

**THE VILLAGE OF DEXTER
CITY CHARTER COMMISSION
MINUTES OF THE WEDNESDAY, FEBRUARY 5, 2014 MEETING**

A. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:30PM by Chairman Hansen at the Copeland Board Room located at 7714 Ann Arbor Street in Dexter, Michigan.

B. ROLL CALL: Phil Arbour, Jack Donaldson, John Hansen, Matt Kowalski, Mary- Ellen Miller, Thom Phillips, Michael Raatz and James Smith. Excused absence Phil Mekas.

Also present: Courtney Nicholls, Assistant Village Manager; Carol Jones, Village Clerk; and Jim Carson, Village Trustee.

C. APPROVAL OF THE AGENDA

Motion Jack Donaldson; support Phil Arbour to approve the agenda as presented. Unanimous voice vote approval with Mekas absent.

D. APPROVAL OF THE MINUTES

1. Regular Meeting – January 29, 2014

Motion Phil Arbour; support Mary- Ellen Miller to approve the minutes with the following corrections:

Page 3, Section 5.04 (c) estimated should be estimates

Page 3, Section 5.04 (e) remove the second to be raised from taxes

Page 4, Section 5.06-Motion use Section 9.7, not 5.06

Page 4, Section 5.06 (a) treasurer should be treasury

Page 5, Section 5.09 remove (a)

Unanimous voice vote approval with Mekas absent.

E. PREARRANGED PARTICIPATION

None

F. PUBLIC HEARINGS

None

G. CHARTER CONSTRUCTION – SECOND READINGS

1. Prior to the Second Reading, a discussion was held on Section 2 from Charter Attorney Tom Ryan’s memo and the following changes were made:

a. Motion Phil Arbour; support Michael Raatz to change the references using he/she or him/her and make the charter gender neutral and use the office referenced.

Unanimous voice vote approval with Mekas absent.

b. Motion James Smith; support Jack Donaldson in Section 2.06 (a) and (b) remove the phrase “any other elected official”.

Unanimous voice vote approval with Mekas absent.

c. Motion Phil Arbour; support Matt Kowalski in Section 2.09 to use the term “shall” and have this section read, The City Council shall establish by ordinance the procedure...

Unanimous voice vote approval with Mekas absent.

2. Discussion of: Administrative Services

Motion James Smith; support Thom Phillips in Section 3.03(d) add *term and* in front of compensation.

Unanimous voice vote approval with Mekas absent.

Motion James Smith; support Phil Arbour to add Section 3.03(e) to read as follows:

The City Mayor and City Council shall review and evaluate the City Manager’s performance annually.

Unanimous voice vote approval with Mekas absent.

Motion James Smith; support Matt Kowalski that Section 3.05 – City Manager – Removal be moved and become (f) under 3.03.

Unanimous voice vote approval with Mekas absent.

Motion Jack Donaldson; support James Smith to add to the end of Section 3.10 (c) the phrase *with concurrence of council*.

Unanimous voice vote approval with Mekas absent.

Additional changes suggested:

- Section 3.03 – City Manager -remove the phrases Appointment and Compensation in the heading.
- Section 3.07(e) – change disburse to establish
- Section 3.08(a) – charge should be charged

Motion James Smith; support Jack Donaldson to adopt the amended Administrative Services on its second reading.

Unanimous voice vote approval with Mekas absent.

3. Discussion of: Financial Management

Motion Phil Arbour; support James Smith to change the wording in Section 5.04(g) to read - Capital Improvement Plan projects being recommended for implementation including an estimate of operation and maintenance costs.

Unanimous voice vote approval with Mekas absent.

Additional Change:

- Section 5.05 (a) (2) remove the (s) from hearing

Motion James Smith; support Jack Donaldson to adopt the amended Financial Management on its second reading.

Unanimous voice vote approval with Mekas absent.

H. CHARTER CONSTRUCTION – FIRST READING

None

I. OTHER ITEMS AS REQUESTED BY COMMISSIONERS

Chairman Hansen spoke of a prepared letter regarding the Charter Commission and its process that will be going into the next Village newsletter. Ms. Nicholls spoke to the information that is online regarding the charter process.

