITY TAX ROLL.

After the review board has completed reviewing the assessment roll, the assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll." When the several amounts to be raised has been certified, as provided for in Section 8.12, the assessor shall apportion on said tax roll the several amounts determined by the council to be levied, assessed, or reassessed against persons or properties. The assessor shall also apportion thereon, the amounts of the general ad valorem city tax according to and in pro-

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portion to the several evaluations set forth in said assessment roll. To avoid fractions in computing any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the city.

SECTION 8.14 TAX ROLL CERTIFIED FOR COLLECTION.

After apportioning the taxes, the assessor shall certify the tax roll and shall affix his warrant thereto, directing and requiring the treasurer to collect, prior to March 1 of the following year, the several sums mentioned therein opposite their respective names as a tax, levy or assessment, and granting to the assessor, for the purpose of collecting the taxes, levies and assessments on such roll, all the statutory powers and immunities possessed by township treasurers for collecting taxes, levies and special assessments.

SECTION 8.15 TAX LIEN.

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

SECTION 8.16 TAXES DUE - NOTIFICATION THEREOF.

City taxes and special assessments shall be due on July 1 each year. The treasurer shall publish, between June 15 and July 1, notice of the time when said taxes and special assessments 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. Failure on the treasurer's part 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 Charter in case the taxes are late or not paid.

SECTION 8.17 COLLECTION FEES AND INTEREST.

No penalty shall be charged for city taxes and special assessments paid on or before September 15. After September 15, a four (4) percent tax administration fee shall be added to city taxes and special assessments paid after that date. Should September 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 and special assessments remaining unpaid after September 15 shall be subject to one (1) percent interest per calendar month or any part of a calendar month added until paid. Such charges belong to the city and constitute a charge, and shall be a lien against the property to which the taxes and special assessment apply, collectible in the same manner as taxes to which they are added. If summer school taxes are collected by the city, collection shall be in accordance with the provisions of public acts 1982 -- No. 333, as amended.

SECTION 8.18 DELINQUENT TAXES -- COLLECTION.

All city taxes and special assessments on real property remaining uncollected by the treasurers on March 1, or such date established by statute, following the date when said roll was received, 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 hereinbefore provided. Such charges shall be added to the amount assessed in said tax roll against such description. City taxes and special assessments 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 remain a lien upon the property against which they are assessed until paid.

SECTION 8.19 FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAXES.

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him, her or them, the treasurer or his legal representative shall collect the same and may seize such person's, firm's or corporation's personal properties to an amount sufficient to pay such tax, fees, levies and interest for subsequent sale, wherever the same may be found in the state. No property shall be exempt from seizure. The property so seized may be sold for an amount sufficient to pay the taxes and all charges, in accordance with statutory provisions. The treasurer, or his legal representative, may if otherwise unable to collect a tax on personal property, sue the person, firm or corporation to whom it is assessed, in accordance with the statute.

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SECTION 8.20 STATE, COUNTY, AND SCHOOL TAXES.

Levying, collecting and returning state, county, and school taxes, shall conform with general state laws.

CHAPTER IX

UTILITIES

SECTION 9.1 GENERAL POWERS RESPECTING UTILITIES.

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 limited to, 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 utility services within or without its corporate limits, as authorized by law.

SECTION 9.2 CONTROLLING UTILITIES.

The council may enact such ordinances and adopt such resolutions as may be necessary to care for, protect, preserve, control and operate 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 this Charter's provisions and by statute.

SECTION 9.3 MANAGING UTILITIES.

All municipally owned or operated utilities shall be administered as a regular department of the city government and managed and supervised by the City Manager.

SECTION 9.4 RATES AND CHARGES.

The City Council shall have the power to fix, by resolution, from time to time, such just and equitable rates and charges as may be deemed advisable for supplying the city inhabitants and others, with such utilities and services as the city may acquire or provide.

SECTION 9.5 UTILITY CHARGES - COLLECTION.

The council shall provide by ordinance for collecting all public utility charges made by the city, and for such purpose shall have all the powers granted to cities by this Charter, any ordinance or state statute.

