

**CHARTER**  
**VILLAGE OF MATTAWAN**

**PREAMBLE**

To the end that the people of Mattawan may enjoy to the fullest extent the advantages of local self-government as authorized by the Constitution of the State of Michigan and invoking the blessings of Almighty God, now and forever, they hereby ordain and establish this Home Rule Charter.

**CHAPTER I      NAME AND BOUNDARIES**

Name

- 1.1      The name of the Village shall be Village of Mattawan.

Boundaries

- 1.2      The boundaries of the Village shall include the territory included within the Village of Mattawan on the effective date of this Charter together with any future annexations or detachments, which may be made. The boundaries of the Village shall be changed without amendments of this section upon the effective date of any annexation or detachment.

**CHAPTER II     MUNICIPAL POWERS**

General Powers

- 2.1      The Village and its officers shall have the power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government as permitted by the Constitution and general laws of this State whether such powers are expressly enumerated in this Charter or not; to do any act to advance the interests of the Village, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the Constitution and general laws of the State and the provisions of this Charter.
- 2.2      In accordance with the authority granted in Section 25 of Public Act 278 of 1909, as amended, all powers granted in Public Act 3 of 1895, as amended, which are not in conflict with the provisions of this charter, are hereby adopted as part of this Charter by reference, but the Village shall not be subject to any limitations or restrictions of said Act except as provided in this Charter.

**CHAPTER III    NOMINATIONS AND ELECTIONS**

Election Districts; Voting Precincts

- 3.1      The Village shall constitute one election district and one voting precinct, except the Council may establish additional precincts by ordinance or resolution. The Council shall designate the location of the polling places.

Qualifications of Electors

- 3.2      All residents of the Village having the qualifications of electors in the State of Michigan shall be electors of the Village.

Election Date

- 3.3      A regular Village election shall be held on the second Monday in March of each even numbered year.

### Election Procedures

- 3.4 The election of all Village officers shall be on a non-partisan basis. General election laws shall apply to and control all procedures relating to registration and elections unless otherwise provided in this Charter.

### Council Members and Terms of Office

- 3.5 The legislative and governing body of the Village shall consist of a Village Council of seven (7) members, elected at large for four-year terms commencing on the Monday following the day of the regular Village election. At each regular two-year election, either three or four Council Members will be elected to fill vacancies created by the expiration of Council Members' terms.

### Special Elections

- 3.6 Special elections may, subject to the laws of the State, be held at such times as the Council may determine by resolution. The purpose and object of the special election shall be stated in the resolution calling the election.

### Notice of Election

- 3.7 Notice of the time and place of holding any Village election and of the officers to be elected and the matters to be voted upon shall be given by the Clerk in the manner required by statute.

### Form of Ballot

- 3.8 The form, printing and numbering of ballots in all elections shall conform to that prescribed by statute except that no party designation or emblem shall appear.

### Voting Hours

- 3.9 The polls of all elections shall be opened and closed at the time prescribed by statutes for State elections.

### Election Commission

- 3.10 The Election Commission shall consist of the Clerk and two other members designated by the Council. The Clerk shall be Chairperson. This Commission shall have the duties and powers conferred on Village Election Commissions by statute.

### Election Inspectors

- 3.11 Before each Village election the Village Election Commission shall appoint for each precinct of the Village a Board of Inspectors consisting of not less than three qualified electors and shall fix their compensation.

### Nominations

- 3.12 The method of nomination of the elective officers shall be by petition signed by at least twenty but not more than forty qualified electors of the Village. No elector may sign his or her name to a greater number of petitions for an office than there will be persons elected to the office at the election. All nominating petitions shall be filed with the Clerk between the 60th day preceding such election, and four P.M. on the 45th day preceding such election. The form of petition shall be substantially as that required by general election statutes.

### Approval of Petitions

- 3.13 The Clerk shall accept only nomination petitions, which conform to the above requirements, and if accepted, shall endorse his or her approval and date of filing. When a petition is filed by persons other than the person appearing on it as candidate, it may be accepted only when accompanied by the written consent of the candidate. Within three days after the last day for

filing petitions, the Clerk shall make a final determination as to the validity and sufficiency of each petition. If the Clerk finds the petition does not satisfy the requirements, the candidate shall be immediately notified in writing of such fact, by personal messenger if possible.

3.14 Any candidate whose petition is invalid or insufficient shall be allowed to file supplementary or replacement petitions no later than four P.M. on the fifth day after the last day for filing original petitions.

3.15 The names of the candidates who file valid nomination petitions shall be certified by the Clerk to the Election Commission to be placed on the ballot for the next Village election. In the event that the number of petitions filed for any election does not equal the number of such offices to be filled, the Council shall, by resolution and with the written consent of persons to be nominated, nominate as many additional qualified persons as may be necessary to make the number of candidates equal to the number of offices to be filled. This resolution shall be passed within ten days after the last day for filing original petitions.

#### Public Inspection of Petitions

3.16 All nominating petitions shall be open to public inspection in the office of the Clerk.

#### Board of Canvassers

3.17 Village elections shall be canvassed by the Board of County Canvassers as required by the State election statute.

#### Certification

3.18 The statement and determination by the Board of Canvassers of the results of the election shall be filed by the Clerk and preserved for inspection. The certificate of election certified by the Board of Canvassers shall be immediately delivered by the Clerk to those persons declared to have been elected to office.

#### Tie Vote

3.19 If at any election there be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the election to office shall be determined as provided by the election statutes.

#### Recount

3.20 A recount of the votes cast at any election for any office or on any matter may be had as permitted by the election statutes.

#### Recall

3.21 Any elected official may be recalled from office by the electors of the Village in the manner provided by statute. A vacancy created by a recall shall be filled in the manner prescribed by statute.

### **CHAPTER IV ORGANIZATION OF GOVERNMENT**

#### The Council

4.1 There shall be a Council of seven members which shall be the legislative and governing body of the Village with power to adopt such ordinances and pass such resolutions as it shall deem appropriate in the exercise of its authority.

#### Compensation of Council Members

4.2 As compensation for service to the Village, the President shall receive \$25.00 for each Council meeting attended and the other Council Members shall each receive \$20.00 for each Council meeting attended. For the extra duties of the office, each administrative officer shall be reimbursed by the Council in an additional amount commensurate with his or her services. Upon authorization of the Council, Council Members may be reimbursed for reasonable expenses actually incurred on behalf of the Village.