J. AGENDA PREPARATION FOR THE NEXT MEETING

- Inviting the County Clerk and the Scio Township Clerk to the February 12 meeting to discuss elections

K. NON-ARRANGED PARTICIPATION

Village Trustee, Jim Carson, reported that he was interested in the Commission's discussion on Finances. He stated that you will not find a more fiscally responsible council and management team at this time in the Village but that may not be so down the line so that the more that is written into the charter the better.

L. ADJOURNMENT

Motion James Smith; support Michael Raatz to adjourn at 8:24 PM.

Unanimous voice vote approval with Mekas absent.

Respectfully submitted,

Carol J. Jones

Clerk, Village of Dexter

Approved for Filing: _____

VILLAGE OF DEXTER

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MEMO

To: City Charter Commission
From: Courtney Nicholls, Assistant Village Manager
Date: February 7, 2014
Re: Elections

The topic for the February 12, 2014 City Charter Commission meeting is elections. Provided for the Commission's review is Article 6 from the NCL Model Charter and Chapter 4 from the Caro Charter. I chose to include the Caro Charter because elections are governed in large part by State law, which is reflected in the provisions of the Caro Charter.

Washtenaw County Clerk Kestenbaum, Scio Township Clerk Hedberg, Webster Township Clerk Heller and former Village Clerk and current Village Trustee Donna Fisher were invited to attend to lend their expertise to the drafting of this chapter.

NCL Model Charter

- annual audit and any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the council with any recommendations from the Committee.

The council shall, using competitive bidding, designate such accountant or firm annually, or for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city. The city council may waive this requirement by a majority vote at a public hearing. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Commentary.

Since the value of independent audits is directly related to the caliber of those who conduct them, it is provided that certified public accountants be retained, except when a state audit is required. Selection of a professional accountant or firm does not lend itself to the usual requirement, however, of choosing the "lowest responsible bidder." While the council should not disregard cost, this is a case where the factors of competence, reliability and reputation are more significant. For an audit to be most beneficial, some of it must extend over the entire year, which necessitates designation of the auditor during the first month. If the state conducts periodic audits of the city's finances that meet council-established requirements, the state audit may be an acceptable and money-saving substitute for an audit by a private firm.

While the *Model* emphasizes financial audits, the council also has a responsibility to institute performance and management audits to evaluate the operations of departments, services, and programs.

Section 5.12. Public Records.

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records.

Commentary.

In addition to compliance with the formal legal requirement that copies of the budget document and capital program be made available, many cities prepare and widely distribute popular summaries, which provide citizens with essential general information.

Article VI ELECTIONS

Introduction.

Previous editions of the *Model* contained detailed provisions on the nomination and election process. Since the election laws of each state apply to municipalities whether or not they operate with a local charter, these provisions from earlier editions have been removed. The text

on methods of electing council members that appears below has been moved from Article II in the earlier editions of the *Model*. Provision for nonpartisan elections and control over the timing of elections are among the few aspects of elections that remain under local discretion. Operating within the limitations imposed by state law, the city may by ordinance adopt regulations deemed desirable.

Section 6.01. City Elections.

(a) Regular Elections. The regular city election shall be held [at the time established by state law] on the first _____ [day of week], in _____ [fall or spring month of odd-or even- numbered year], and every 2 years thereafter.

(b) Registered Voter Defined. All citizens legally registered under the constitution and laws of the state of _____ to vote in the city shall be registered voters of the city within the meaning of this charter.

(c) Conduct of Elections. The provisions of the general election laws of the state of _____ shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

(d) Proportional Representation. The council may be elected by proportional representation by the method of the single transferable vote.

(e) Beginning of term. The terms of council members shall begin the ___ day of ___ after their election.

Commentary.

(a-c) Although most states regulate local elections entirely or to a very substantial extent by state statutes, a local charter may provide certain variations. For example, home rule charters may provide for nonpartisan local elections as provided in this section. Traditionally, the *Model* has advocated separating municipal elections from state and national elections to allow a clear focus on local issues. State election laws and city charters frequently schedule municipal elections in the fall of odd-numbered years or in the spring of the year. However, recent evidence suggests that turnout is higher during state and national elections. Some now advocate moving local elections to coincide with state and national elections to increase participation in local races. The Committee that developed this *Model* recognized the trade-off involved with each choice and decided not to express a preference. If permissible under the state election laws, such timing should be specified in the charter.