SECTION 9.6

ACCOUNTS.

Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in a manner to show true and complete financial result of such city ownership or operation, or both, including all assets, liabilities, revenues and expenses. These accounts shall show each public utility's actual cost to the city, all extension costs, additions and improvements, all maintenance expenses, the amount set aside for sinking fund purposes, and all operating expenses. They shall show, as nearly as possible, any service value 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 financial results for such city ownership or operation, or both. This report shall give for each utility the information specified in this section, and such further information as the council shall deem necessary.

SECTION 9.7

PLANTS AND PROPERTY DISPOSAL.

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 city's qualified voters and approved by them by majority vote of the electors. All contracts, negotiations, grants, leases, or other transfer forms violating this provision, shall be void and have no effect against the city. This section's provisions shall not, however, apply to selling or exchanging 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 X

BIDS, CONTRACTS, PURCHASES, FRANCHISES AND PERMITS

SECTION 10.1 CONTRACTING - COUNCIL AUTHORITY.

The power to authorize contracts on the city's behalf is vested in the council, and shall be exercised in accordance with the law's provisions. All contracts, except as otherwise provided by ordinance, in accordance with the Charter's provisions, shall be authorized by the council, and shall be signed on the city's behalf by the Mayor and the clerk.

SECTION 10.2 PROPERTY - PURCHASE AND SALE.

The council shall establish by ordinance the procedures for purchasing or selling personal property for the city. This ordinance is to provide direction to the City Manager. Beginning with each fiscal year, the council shall establish, by resolution, a dollar limit within which property purchases may be made without having to secure competitive bids, and the dollar limit within which the purchases may be made without securing prior council approval. No personal property purchases shall be made unless a sufficient, unencumbered appropriation balance is available.

SECTION 10.3 CONTRACTUAL POWER - LIMITATIONS.

(A) The council shall have power to enter into contracts which, by the terms, will be fully executed within a ten (10) year period. Contracts of longer duration shall first receive majority approval from the qualified electors at a regular or special election. Those qualifications shall not apply to contracts 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 by law to be issued to the city.

(B) Except as provided by ordinance authorized in this Charter, each contract for constructing public improvements, or for purchasing or selling personal property, shall be let after opportunity for competitive bidding.

(C) All bids shall be opened and read aloud in public by the City Manager, or an authorized representative, at the time designated in the notice of letting, and shall be reported by the City Manager 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 received are not satisfactory to the council, the council may either endeavor to obtain new competitive bids or authorize the City Manager,

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or other proper city officials, to negotiate or contract on the open market. No contract shall be made with any person, firm or corporation in default to the city.

SECTION 10.4 FRANCHISES.

(A) No franchise ordinance, which is not revocable at the council's will, shall be granted or become operative until the same shall have been referred to the people at a regular or special election and has received approval, by three-fifths ($\frac{3}{5}$) of the electors voting 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 ordinances shall be adopted before thirty (30) days after application has been filed with the council, nor until a full public hearing has been held. No such ordinance shall become effective until it has been submitted to the electors and has been approved by a majority vote. 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 an unconditional acceptance of all such franchise terms. It shall not be submitted to a special election unless the election expense, as determined by the council, has 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 term longer than ten (10) years.

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

(E) No franchised utility shall be purchased by the city, unless approved by three-fifths ($\frac{3}{5}$) of the electors voting.

SECTION 10.5 REGULATIONS RIGHTS.

All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the city's right to:

(A) Repeal the same for misuse or non-use, or failure to comply with provisions thereof;

(B) Require proper and adequate extension of plant and service, and maintenance thereof, at the highest practical efficiency standard;

(C) Establish reasonable service standards and product(s) quality, 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 franchise terms, throughout the entire period;

(F) Impose such other regulations as may be determined by the council to be necessary for the safety, welfare, and public accommodation.

SECTION 10.6 FRANCHISED UTILITIES - RATES.