### Election of Officers

- 4.3 At the first regular meeting following each regular Village election the Council shall elect one of its members to serve as President and another of its members to serve as President Pro Tem. The Council shall also elect from its members or otherwise a Clerk. The Council shall also select from its members or otherwise, a Treasurer, an Assessor and such other officers as the Council determines are necessary. The Council may combine any administrative offices as may be appropriate and define the powers and duties of each. In no event however, shall the offices of Clerk and Treasurer be combined. The terms of the President and President Pro Tem shall be for two years. In the event of a vacancy occurring in the office of President or President Pro Tem, the Council shall elect one of its members to fill the vacancy.

### Duties of President

- 4.4 The President is the Chief Executive Officer of the Village. He or she shall preside at the meetings of the Council. The President shall be considered a member of the Council and shall have the right to vote upon any question before the Council. He or she shall from time to time give the Council information concerning the affairs of the Village and recommend measures which he or she considers expedient. The President shall see that the laws relating to the Village and the ordinances and regulations of the Council are enforced.

### Duties of President Pro Tem

- 4.5 The President Pro Tem shall perform the duties of the President whenever the President is temporarily unable to perform the duties of that office and in case of vacancy in the office of President until the vacancy is filled by the Council.

### Duties of the Clerk

- 4.6 The Clerk shall:
- (a) be Clerk of the Council and the general accountant of the Village.
  - (b) give notice of its meetings, attend all meetings of the Council and keep a permanent journal of its proceedings in the English language.
  - (c) keep a record of all ordinances, resolutions, and actions of the Council.
  - (d) have power to administer all oaths required by state law, this charter and the ordinances of the Village.
  - (e) be custodian of the village seal, and shall affix it to all documents and instruments requiring the seal and shall attest the same.
  - (f) be custodian of all papers, documents, and records pertaining to the Village, the custody of which is not otherwise provided for by this Charter.
  - (g) give to the proper officials of the Village ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements to which the Village is a party.
  - (h) certify by his or her signature all ordinances and resolutions enacted or passed by the Council and perform any other duties required of the Clerk by state or federal law, this charter, or by the Council and ordinances of the Village.
  - (i) be responsible for maintaining and keeping the books of accounts of the assets, liabilities, receipts, and expenditures of the Village, and shall keep the Council and Village officers informed as to the financial affairs of the Village. The system of accounts of the Village shall conform to such uniform system as may be required by law.
  - (j) examine and audit all accounts and claims against the Village. No withdrawals shall be made from any Village

fund, which, after deducting all prior withdrawals therefrom, has not a sufficient amount therein to pay such proposed withdrawal.

- (k) at least quarterly, and at any time upon direction of the Council, examine and audit all books of account kept by any official, board, or department of the Village.
- (l) examine and audit all books of account of the Treasurer at least once each month.
- (m) balance all the books and accounts of the Village at the end of each calendar month, and shall make a report thereon to the Council.
- (n) keep accurate detailed accounts of:
  - 1. All taxes assessed by the Village, and all moneys due the Village, from any and every source.
  - 2. All moneys received and the several sources from which derived.
  - 3. All funds of the Village and disbursements made therefrom.

#### Duties of the Treasurer

4.7 The Treasurer shall:

- (a) have custody of all moneys of the Village and all evidences of indebtedness belonging to the Village or held in trust by the Village.
- (b) collect all moneys of the Village unless collection is provided for elsewhere by charter or ordinance.
- (c) receive from other officers and employees of the Village all moneys belonging to and receivable by the Village that may be collected by it; including fines, license fees, taxes, assessments, and all other charges. All money shall be turned over to the Treasurer promptly after collection or receipt and in all cases a receipt shall be given.
- (d) disburse all Village funds in accordance with the provisions of statute, this charter and procedures to be established by the Council.
- (e) have such powers, duties and prerogatives in regard to the collection and custody of Village taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes.
- (f) perform such other duties as may be prescribed for him or her by this charter or by the Council.

#### Village Manager

4.8 The Council may employ a Village Manager who shall serve at the discretion of the Council. The Council may, by ordinance, assign those administrative powers and duties to the Manager as may be permitted by statute. The Village Manager may not be a member of the Village Council.

### **CHAPTER V GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE VILLAGE**

#### Eligibility for Office in Village

5.1 No person shall hold any elective office in the Village unless he or she has been a resident of the Village for at least one year immediately prior to the last day for filing supplemental petitions for such office and is also a qualified and registered elector of the Village on such day and throughout his or her tenure of office. No person shall hold any elective office in the Village if he or she shall have been found guilty of a felony by a competent tribunal. All administrative officers shall be citizens of the United States.

### Nepotism

- 5.2 Unless approved by the affirmative vote of at least 4 members of the Council, relatives by blood or marriage of any Council Member or the Village Manager within the second degree of consanguinity or affinity shall be disqualified from holding any appointive office or from being employed by the Village during the term of office of such Council Member or Village Manager, except and unless said relatives are bona fide appointive officers or employees of the Village at the time of the election of such officer or appointment of such Village Manager. If the status or relationship between any employee of the Village and any officer of the Village changes to a relationship prohibited by this paragraph after one year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

### Vacancies in Office

- 5.3 The office of any Council Member including the President shall be declared vacant by the Council before the expiration of the term of such office:
- (a) For any reason specified by statute as creating a vacancy in office;
  - (b) If no person is elected to, or qualified for, the office at the election at which such office is to be filled;
  - (c) If the Council Member submits a resignation;
  - (d) If the Council Member shall miss four consecutive regular meetings of the Council or twenty-five percent of such meetings in any fiscal year of the Village unless such absence shall be excused by the Council and the reason therefore entered in its proceedings at the time of each absence.
  - (e) If the Council Member is removed from office by the Council in accordance with the provisions of Section 5.4.
  - (f) If the Council Member shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this Charter.

The office of any member of any board or commission created by this charter shall be declared vacant for reasons a, c, e or f, as listed in the foregoing part of this section.

### Removals from Office

- 5.4 Removals of Council Members (including the President) and members of boards or commissions created by this charter by the Council shall be made for either of the following reasons: (1) for any reason specified by statute for removal of Village officers by the Governor, (2) for any act declared by this Charter to constitute misconduct in office. Such removals by the Council shall be made only after a hearing of which such officers have been given notice by the Clerk at least ten days in advance either personally or by delivering the same at his or her last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his or her defense, to cross-examine witnesses and present testimony. If such officer shall neglect to appear at such hearing and answer such charges, the failure to do so may be deemed cause for removal. A majority vote of the members of the Council in office at this time, exclusive of any members, whose removal is being considered, shall be required for any such removal.