(d) As in the sixth and seventh editions, the eighth edition includes proportional representation (PR) via the single transferable vote method as an alternative means for electing the council. Until 1964 (when the sixth edition of the *Model City Charter* was published), the *Model* recommended the Hare system (also known as preference voting, choice voting, and the single

transferable vote system) of PR as the preferred method of electing city councils. It had been used in 22 American cities but by the early 1960s had been discarded in all but Cambridge, Massachusetts, where it is still used to elect the city council and school committee. The Republic of Ireland also uses it to elect members of the House of Parliament. Unquestionably, PR provides the greatest equity in representing all sectors of the community. However, the relative complexity of PR when using antiquated voting procedures and the long and expensive process of counting ballots by hand concerned some voters where it was used and prevented it from becoming a widespread reform measure. There is renewed interest in PR because of its potential to assure representation of minority populations and because technological developments now allow a computerized voting and counting system, thus eliminating the major objection to PR.

The single transferable vote method allows voters to rank candidates in a multi-member district by preference. The method depends on creation of a winning threshold—a share of votes that each council member must receive to be elected. Election officials determine the threshold after all votes are counted, using a formula to determine the fewest number of votes that only the winning number of candidates can receive. In Cambridge, for example, officials divide the total number of valid ballots cast by the number of positions to be elected plus one. Under this approach, in an election for nine council seats where voters cast 15,000 valid ballots, the winning threshold is 1,501, or 15,000 divided by ten, plus one. Ten candidates theoretically could receive 1,500 votes, but only nine can obtain 1,501. Once a particular candidate receives the designated threshold of first choices, ballot counters redistribute any surplus votes for that candidate to another candidate based upon the voter's preferential ranking. Cambridge redistributes some ballots at full value, but modern technology now allows a more precise redistribution of the calculated share of every ballot at an equally reduced value.

After all surplus votes are redistributed, the weakest candidate is eliminated, and ballots from that candidate are counted for the next choice candidate on those voters' ballots. This process of redistributing votes from winning candidates and weak candidates continues until the necessary number of candidates have reached the threshold, or only nine candidates remain. In Cambridge, this has consistently led to ninety percent of voters helping to elect a candidate, more than sixty-five percent of voters having their first choice candidate win, and more than ninety-five percent of voters seeing one of their top three choices win.

The PR alternative assumes that the mayor will be elected by and from the council and thus calls for an odd-number of council members. If PR is used in conjunction with a separately elected mayor who serves on the council, there should be an even number of council members elected by PR. When considering the PR alternative, charter reviewers may also wish to investigate semi-proportional representation systems—the limited vote and cumulative vote—which have been adopted in more than 75 localities since 1985 to settle voting rights cases, including in Peoria (IL), Amarillo (TX), and Chilton County (AL). While more uneven in their results than PR, these systems increase minorities' access to representation and may boost turnout. More information about the mechanics of PR can be obtained from the Center for Voting and Democracy, www.fairvote.org.

Another relatively new voting procedure that incorporates the transferable vote method is the instant runoff. It can be used in single member districts or single office elections, such as the mayor's office. Instant runoff voting eliminates the need for costly runoff elections and the typical drop-off in turnout in runoffs. Voters rank candidates for a single office; if no candidate wins a majority of votes, election officials remove the candidate with the fewest first-place votes and redistribute those votes to other candidates based upon their second-place designations until

one candidate achieves a majority. This ensures that a vote cast for a voter's favorite candidate does not potentially contribute to the election of that voter's least favorite candidate. It also means that the victor has a credible claim of majority support without recourse to a runoff. In 2002, San Francisco became the first major U.S. city to adopt instant runoff voting to elect its mayor, board of supervisors, district attorney, city attorney, treasurer, sheriff, assessor-recorder and public defender. The disadvantage is that voters may have difficulty sorting out the candidates in a large field of contenders and cannot rely on the runoff campaign to learn in more detail how the two remaining contenders differ in their characteristics and positions.

Section 6.02. Council Districts; Adjustment of Districts (for use with Alternatives II, III and IV of § 6.03).

(a) Number of Districts. There shall be _____ city council districts.

(b) Districting Commission; Composition; Appointment; Terms; Vacancies; Compensation.