The rates charged by public utilities supervised by state regulatory agencies, shall be fixed by such agencies. Those rates not fixed by the state for public utilities shall be set, after public hearing, by the City Council.

SECTION 10.7 REVOCABLE RATES.

Temporary permits for public utilities, revocable at any time at the council's will, 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.

SECTION 10.8 UTILITIES - STREET USE.

Every public utility franchise shall be subject to the city's right to use, control and regulate the use of streets, alleys, bridges and public places, including the space above and beneath them. Every public utility shall pay such part of the costs of improvements and maintenance of streets, alleys, bridges and other public places as shall arise from its use, 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 the public right-of-way and the compensation to be paid.

SECTION 10.9 LICENSES.

Council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked, and may require an exact payment of such reasonable sums for any license as it may deem proper.

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SECTION 10.10 CEMETERIES.

The council shall establish, operate, maintain and protect cemeteries, together with the improvements thereon and appurtenances thereto, owner or hereafter acquired by the city either within or without its corporate limits. In any cemetery established or owned by the city, a plan, provided by ordinance, for perpetual care for all lots, plots, and lands therein shall be established, as mandated by law.

SECTION 10.11 TRUSTS.

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 Linden shall be continued in full and in accordance with the cy pres doctrine.

CHAPTER XI

GENERAL PROVISIONS AND DEFINITIONS

SECTION 11.1 CIVIL LIABILITY.

The city shall not be liable to pay damages for injuries arising from government functions, sustained by any person either to their person or property by reason of the city's negligence, its officers or employees, not by any defective condition or obstruction in any public place unless such person shall serve or cause to be served upon the clerk, a notice in writing within one hundred twenty (120) days after the injury resulting in such damages shall have occurred. This notice shall set forth substantially the time, place, and manner in which the injury occurred, the extent of such damages as far as the same has become known, the witnesses' names and addresses known at the time by the claimant and statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained.

The city shall not be liable for any damage to person or property arising from such injury unless there shall have been first presented to the clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the damages claimed. No person shall bring any action against the city for any such damages until such claim shall have been filed with the clerk and until the council shall have been given reasonable opportunity to act thereon, either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for collecting any demand or claim against the city under this section that the injury notice and the verified proof of claim as in this section required were not presented and filed within the time and in the manner herein provided. The foregoing language notwithstanding, the city retains the right to claim governmental immunity as a result of any injury to person(s) or property resulting from governmental functions.

SECTION 11.2 UNOFFICIAL REPRESENTATION.

No city official shall have the power to make any representation or fact recital in any franchise, contract, document, or agreement, contrary to any city ordinance, or official city action, or contrary to any state law. Any such action shall not be binding on the city.

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SECTION 11.3 CITY RECORDS.

All city records shall be public, except those exempted by state law, and shall be available for inspection by the public at all reasonable times, and shall be kept in city offices, except when required to be elsewhere for official reasons or for safekeeping. All city records shall be in the English language, including the city's legislative journal.

SECTION 11.4 HEADINGS.

The article and section headings used in this Charter are for convenience only and shall not be considered to be a part of this Charter.

SECTION 11.5 SEPARABILITY.

If any Charter provision is held invalid, the other Charter provisions shall not be affected thereby. If the Charter application or any provision to any person or circumstance is held invalid, the Charter application and its provisions to other persons or circumstances shall not be affected.

SECTION 11.6 AMENDMENTS.

This Charter may be amended at any time in the manner provided in Act No. 279, Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail to those provisions.

SECTION 11.7 DEFINITIONS AND INTERPRETATIONS.

Except as otherwise specifically provided or indicated by this Charter's context:

- (A) The word "city" shall mean the City of Linden.
- (B) The word "council" shall mean the City Council, City of Linden.
- (C) Councilor is defined as a City Council member.
- (D) The word "officer" shall include, but shall not be limited to, the Mayor, the councilors and, as herein provided, the administrative officers, deputy administrative officers, members of city boards and commissions created by 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, stenciling, duplicating, lithographing, typewriting, photostating, or any similar method.