### Resignation

- 5.5 Resignations of elective and appointive officers shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk.

### Filling Vacancies

- 5.6 (a) Vacancies in offices appointed by the Council shall be filled in the manner provided for the original filling of such

office.

- (b) Vacancies in elective offices shall, within sixty days after such vacancy occurs, be filled for a term expiring on the date of the next regular Village election, by appointment of a person possessing the qualifications for the office by a majority vote of the members of the Council then in office.

If any such vacancy in the position of Council Member is not filled within sixty days, or if three or more vacancies exist simultaneously in such position, the Clerk shall within ten days thereafter call a special election, to be held in not less than forty-five days nor more than sixty days, to fill such vacancies for the unexpired terms of the officers whose terms have become vacant.

A vacancy in an elective office other than the Clerk shall not be filled if the term of office of the person whose office has become vacant expires within ninety days after the vacancy occurs.

#### No Change in Term of Office or Compensation

- 5.7 The terms of Council Members and of members of boards or commissions appointed for a definite term shall not be shortened or extended beyond the period for which the officer was elected or appointed, unless the officer is removed for cause. The salary of any elective officer shall not be changed from the day he or she is elected until the end of the term for which he or she was elected.

#### Compensation of Employees and Officers

- 5.8 The compensation of all employees and officers of the Village whose compensation is not provided for herein shall be fixed by the Council within the limits of budget appropriations.

The respective salaries and compensation of officers and employees as fixed pursuant to this charter shall be in full for all official services of such officers or employees and shall be in lieu of all other compensation receivable by such officers or employees for their services to the Village.

Any other compensation shall belong to the Village and shall be accounted for by such officers or employees and be paid into the Village treasury and a statement filed periodically with the Clerk.

Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the Village.

#### Financial Interest in Contract or Purchase

- 5.9 All contracts involving public servants and the Village shall be governed by the provisions of Public Act No. 317 of 1968 as amended.

#### Oath of Office and Bond

- 5.10 Every officer, elective or appointive, before entering upon the duties of his or her office shall take an oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by Statute, this Charter or the Council. In case of failure to comply with the provisions of this section within ten days from the date he or she is notified in writing of his or her election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify.

#### Surety Bonds

- 5.11 Except as otherwise provided in this Charter, all officers of the Village whose duties involve the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council, shall, before they enter upon the duties of their respective offices, file with the Village an official bond, in such form and amount as

the Council shall direct and approve.

All official bonds shall be corporate surety bonds and the premiums shall be paid by the Village. All bonds of all officers or employees shall be filed with the Clerk, except that any bond pertaining solely to the Clerk shall be filed with the Treasurer.

#### Delivery of Office

- 5.12 Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he or she shall within five days or sooner on demand, deliver to his or her successor in office or to his or her superior all the books, papers, moneys, and effects in his or her custody as such officer or employee. Any officer or employee violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute.

### **CHAPTER VI PROCEDURES, FUNCTIONS AND MISCELLANEOUS POWERS OF THE COUNCIL**

#### Regular Meetings

- 6.1 The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one such meeting each month. A regular meeting shall be held on the Monday following each regular village election. If any time set for holding of a regular meeting of the Council shall be a holiday then such regular meeting shall be held on the next secular day, which is not a holiday. If the Council meets at a place other than its regular meeting place, then public notice to such effect shall be published in a newspaper circulated in the Village at least 24 hours prior to the meeting and also posted at the Village Hall.

#### Special Meetings

- 6.2 Special meetings of the Council shall be called by the Clerk on the written request of the President or of any two members of the Council on at least twenty-four hours written notice to each member of the Council designating the time, place and purpose of any meetings and served personally or left at his or her usual place of residence by the Clerk or someone designated by him or her. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have, in writing, waived the requirements that notice be given at least twenty-four hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present, shall be a legal meeting.

#### Business of Special Meetings

- 6.3 No business shall be transacted at any special meeting of the Council unless it has been stated in the notice of such meeting. However, other than the enactment of an ordinance, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent and all of the members absent file their written consent.

#### Meeting to Be Public

- 6.4 All regular and special meetings of the Council shall be held in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

#### Quorum: Adjournment of Meeting

- 6.5 Four members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but in the absence of a quorum, the President or any two members may adjourn any regular or special meeting to a later date.

#### Compulsory Attendance and Conduct at Meeting

- 6.6 Any four or more members of the Council may by vote either request or compel the attendance of its members and other officers of the Village at any meeting. Any member of the Council or other officer who when notified of such request for his attendance fails to attend such meeting for reason other than confining illness shall be deemed guilty of misconduct in office



unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to act in an orderly manner at any meeting shall upon a majority vote of the Council be deemed guilty of misconduct in office.

#### Organization and Rules of the Council

- 6.7 The Council shall determine its own organization, rules and order of business subject to the following provisions:
- (a) A journal of the proceedings of each meeting in the English language shall be kept by the Clerk and shall be signed by the presiding officer and clerk of the meeting;
  - (b) A vote upon all ordinances "Yes" or "No" shall be taken and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state;
  - (c) No member of the Council shall vote on any question in which he or she has a financial interest, other than the common public interest, or on any question concerning his or her own conduct, but on all other questions each member who is present shall vote when his or her name is called unless excused by the unanimous consent of the remaining members present or unless he or she requests the same to be tabled until the next meeting of the council to be held in not less than twenty-four hours, provided, however, that such requests for postponement may be denied by vote of the Council, in which event, such member shall be required to vote unless excused by unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office;
  - (d) In all roll call votes the names of the members of the Council shall be called in alphabetical order, and the name to be called first shall be advanced one position alphabetically in each successive roll call.
  - (e) The Village Council by resolution shall have the power to create committees comprised of three (3) Council Members for the purpose of serving as a recommending and advisory body to the Council. The President with the approval of the Council shall appoint the members to service on each committee.

The committees created by the Village Council shall be under the direct control and supervision of the Council.

Committees may be established for departments within the Village governmental structure.

Committees will have the power to make recommendations to the Village Council at either regular or special meetings of the Council.

Committees will only have the power to study, investigate and report back on matters referred to them by the Council.

Committees will not have the power to interfere in the day-to-day operation of the Village administration.