- (1) There shall be a districting commission consisting of five members. No more than two commission members may belong to the same political party. The city council shall appoint four members. These four members shall, with the affirmative vote of at least three, choose the fifth member who shall be chairman.
- (2) No member of the commission shall be employed by the city or hold any other elected or appointed position in the city.
- (3) The city council shall appoint the commission no later than one year and five months before the first general election of the city council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in § 6.02(c).
- (3) In the event of a vacancy on the commission by death, resignation or otherwise, the city council shall appoint a new member enrolled in the same political party from which his or her predecessor was selected to serve the balance of the term remaining.
- (5) No member of the districting commission shall be removed from office by the city council except for cause and upon notice and hearing.
- (6) The members of the commission shall serve without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.
- (7) The commission may hire or contract for necessary staff assistance and may require agencies of city government to provide technical assistance. The commission shall have a budget as provided by the city council.

(c) Powers and Duties of the Commission; Hearings, Submissions and Approval of Plan.

- (1) Following each decennial census, the commission shall consult the city council and shall prepare a plan for dividing the city into districts for the election of council members. In preparing the plan, the commission shall be guided by the criteria set forth in § 6.02(d). The report on the plan shall include a map and description of districts recommended.
- (2) The commission shall hold one or more public hearings not less than one month before it submits the plan to the city council. The commission shall

make its plan available to the public for inspection and comment not less than one month before its public hearing.

- (3) The commission shall submit its plan to the city council not less than one year before the first general election of the city council after each decennial census.
- (4) The plan shall be deemed adopted by the city council unless disapproved within three weeks by the vote of the majority of all members of the city council. If the city council fails to adopt the plan, it shall return the plan to the commission with its objections and with the objections of individual members of the council.
- (5) Upon rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the city council no later than nine months before the first general election of the city council after the decennial census. Such revised plan shall be deemed adopted by the city council unless disapproved within two weeks by the vote of two-thirds of all of the members of the city council and unless, by a vote of two-thirds of all of its members, the city council votes to file a petition in the _____ Court, _____ County, for a determination that the plan fails to meet the requirements of this charter. The city council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.
- (6) If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the city council may, by local law, shorten the time periods provided for districting commission action in paragraphs (2), (3), (4), and (5) of this subsection.

(d) Districting Plan; Criteria. In preparation of its plan for dividing the city into districts for the election of council members, the commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.

- (1) Districts shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five percent of the average population for all city council districts according to the figures available from the most recent census.
- (2) Districts shall consist of contiguous territory; but land areas separated by waterways shall not be included in the same district unless said waterways are traversed by highway bridges, tunnels or regularly scheduled ferry services both termini of which are within the district, except that, population permitting, islands not connected to the mainland or to other islands by bridge, tunnel or regular ferry services shall be included in the same district as the nearest land area within the city and, where such subdivisions exist, within the same ward or equivalent subdivision as described in paragraph (5) below.
- (3) In cities whose territory encompasses more than one county or portions of more than one county, the number of districts, which include territory in more than one county, shall be as small as possible.

- (4) In the establishment of districts within cities whose territory is divided into wards or equivalent subdivisions whose boundaries have remained substantially unaltered for at least fifteen years, the number of such wards or equivalent subdivisions whose territory is divided among more than one district shall be as small as possible.
- (5) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.

(e) Effect of Enactment. The new city council districts and boundaries as of the date of enactment shall supersede previous council districts and boundaries for all purposes of the next regular city election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all council members elected at that regular city election take office.

Commentary.

With three of the five alternatives provided for the election of the city council involving districts, the provision for drawing and redrawing district lines assumes particular importance.

The process of drawing districts described in this edition and in the seventh edition differs from that of earlier editions, in response to the Voting Rights Act and related court decisions. Rather than a two-part process with an advisory commission recommending a plan, followed by city council passage of a plan (which might or might not resemble that of the advisory commission), the *Model* provides for a more direct process – redistricting by an independent commission. The lead time for redistricting should provide sufficient time to resolve some of the increasing number of local government redistricting suits and allow sufficient time to comply with the requirements of § 5 of the Voting Rights Act if applicable. In addition, the *Model* provides for ordered, specific criteria for redistricting based on population rather than the “qualified voter” standard of the sixth edition.