(G) The words "publish" or "published" shall include publishing any matter required to be published in the manner provided by law, or where there is no applicable law, in one (1) or more general circulation newspapers in the city, qualified by law for publishing 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) The word "state" means the State of Michigan.

(J) All references to statute shall be considered to be references to such original statutes or as amended.

(K) Except in reference to signature, the words "written" and "in writing" shall include hand written script, printing, typewriting and all electronic communications.

(L) All words indicating the present tense shall not be limited to the time this Charter is adopted, but shall extend to and include the time any event happens, or requirements to which this Charter's provisions are applied.

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

CHAPTER XII

TRANSITION

SECTION 12.1 STATUS OF OFFICERS.

Every person holding elective or appointive office on the effective date of this Charter shall continue in office, or equivalent office, until the election and qualification of a successor or unless removed in accordance with law or the provisions of this Charter.

SECTION 12.2 COMPENSATION OF OFFICERS.

The compensation of all persons holding office by 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 this Charter.

SECTION 12.3 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.

SECTION 12.4 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 and by virtue of its previous village Charter.

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 affective 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, subject to the cy pres doctrine.

SECTION 12.5 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 of this Charter accordingly.

SECTION 12.6 COUNCIL ACTION ON TRANSITION.

In all cases not covered by the Charter, the council shall by rule, resolution or ordinance prescribe procedures for transition from the government of the village under the previous Charter to that required under this Charter.

SECTION 12.7 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.

SECTION 12.8 FIRST ELECTION UNDER THIS CHARTER.

The first election under this Charter shall be held April 17, 1989. The term of office of the council members will be a three (3) year term, except for the first election. In the first election, the two (2) highest vote getters shall serve for two (2) years plus the portion remaining of the third year in a three (3) year term. The next two (2) highest vote getters shall serve for one (1) year plus the portion remaining of the second year in a two (2) year term. The next two highest vote getters shall serve for the portion remaining of a one (1) year term. The Mayor shall serve for one (1) year plus the portion remaining of the second year in a two (2) year term.

SECTION 12.9 SUBMISSION OF CHARTER TO ELECTORATE.

This Charter shall be submitted to the electorate in the affected territory for the adoption at a special election to be held on the 12th day of December, 1988.

SECTION 12.10 FORM OF BALLOT.

The form of ballot on submission of this Charter shall be as follows: "Shall the Proposed Charter of the City of Linden, framed by the Charter Commission elected on July 20, 1987, be adopted:

_____ yes
 _____ no

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SECTION 12.11 RESOLUTION OF ADOPTION.

LINDEN
CHARTER COMMISSION

At a meeting of the Charter Commission of the Village of Linden held in the offices of the Village of Linden, Genesee County, State of Michigan, being the usual meeting place of the Charter Commission, on the 1st day of June, 1988.

Present were the following members: Commissioners: Wenger, Nellett, Wagner, Morgan, Kimble and Newberry.

At such meeting the following resolution was offered by Commissioner Wagner and supported by Commissioner Newberry.

WHEREAS, on the 20th day of July, 1987, a Charter Commission was elected by the electors of the Village of Linden.

WHEREAS, said Charter Commission has convened regularly and has considered all of the provisions of a proposed revised Charter and has considered comments from the citizens relating to the same, and

WHEREAS, the Charter Commission, after due deliberation, has drafted a proposed Charter for the City of Linden and wishes to adopt the same for submission to the electors of the Village;

NOW, THEREFORE, BE IT RESOLVED that the Charter Commission for the Village of Linden, Genesee County, Michigan, does hereby adopt the foregoing and attached document as the proposed Charter for the City of Linden;

BE IT FURTHER RESOLVED that the Village Clerk shall publish such proposed Charter in one (1) newspaper at least once, not less than two (2) weeks and not more than four (4) weeks preceding said Election, together with a notice of said Election.

BE IT FURTHER RESOLVED that the Secretary of the Charter Commission is hereby directed to provide for the transmission of said Charter to the Governor of the State of Michigan, forthwith, in accordance with the provisions of the statute in such case made and provided.

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