A department head or other Village officer may request, in writing to the Council, a meeting with a particular committee. The written request shall set forth the specific reason for said meeting.

#### Health Department

- 6.8 The Council shall constitute the Board of Health of the Village, and it and its officers shall possess all powers and privileges granted to Boards of Health by Statute.

#### Police Department

- 6.9 The Council shall provide for and establish a police department and under the direction of a police chief, provide officers to preserve peace and good order in the Village, and to enforce all laws and ordinances, which are in force in the Village.

- (a) The Police Chief shall be appointed by the Council, and together with such duties as are usual and normal for such position, shall have the supervision and direction of the police department and the care and management of the equipment, property and buildings pertaining to said department.

Investigation

- 6.10 The Council, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer of the Village and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure on the part of any officer of the Village to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of any employee of the Village, the same shall constitute a misdemeanor.

**CHAPTER VII VILLAGE LEGISLATION**

Ordinances, Resolutions, Motions and Orders

- 7.1 All official action of the Council shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be so done by this charter or State or Federal law or pertaining to the internal affairs or concerns of the Village government. All other acts of the Council shall be by ordinance. No ordinance shall become operative until publication in the manner prescribed in Section 7.4.

The style of all ordinances shall be "The Village of Mattawan ordains." No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered or amended shall be reenacted and 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 be no earlier than the date of publication.

Each ordinance shall be identified by a number and a short title. All ordinances when enacted, shall be recorded by the Clerk in a book to be called "Ordinances" and it shall be the duty of the President and Clerk to authenticate such record by their official signatures.

Publication

- 7.2 The Council shall have power to determine the method of publication of all notices, ordinances and proceedings required to be published by law, this charter or by the Council for which a mode of publication is not prescribed by this charter or by law. In the event publication in a newspaper is required then such publication shall be made in a newspaper as defined by State law and which shall be published or circulated in the Village.

Penalties

- 7.3 The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any Village ordinance or for the commission by any officer of the Village of any act declared by this charter to constitute misconduct in office shall exceed the maximum fines and penalties allowed by State law, except that any officer of the Village found guilty of any act declared by this charter to constitute misconduct in office, shall, in addition to such penalties, forfeit his or her office.

Publication of Ordinances

- 7.4 Each ordinance passed by the Council shall be published at least once within ten (10) days after adoption. Publication shall be effected by posting a copy of the same in at least three (3) public places in the Village, together with at least one of the following methods:
  - (a) By publication of the ordinance in full after its final passage as a part of the published proceedings of the Council in a newspaper circulated in the Village;

- (b) By publication of the ordinance in full after its final passage in a newspaper circulated in the Village;
- (c) by publication of a brief notice in a newspaper circulated in the Village stating the date of enactment and effective date of such ordinance, a synopsis of such ordinance, and such other facts as the Clerk shall deem pertinent, if any.

The Clerk shall, immediately after such publication and posting, enter in the record of ordinances, a certificate under his or her hand, stating the time and place of publication and posting. Such certificate shall be prima facie evidence of the publication and posting of the ordinance.

Special Procedure on Vote on Certain Council Actions

- 7.5 (a) Action to vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof, shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing and shall publish notice of such hearing at least one week prior thereto.
- (b) The following actions shall require the affirmative vote of five members of the Council:
  1. Vacating, discontinuing or abolishing any highway, street, lane, alley or other public place or part thereof;
  2. Leasing, selling or disposing of any Village-owned real estate or interest therein;
  3. Condemning private property for public use;
  4. Creating or abolishing any office;
  5. Appropriating any money;
  6. Imposing any tax or assessment;
  7. Reconsidering or rescinding any vote of the Council.

Technical Codes

- 7.6 The Council may adopt any provision of the State law or any provision of any technical code which has been promulgated by the State of Michigan or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code in full, provided, that said code is clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the Clerk, available for inspection by and distribution, at cost, to the public at all times; provided further, that the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the Clerk. Any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

Franchise and Contracts

- 7.7 Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the Village for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least one week before the final passage or adoption thereof. The Village shall not have power to grant any exclusive right or privilege under the government of the Village.

Compilation

- 7.8 Copies of all ordinances enacted after the effective date of this Charter, and all amendments to this Charter, shall be prepared and kept on hand in the office of the Clerk available for public distribution.

- (a) The Council shall have authority to direct the codification of ordinances adopted by the Council.
- (b) The copies of ordinances and of any compilation code, or codes referred to in this Charter may be certified by the Clerk and, when so certified shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

Initiative and Referendum

- 7.9 An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had, by a petition, as hereinafter provided.

Petitions

- 7.10 An initiatory or a referendary petition shall be signed by not less than fifteen per cent of the registered electors of the Village who have signed said petition within three months before the date of filing the petition with the Clerk. Before being circulated for signatures, all such petitions shall be approved as to form by the Clerk. No such petition need be on one paper, but may be the aggregate of two or more petition papers. Each signer of a petition shall sign his or her name in ink or indelible pencil, and shall place thereon, after his or her name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator, stating the number of signatures thereto and that each is the signature of the persons whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten days, canvass the signatures to determine the sufficiency. If found to contain an insufficient number of signatures of registered electors of the Village, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify forthwith the person filing such petition and ten days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

Council Procedure

- 7.11 Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days either:
  - (a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the Village; or
  - (b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the Village.

Submission to Electors

- 7.12 The certification by the Clerk of the sufficiency of a referendary petition within thirty days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

**CHAPTER VIII GENERAL FINANCE**

Fiscal Year

- 8.1 The fiscal year of the Village shall begin on the first day of July and end on the thirtieth day of June of the following year. Such year shall constitute the budget year of the Village government.

Budget Procedure

- 8.2 On or before the first Monday in March, each Village officer shall submit to the Village Council an itemized estimate of the expenditures for the next fiscal year, for the department or activities under his or her control. The Village Clerk shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the Council at its first meeting in April.

#### Budget Document

- 8.3 The Budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least the following information:
- (a) Detailed estimates of all proposed expenditures for each department and office of the Village showing the expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, as compared with appropriations for the current year;
  - (b) Statements of the bonded and other indebtedness of the Village, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any.
  - (c) Detailed estimates of all anticipated income of the Village from sources other than taxes, and borrowing with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year;
  - (d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;
  - (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures and commitments of the Village government during the ensuing year.
  - (f) Such other supporting schedules as the Council may deem necessary.