The *Model* provides for a bipartisan commission. Even cities with nonpartisan elections may have problems with political parties (either local or national) wanting to dominate the process to achieve advantage. To facilitate the commission’s ability to work together despite partisan differences, the *Model* recommends that the four council appointees (and mandates that at least three of the four) agree on the choice of chairman.

Once the bipartisan commission submits its plan to the city council, the council can neither approve nor veto the result. This avoids the conflict of interest created when council members consider new districts whose lines may materially affect their political futures. The council may, however, prevent implementation of the plan if it finds the plan in violation of the charter and files with the courts for such a determination.

Subsection (d) lists the criteria that the commission must abide by when it draws the new districts. The criteria are designed to preclude gerrymandering that either protects or punishes incumbents or that prevents particular voting groups from gaining power. With the proper ordered criteria, the redistricting process is less open to manipulation. Flagrant gerrymandering will be almost impossible without a clear violation of the mandated criteria. The criteria concerning waterways and islands should be included in charters where appropriate. The exact terminology for election administration subdivisions (e.g., wards or equivalent subdivisions) should be adjusted to conform to state law. Depending on the jurisdiction, wards and districts sometimes have the same meaning and sometimes have different meanings.

Some cities prefer that the city council perform redistricting. This may stem from a belief that the redistricting process essentially involves a series of political decisions, and that attempts to separate the process from the politics is futile and foolish. Or, where the city council has historically performed this function without causing unrest, such a preference may derive from the sense that there is no need for change. When a city opts for redistricting by the city council, the following provisions should be substituted in § 6.02(b) and (c) and a new § 6.02(d) be added as follows.

(b) Council to Redistrict. Following each decennial census, the city council shall, by ordinance, adjust the boundaries of the city council districts using the criteria set forth in § 6.02(e).

(c) Procedures.

- (1) The city council shall hold one or more public hearings prior to bringing any proposed plan to a vote. Proposed plans must be available to the public for inspection and comment not less than one month before the first public hearing on said plan. The plan shall include a map and description of the districts recommended.
- (2) The city council shall approve a districting plan no later than 10 months (300 days) prior to the first regular city election following the decennial census.

(d) Failure to Enact Ordinance. If the city council fails to enact a redistricting plan within the required time, the city attorney shall, the following business day, inform the _____ Court, _____ County, and ask that a special master be appointed to do the redistricting. The special master shall, within sixty days, provide the Court with a plan drawn in accordance with the criteria set forth in § 6.02(e). That plan shall have the force of law unless the court finds it does not comply with said criteria. The court shall cause an approved plan to go into effect no later than 210 days prior to the first regular city election after the decennial census. The city shall be liable for all reasonable costs incurred by the special master in preparing the plan for the court.

Subsections 6.03(d) and (e) of the *Model* should be retained, relettered (e) and (f), respectively, and the words "city council" substituted for "commission."

Subsection 6.03(d) of the substitute language (Failure to Enact Ordinance) gives incentive for the council to complete redistricting on time. Failure to redistrict will not result in another election using the old districts, as earlier editions provided. Even the most divided of city councils would probably prefer to compromise than have a special master redistrict for them—and few would want to explain the additional cost of paying someone else to draw up a plan that probably would not improve upon their own compromise.

Section 6.03. Methods of Electing Council Members.

The text in this section complements the information on the composition of the council found in Article II, § 2.02(c).

Alternative I – Option A – Council Elected At Large; Mayor Elected By the Council

At the first election under this charter _____ council members shall be elected; the _____ [one-half plus one] candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ [remainder of the council] candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

Alternative I – Option B – Council Elected At Large; Mayor Elected Separately

At the first election under this charter _____ council members shall be elected; the _____ [one-half the number of council members] candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ [one-half the number of council members] candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

Alternative II – Option A – Council Elected At Large with District Residency Requirement; Mayor Elected By the Council

At the first election under this charter _____ council members shall be elected; the _____ [one-half plus one] candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ [remainder of the council] candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

Alternative II – Option B – Council Elected At Large with District Residency Requirement; Mayor Elected Separately

At the first election under this charter _____ council members shall be elected; the _____ [one-half the number of council members] candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ [one-half the number of council members] candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall serve for terms of four years.