#### Budget Hearing

- 8.4 A public hearing on the proposed budget shall be held before its final adoption at such time and place, as the Council shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Village Clerk shall be published at least once by the Clerk not less than ten days in advance of the hearing. The complete proposed budget shall be on file for public inspection, during office hours at such office, for a period of not less than one week prior to such public hearing; provided, however, that failure to give such notice shall not invalidate the adoption of any budget.

#### Adoption of Budget, Tax Limit

- 8.5 Not later than the second Monday in May, the Council shall, by resolution, adopt a budget for the next fiscal year and shall in such resolution make an appropriation of the money needed for municipal purposes during the ensuing year of the Village and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section 9.1.

#### Budget Control and Amendments

- 8.6 After the budget has been adopted, no money shall be drawn from the treasury, nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation; provided however, that the Council may amend such resolution at any time so as to authorize the transfer of any unencumbered appropriation balance or make transfers within a department, account, fund, or agency, or appropriate and allocate available revenues not included in the annual budget, and may make emergency appropriations as provided in the following section. The balance of any appropriation, which has not been encumbered, at the end of the fiscal year, shall revert to the general fund.

#### Emergency Appropriations

- 8.7 The Council shall have the authority to make emergency appropriations from general fund surpluses to meet urgent and immediate needs at any time during the budget year. All resolutions of the Council authorizing emergency appropriations shall state the purpose of the appropriation, the necessity therefor, amount of appropriation, and means of financing within the powers of the Council. In the event such emergency appropriations or proposed emergency appropriations shall, during any fiscal year, aggregate more than one-fourth of one percent of the assessed value of the taxable real and personal property in the Village as shown by the last preceding tax roll, then before final action shall be taken on such appropriation, notice shall be given of a public hearing by publication in a newspaper circulating in the Village, at least 7 days prior to the meeting at which action is to be taken. Such notice shall state the time and place of the meeting of the Council and a brief statement as to the subject matter of the appropriation. No further notice shall be required in the event the hearing on such appropriation shall be adjourned to a subsequent meeting. In the event the Council shall declare it necessary for the public health, safety and welfare of the Village that the resolution providing for such appropriation be given immediate effect, then, with a favorable vote of at least five of the members of the Council, the notice above provided for shall not be required, and such resolution may be given immediate effect.

#### Expenditures Control

- 8.8 At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Village Clerk shall submit to the Council data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the Council shall reduce appropriations except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

#### Depository

- 8.9 The Council shall designate the depository or depositories for Village funds and shall provide for the regular deposit of all Village funds. The Council shall provide for such security for Village deposits as is authorized or permitted by the general laws of the State or required by the Council, except that personal surety bonds shall not be deemed proper security.

#### Withdrawals of Funds

- 8.10 All funds drawn from the treasury shall be drawn pursuant to the authority and appropriation of the Council and upon checks signed by two officers of the Village to be designated by resolution of the Council. Each check shall specify the fund or funds from which it is payable and shall be paid from no other fund or funds. The Council shall establish a uniform procedure for the approval and payment of all debts and obligations of the Village.

#### Independent Audit

- 8.11 An independent audit shall be made of all Village accounts at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by an independent accountant to be selected by the Council. The results of such audit shall be made public.
- 8.12 The Council shall have authority to establish such sinking funds for future expenditures as may not be in violation of any then existing statutes and laws.

### **CHAPTER IX TAXATION**

#### Power to Tax and Secure Revenue

- 9.1 The Village shall have the power to levy and collect taxes for municipal purposes. The annual, general ad valorem tax levy shall not exceed one-half of one per cent of the assessed value of all real and personal property subject to taxation in the Village exclusive of any levies authorized by general statute to be made beyond charter tax rate limitations. It is provided, however, that this tax limitation may be increased for a period of not to exceed three years at any time to not more than one percent of the assessed valuation of such real and personal property by a majority vote of those electors voting thereon at any regular village election or special election called for that purpose.

Subjects of Taxation

- 9.2 The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this Charter, Village taxes shall be levied, collected, and returned in the manner provided by State law.

**CHAPTER X BORROWING POWER**

General Power to Borrow

- 10.1 (a) Subject to the applicable provisions of state law and this Charter, the council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the Village and the issuance of bonds of the Village or other evidence of indebtedness therefor, and may pledge the full faith, credit, and resources of the Village for the payment of the obligation created thereby; provided that the net bonded indebtedness incurred for all public purposes shall not at any time exceed (10) per centum of the assessed value of all real and personal property in the Village.
- (b) The Village shall also have power to issue special assessment, mortgage, revenue, or other types of bonds, beyond the debt limits fixed by law for the issuance of bonds or other evidence of indebtedness which are a general obligation of the Village in the manner and for the purpose permitted by the Charter, the constitution, and the general laws of the State of Michigan, including Public Act No. 278, of 1909, as amended, under which the Village is incorporated. Bonds issued in anticipation of the payment of special assessments may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the Village.
- (c) All collections on special assessment rolls shall be set apart in a special fund and shall be used only for the purpose or purposes for which they were levied and for the payment of the principal and interest of any bonds issued in anticipation of the payment of such special assessments. If there be any deficiency in the special assessment fund to meet the payment of any such principal and interest, monies shall be advanced from the general funds of the Village to meet such deficiency and shall be replaced in such general fund when the special assessment fund shall be sufficient therefor. No bond of the Village shall bear interest at a rate exceeding the maximum allowed by law.

Vote of Electors Required

- 10.2 Unless approved by the electors voting thereon at any general or special election, the Council shall not have power to authorize any issue of bonds except special assessment bonds, bonds for the Village portion of local improvements not to exceed forty percent of the cost of such improvement, refunding bonds, bonds for relief from fire, flood or calamity or for payment of judgments, revenue bonds and other bonds excluded by statute from the requirement of such vote.

Unissued Bonds

- 10.3 No unissued bonds of the Village shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not issued or sold within three (3) years after authorization, such authorization shall, as to such bond, be null and void.

Installment Payment Contracts

- 10.4 Upon the affirmative vote of five members, the Council may enter into installment contracts for the purchase of lands, property or equipment for public purpose in compliance with the provisions of Act No. 99 of the Public Acts of 1933, as amended, being sections 123.721 to 123.723 of Michigan Compiled Laws.

## CHAPTER XI SPECIAL ASSESSMENTS

### General Power Relative to Special Assessments

- 11.1 The Council shall have the power to determine the necessity of any public improvement, to establish special assessment districts, to determine the extent to which any special assessment districts will be especially benefited by any public improvement, and, within the limits mentioned in this Charter, and for any part of the cost of such improvement as determined by the Council, as will not exceed the extent to which such district will be especially benefited thereby, may cause a special assessment to be levied for such improvement upon the property situated within such district and benefited thereby in proportion to the benefits received.

### To Initiate Special Assessments

- 11.2 Proceedings for the making of public improvements within the Village may be commenced by resolution of the Council, on its own initiative, or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for not less than sixty percent of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll. Provided, however, that in case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners to the extent of at least sixty percent of the frontage of property to be assessed. If it shall appear that such petition was not signed by a sufficient number of property owners, then the petition shall not be presented to the Council by the Clerk. Such petition, in addition to the signatures of the owners, shall contain a brief description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of one or more of the owners or by some person or persons with knowledge that said signers are such owners and that such signatures are genuine. The initiatory petition herein referred to shall be addressed to the Council and filed with the Clerk. Such petition shall in no event be mandatory upon the Council.

### Survey and Report

- 11.3 Before the Council shall consider the making of any public improvement, the same shall be referred by resolution to the Clerk, directing him or her to prepare a report which shall include necessary plans, profiles, specifications and estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will enable the Council to decide the cost, extent, extent of benefits, and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property benefited and what part, if any, should be paid by the Village at large. The council shall not determine to proceed with the making of any such improvement until such report of the Clerk has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such public improvement. Notice of such public hearing shall be given by publication in a newspaper circulated in the Village at least seven days prior to such hearing, and by mailing a copy of such notice to each owner of or party in interest in property to be assessed, whose name appears in the last local tax assessment records in compliance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Michigan Compiled Acts.

### Cost of Condemned Property Added

- 11.4 Whenever any property is acquired by condemnation, or otherwise, for the purpose of any public improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such public improvement.

### Determination of the Project, Notice

- 11.5 After the Clerk has presented the report required in Section 11.3 for making any public improvement as requested in the resolution of the Council or petition and it has reviewed said report a resolution may be passed determining the necessity of the improvement, setting forth the nature thereof, the estimated life thereof, the estimated cost thereof prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, which shall be in proportion to and in no event shall exceed, the benefits received, and what part, if any, shall be paid by the Village at



large, designating the limits of the special assessment district to be affected, determining the extent to which such special assessment district will be especially benefited by such improvement, placing the complete information on file in the office of the Clerk where the same may be found for examination, and directing the Clerk to publish a notice of public hearing on the proposed improvement at which time and place opportunity will be given interested persons to be heard. Such notice shall be published at least one week prior to the holding of the hearing, and a copy of such notice shall be mailed to each owner of or party in interest in property to be assessed, whose name appears in the last local tax assessment records in compliance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Michigan Compiled Acts. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council.

Objections to Improvement

- 11.6 If, at or prior to such meeting of the Council, more than fifty percent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty percent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this chapter without at least an affirmative vote of six members of the Council.

Determination by the Council

- 11.7 At the public hearing on the proposed improvements, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the public improvement, if necessary, in such a manner as they shall deem to be to be in the best interest of the Village as a whole. If the determination of the Council shall be to proceed with the improvement, the resolution shall set forth the nature of the improvement, the estimated life thereof, the estimated cost thereof, designate the limits of the special assessment district to be affected, determine the extent to which each special district will be especially benefited by such improvement, prescribe what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, which shall be in proportion to and in no event shall exceed, the benefits received, and what part, if any, shall be paid by the Village at large, specify the manner and method of paying for or financing the same in each case, and directing the Assessor to prepare a special assessment roll covering that part of the cost of such improvement to be raised by special assessment.

Deviation from Plans and Specifications

- 11.8 No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the Village without authority of the Council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his or her office.

Special Assessment Roll

- 11.9 The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount chargeable against the same in proportion to but not exceeding the benefits received. The amount spread in each case shall be based upon the estimate of the cost thereof as determined by the Council.

Assessor to Attach Certificate to Assessment Roll

- 11.10 When the Assessor shall have completed such assessment roll, he or she shall file the same with the Clerk, together with his or her signed certificate or endorsement in substantially the following form:

To the Village Council of the Village of Mattawan:

I hereby certify and report that the foregoing is a special assessment roll, and the assessment made by me pursuant to a resolution of the Council of said Village adopted \_\_\_\_\_ (give date) for the purpose of paying that part of the cost which the Council decided should be paid and borne by special assessment for the (insert here object of the assessment); that in making such assessment I have, as near as may be, according to my best judgement, conformed in all things to the directions contained in the resolution of the Council hereinbefore

referred to, and the charter of the Village relating to such assessment; that the total amount assessed against the property in each district as designated by the Council, is as follows: (here give amount against each district); that the assessment was made upon each of the lots and parcels assessed in proportion to the benefits they would respectively receive from the same.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Village Assessor

The Clerk shall thereupon present the same to the Council for review and certification by it.

#### Meeting to Review Special Assessment Roll - Objections

- 11.11 Upon receipt of such special assessment roll, the Council by resolution shall accept such assessment roll and order it to be filed in the office of the Clerk for public examination; shall fix the time and place the Council will meet to review such special assessment roll and direct the Clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by publication thereof in a newspaper circulated in the village at least one week prior to the holding of the hearing, and by mailing a copy of such notice to each owner of or party in interest in property to be assessed, whose name appears in the last local tax assessment records in compliance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Michigan Compiled Acts. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council. At this meeting all interested persons or parties shall present their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

#### Changes and Corrections in Assessment Roll

- 11.12 The Council shall meet at the time and place designated for the review of such special assessment roll and at such meeting, or proper adjournment thereof, shall consider all objections thereto submitted. The Council may correct said roll as to any special assessment or description of any letter, parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and the same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council is satisfied with the said special assessment roll, it shall thereupon pass a resolution confirming such roll, placing it on file in the office of the Clerk, and directing the Clerk to attach his or her warrant to a certified copy within ten days, therein commanding the Assessor to spread the various sums and amount, appearing thereon, on a special assessment roll or upon the tax rolls of the Village for the full amounts or in annual installments as directed by the Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement as provided in Section 11.18 of this chapter.

#### Collection of Special Assessments

- 11.13 All special assessments, except installments thereon as the Council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the Special Assessment Roll.