Alternative III – Option A – Mixed At-Large and Single Member District System; Mayor Elected by the Council

At the first election under this charter _____ council members shall be elected; all district candidates and the _____ at-large candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ at-large candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

**Alternative III – Option B – Mixed At-Large and Single Member District System;
Mayor Elected Separately**

At the first election under this charter _____ council members shall be elected; all district candidates and the _____ at-large candidates receiving the greatest number of votes shall serve for terms of four years, and the _____ at-large candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

Alternative IV – Single-Member District System

At the first election under this charter _____ council members shall be elected; council members from odd-numbered districts shall serve for terms of two years, and council members from even-numbered districts shall serve for terms of four years. Commencing at the next regular election and at all subsequent elections, all council members shall serve for terms of four years.

Commentary.

The single-member district system should be used only where the mayor is elected at large as provided in Alternative II of § 2.03.

Section 6.04. Initiative, Citizen Referendum, and Recall.

(a) Alternative I – Provisions Provided by State Law. The powers of initiative, citizen referendum, and recall are hereby reserved to the electors of the city.

Alternative II - General Authority for Initiative, Citizen Referendum, and Recall.

(1) Initiative. The registered voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(2) Citizen Referendum. The registered voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

(3) Recall. The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

(b) Commencement of Proceeding; Petitioners' Committee; Affidavit. Any five registered voters may commence initiative, citizen referendum, or recall proceedings by

filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed 200 words, of the reasons for the recall. Grounds for recall should relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the clerk shall serve, personally or by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within 10 days of service of the affidavit, the elected officer sought to be recalled may file a statement with the city clerk, not to exceed 200 words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee.

(c) Petitions.

(1) Number of Signatures. Initiative and citizen referendum petitions must be signed by registered voters of the city equal in number to at least [5 to 10] percent of the total number of registered voters to vote at the last regular election. Recall petitions must be signed by registered voters of the city equal in number to at least [10 to 20] percent of the total number of registered voters to vote at the last regular election.

(2) Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall contain the name and title of the official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

(3) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) Time for Filing Referendum and Recall Petitions. Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered. Recall petitions must be filed within [40 to 160] days of the filing of the petitioners' affidavit initiating the recall procedure.

(d) Procedure after Filing.

(1) Certificate of Clerk; Amendment. Within twenty days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying,

if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of § 6.04(c), and within five days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under paragraph (2) of this subsection within the time required, the clerk shall promptly present his or her certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition. A council member who is the subject of a recall petition shall not be eligible to act in the determination of sufficiency or insufficiency of the petition.

(3) Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(e) Referendum Petitions; Suspension of Effect of Ordinance. When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (i) There is a final determination of insufficiency of the petition, or
- (ii) The petitioners' committee withdraws the petition, or
- (iii) The council repeals the ordinance, or
- (iv) Thirty days have elapsed after a vote of the city on the ordinance.

(f) Action on Petitions.

(1) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition

was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city. The council shall promptly order a recall election to occur within _____ [30 to 90] days of the date the recall petition was finally determined sufficient.

(2) Submission to Voters of Proposed or Referred Ordinances. The vote of the city on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) Withdrawal of Petitions. An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(g) Results of Election.

(1) Initiative. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(3) Recall. Ballots used at recall elections shall read: "Shall [name] be recalled (removed) from the office of _____?" If a majority of the registered voters voting on a proposed recall vote in its favor, the official is removed and the winning candidate for successor, if any, shall be elected as a replacement for the duration of the unexpired term. Otherwise the vacancy shall be filled in accordance with § 2.06 (c).

Commentary.

Unlike other provisions, this article must be completely self-executing. Detail should not be filled in by the council because these devices guard against possible inadequacies of council.

(a) Neither the initiative nor the referendum should be applicable to the budget, capital program, any ordinance relating to the appropriation of money or the levy of taxes, or, of course, to salaries of city officers or employees, for this would interfere with responsible officials striving to

achieve a properly balanced long-range fiscal program. Recall should not apply to recently elected officials, because officials need time to establish themselves in office, and because election results should not be promptly challenged by another election.

(b) Requiring a petitioners' committee places clear responsibility for the undertaking of initiative, citizen referendum, or recall proceedings.