#### Partial Payments When Due

- 11.14 The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed fifteen in number, the first installment being due not later than July 1st of the year following the year of confirmation of the roll, and the deferred installments being due annually thereafter, or, in the discretion of the Council, may be spread upon and made a part of each annual village tax roll thereafter, until all annual installments have been spread, Interest shall be charged on all deferred installments at a rate reasonably calculated to reimburse the Village for the cost of obtaining funds to complete the improvement; the whole or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due date as herein established.

#### Delinquent Special Assessments

- 11.15 Special assessments and all interest and charges thereon from the date of confirmation of the roll, shall be and remain a lien upon the property, assessed of the same character and effect as the lien created by general law for the state and county taxes, and by this charter for Village taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments as are provided by the charter to be collected on delinquent Village taxes. Such delinquent special assessments shall be subject to the same penalties, shall be returned to the County Treasurer for collection, and the property upon which the same are a lien shall be subject to sale therefor, the same as are delinquent Village taxes and the property upon which they constitute a lien.

#### Assessments in Isolated Cases

- 11.16 When any expense shall be incurred by the Village upon or in respect to any separate or single lot, parcel of land or premises which, by the provisions of this charter, the Council is authorized to charge and collect as a special assessment against the same, and not being that class of special assessments required to be made pro-rata upon several lots or parcels of land in a special assessment district; the Clerk shall report the same, with a description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or person, if known, chargeable therewith, to the Council in such manner as the Council shall prescribe. The provisions of the preceding sections of this chapter with reference to special assessments generally, and the proceedings necessary to be had before making the improvements, shall not apply to assessments to cover the expenses incurred in respect to that class of improvements contemplated in this section.

#### Procedure in Such Cases

- 11.17 The Council shall determine what amount or part of the expenses of the improvement in any such case shall be charged, and the person if known, against whom, and the premises upon which, the same shall be levied as a special assessment; and as often as the Council shall deem it expedient it shall require all of the several amounts so reported and determined, and the several lots or premises and the persons chargeable therewith respectively to be notified by the Clerk by registered mail sent to their last known address as shown on the assessment roll of the village. Such notice shall state the basis of the assessment, the cost thereof, and shall give a reasonable time, which shall not be less than thirty days, in which payments shall be made. Failure upon the part of the person, to whom such notice was directed, to receive the same, will not invalidate such assessment. In all cases where payment is not made within the time limit, the same shall be reported by the Clerk to the Assessor who shall spread amounts against the several persons or descriptions of real property chargeable therewith on the next roll for the collection of Village taxes.

#### Additional Assessments, Refunds

- 11.18 When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the Council may make an additional deficiency assessment in proportion to, but not exceeding, the benefits received. Should the assessment provide larger than necessary to five percent or less, the Council may place the excess in the general fund of the Village. If more than five percent, the excess shall be refunded pro rata according to assessments. In either case, the Council may provide by resolution that the amount of any such excess may be allowed as a credit on the last installment where such installment still remains unpaid at the time the final cost of the improvement is determined.

#### Additional Procedures

- 11.19 In any case where the provisions of this chapter may be insufficient to carry into full effect the making of any special assessments, the Council shall provide by ordinance any additional notice, steps or procedures required to effect the improvement by special assessment.

#### Contested Assessments

- 11.20 Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement within twenty days after the date of the resolution of the Council confirming the assessment rolls or such improvement, as required by Section 11.12 of this chapter, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for

the purpose of contesting or enjoining the collection of such special assessment.

#### Reassessment for Benefits

- 11.21 Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Council shall have power to cause a new assessment to be used for the same purpose for which the former assessment was made, whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall have been collected, the balance shall be refunded to the person making such payment.

### **CHAPTER XII PURCHASES, CONTRACTS & LEASES**

#### Purchasing and Contractual Procedure

- 12.1 Before making any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions as the council shall prescribe by ordinance.

### **CHAPTER XIII MUNICIPAL OWNED UTILITIES**

#### General Powers Respecting Utilities

- 13.1 The Village shall possess and reserves to itself all the powers granted to villages by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, public utilities including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment or garbage disposal facilities, or any of them, to the municipality and its inhabitants; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitation set by statute and constitution.

#### Management of Municipality Owned Utilities

- 13.2 All municipality owned utilities shall be administered as a regular department of the Village government under one or more department heads appointed by, and serving at the pleasure of, the Council and not by an independent board or commission.

#### Rates

- 13.3 The Council shall have the power to fix from time to time reasonable rates for supplying inhabitants of the Village and others with such public utility services as the Village may provide. There shall be no discrimination in such rates within any classification of users, nor shall free service be permitted, but higher rates may be charged for services outside the Village limits.

#### Utility Rates and Charges - Collection

- 13.4 The Council shall provide by ordinance for the collection of all public utility rates and charges of the Village. Such ordinance shall provide:
- (a) That the Village shall have, when permitted by statute, as security for the collection of such utility rates and charges, a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service, and shall be enforced in the manner provided by ordinance;
  - (b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges;

- (c) That suit may be instituted by the Village in any court of competent jurisdiction for the collection of such rates or charges.

With respect to the collection of rates charged for water, the Village shall have all powers granted to villages by Public Act 178 of 1939 of the State of Michigan, as amended.

#### Disposal of Utility Plants and Property

- 13.5 Unless approved by a three-fifths majority vote of the electors voting at a regular or special election, the village shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the Village. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any Village owned public utility which are worn out or useless or which have been, or could, with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements.

#### Utility Accounts

- 13.6 Transactions pertaining to the ownership and operation by the Village of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other Village departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operations, which report shall be available for inspection at the office of the Clerk.

### **CHAPTER XIV PUBLIC UTILITY FRANCHISES**

#### Granting of Public Utility Franchises

- 14.1 Public utility franchises and all renewals, extensions thereof and amendments thereto, shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of any franchise existing as of the date of the adoption of this charter or that may hereafter be granted.

No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his or her unconditional acceptance of all terms of such franchise. No special election for such purposes shall be ordered unless the expense of holding such election as determined by the Council shall have first been paid to the Treasurer by the grantee.

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

#### Conditions of Public Utility Franchise

- 14.2 All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the Village, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the village to impose or require:

- (a) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standard of service and quality of products and prevent unjust discrimination in services or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;
- (f) To require of any utility which may not be subject to regulation by any administrative agency of the State, proper and adequate extension of plant, service and maintenance thereof, at the highest practicable standard of efficiency. The facilities and service of any utility subject to the jurisdiction, and control of any regulation by the Michigan Public Service Commission, shall be in accordance with the rules and regulations of the Michigan Public Service Commission or its successor;
- (g) After written request of the Council, to require the public utility to file with the Clerk, copies of any annual report made that year by such utility to the Michigan Public Service Commission;
- (h) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Use of Public Places by Utilities

- 14.4 Every public utility whether it has a franchise or not shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the Village harmless from all damages arising from said use. Every such public utility may be required by the Village to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the Village by the Village and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

The Council may grant a permit at any time in or upon any street, alley or public place, provided such permit shall be revocable by the Council at its pleasure, whether such right to revoke be expressly reserved in said permit or not; provided, that when such a permit is granted for water mains, sewers or drains, it may be made irrevocable unless the grantee be a private person, firm or corporation.

Sale or Assignment of Franchise

- 14.5 The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgages or purchaser shall be subject to the terms of the franchise and provisions of this chapter.

**CHAPTER XV MISCELLANEOUS**

Claims Against Village

- 15.1 The Village shall not be liable for damages to persons or property unless a notice in writing setting forth such claim shall be on file with the Village Clerk within sixty days after such occurrence.

### Publication and Mailing of Notices

- 15.2 The Council shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The Council may determine that such publication may be made in a newspaper, which is printed or circulated in the Village, or that such publications may be made by posting in the office of the Clerk and in five other public places of the Village. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase, the purpose or nature of the notice, ordinance, or proceeding posted, and location of the places where posted, shall be published at least once in a newspaper published or circulated in the Village within seven days after such posting was done.

In any case in which this Charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed, shall be prima facie evidence of such mailing.

### No Estoppel by Representation

- 15.3 No official of the Village shall have power to make any representation or recital of fact in any franchise, contract, document or agreement, contrary to any public record of the Village. Any such representation shall be void and of no effect as against the Village.

### Village Records

- 15.4 All records of the Village shall be available to the public under the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

### Headings

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

### Effect of Illegality of Any Part of Charter

- 15.6 Should any provision or section, or portion thereof, of this Charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or section; it being hereby declared to be the intent of the Charter Commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any part of this Charter except that specifically affected by such holding. Further, it is hereby declared that it was the intent of the Charter Commission and of the electors of the Village of Mattawan, in preparing and adopting this Charter, that said instrument should conform in all respects with the provisions and requirements of State Law. In the event that any provisions of this Charter shall conflict with or contravene the provisions of any general law of the State of Michigan, the provisions of such general law of the State shall govern.

### Amendments

- 15.7 This Charter may be amended at any time in the manner provided in Act No. 278 of the Public Acts of 1909, as amended. 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.

### Definitions and Interpretations

- 15.8 Except as otherwise specifically provided or indicated by the context:
- (a) All words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

- (b) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.
- (c) The word "person" may extend and be applied to bodies politic and corporate, and to partnerships as well as to individuals.
- (d) The words "printed" and "printing" shall include reproductions by printing, engraving, photocopying, lithographing or any similar method.
- (e) Except in reference to signatures, the word "written" and "in writing" shall include printing and typewriting.
- (f) The word "officer" shall include the President, and other members of the Council, the administrative officers, and members of Village boards and commissions created by or pursuant to this Charter.
- (g) The word "statute" shall denote the Public Acts of the State of Michigan as in effect at the time the provision of the Charter containing the word "statute" is to be applied.
- (h) The word "Constitution" shall denote the Constitution of the State of Michigan in effect at the time the provision of the Charter containing the word "Constitution" is to be applied.
- (i) All references to specific local or Public Acts shall be to such local or Public Acts of the State of Michigan as in effect at the time the reference to such act is to be applied.
- (j) All references to section numbers shall refer to section numbers of this Charter.
- (k) The word "default" shall be defined to include being delinquent in taxes among its meanings.
- (l) The word "law" or "general law" shall denote the Constitution and the Public Acts of Michigan in effect at the time the provision of the Charter containing the word "law" or "general law" is to be applied.

Trusts

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

Sundays and Holidays

15.10 Whenever the date fixed by this Charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day, which is not a Sunday, or legal holiday.

**CHAPTER XVI SCHEDULE**

Election on Adoption of Charter

16.1 This revised Charter shall be submitted to a vote of the electors of the Village of Mattawan for adoption at an election to be held on February 4, 1991. In connection with this election, the Charter Commission and the Village Council shall perform all the duties required by law for the giving of notice of, and the conduct of, the election. If at said election a majority of the electors of the Village voting thereon shall vote in favor of the adoption of this Charter, then the Village Clerk shall perform all other acts required by law to carry this Charter into effect.

Form of Ballot

16.2 The Form of Ballot on submission of this Charter shall be as follows:



Instructions: A cross (x) in the square ( ) before the word "Yes" is in favor of the proposed revised Charter, and a cross (x) in the square ( ) before the word "No" is against the proposed revised Charter.

Shall the proposed revised Charter for the Village of Mattawan drafted by the Charter Commission elected on March 12, 1990 be adopted?

( ) Yes

( ) No

Succession of Rights

16.3 Upon adoption of this revised Charter, the Village shall continue to be vested with all property, monies, contracts, rights, credits, effects, records, files, books and papers belonging to it as formerly incorporated. No right or liability either in favor of, or against the Village existing at the time of the taking effect of this revised Charter and no suit or prosecution of any character shall in any manner be affected by such change, but the same shall stand or proceed as if no change in the Charter had been made. All debts and liabilities of the Village shall continue to be the debts and liabilities and all fines and penalties imposed and all taxes and assessments levied and uncollected at the time of such change shall be collected and all licenses issued by the Village shall be and remain the same as if such change had not been made, and all ordinances of the Village shall remain in full force and effect provided that when a different remedy is given in this Charter or in any ordinance pursuant thereto which can be made applicable to any rights existing upon the adoption of this Charter or subject thereto the same shall be deemed cumulative to the remedies before provided and may be used accordingly unless the newly provided remedy shall be expressly declared to be exclusive.

Officers to Continue

16.4 All officers now holding any office or appointment shall continue to hold the same until the expiration of their term or until removed by competent authority or superseded by the laws now in force or by the provisions of this Charter.

Approved by Governor John M. Engler on January 9, 1991.

Approved at a special election held on February 4, 1991.