(c) The number of signatures required for initiative and referendum petitions in the seventh edition was fifteen percent of the total number registered to vote at the last regular city election. The eighth edition permits charter drafters to decide upon a reasonable threshold for their city, chosen from a range equal to or greater than five percent but less than or equal to ten percent of registered voters to vote at the last city election. The percentage used should neither be too easy nor too burdensome. Communities typically require more signatures for recall petitions than for initiative and referendum petitions. In determining the recall percentage, drafters should consider distinguishing between at-large and district offices.

Limiting the period for filing a referendum petition to thirty days after passage insures that the effective date of an ordinance will not be delayed unless the referendum effort is of serious proportions. The timing of the recall procedure prevents the threat of recall from pending without limitation. The time period for signature collection should be reasonably related to the signature requirement and the size of the city, within the provided range of 40 to 160 days.

(d) The mandatory language prevents the city clerk from delaying certification of the sufficiency or insufficiency of petitions beyond the twenty days specified.

(e) The fact that filing a referendum petition with the city clerk suspends the effective date of an ordinance will spur the city clerk and the council into prompt action on the question of sufficiency. When an ordinance is subjected to a referendum vote and the council's action is sustained, termination of the suspension must be delayed until sufficient time has passed for official determination of the election results. This will vary with local practice. The thirty days indicated in § 6.04(e) (iv) is arbitrary. If there is a definite provision for the official reporting of election results, the lifting of the suspension should probably coincide with the reporting.

(f) This section mandates council consideration of the proposed "initiative ordinance" and reconsideration of the "referred ordinance" prior to the circulation of petitions and the ensuing ballot question. The words "adopt a proposed initiative ordinance without any change in substance" permit correction of technical imperfections.

If an election is necessary, provisions for submitting a proposed or referred ordinance to the voters, or ordering a recall election, permit considerable latitude as to the election date to encourage holding the vote at a regular election if possible.

One of the most important reasons for requiring a petitioners' committee is to provide a mechanism for withdrawing an initiative, referendum, or recall petition if those originating the proceedings change their minds or feel that action of the council satisfies the need which prompted the petition.

(g) Initiative ordinances approved by the electorate become effective, just as is the case with an ordinance passed by council, in thirty days or at whatever later date is specified.

Caro Charter

CHAPTER IV

ELECTIONS

Section 4.1 QUALIFICATIONS OF ELECTORS

The residents of the city having the qualifications of electors in the State of Michigan who are registered in the city shall be electors in the city.

Section 4.2 PROCEDURE

The election of the mayor and six council persons shall be on a non-partisan basis. The general election statutes shall apply to and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters and voting hours. The city clerk shall give public notice of each city election in the same manner as is required by law for the giving of public notice of general elections in the state.

Section 4.3 PRECINCTS

The election precincts of the city shall remain, as they existed on the effective date of this charter unless altered by the elections commission in accordance with the laws of the State of Michigan.

Section 4.4 DATE OF REGULAR CITY ELECTIONS

A non-partisan regular city election shall be held on the first Tuesday following the first Monday of November of odd numbered years.

Section 4.5 SPECIAL ELECTION DATES

Special city elections shall be held when called by resolution of the council at least seventy (70) days in advance of such election, or as otherwise required by law. Any resolution calling a special election shall set forth the purpose of such election. There shall be no more than two (2) special elections in one (1) year, unless otherwise permitted or required by law.

Section 4.6 NOTICE

Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon shall be given by the city clerk as provided in the state election law for the giving of notice by city clerks.

Section 4.7 VOTING HOURS

The polls of all elections shall be opened and closed in accordance with the election laws of the State of Michigan for the opening and closing of polls at state elections.

Section 4.8 NOMINATIONS – GENERALLY

The method of nominations for all candidates for city elections shall be by petition as set forth in the Michigan Election Law, Act 116 of PA 1954 as amended, more particularly MCL 168.542 through 168.558.

Section 4.9 NOMINATIONS – FORM OF PETITION

The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan officers. The city clerk shall provide and maintain a supply of official petition forms.

Section 4.10 NOMINATIONS – APPROVAL OF PETITIONS

The city clerk shall accept only nomination petitions which conform with the forms provided and maintained by the city clerk, by the 8th Tuesday before the election and which, considered together, contain the required number of valid signatures of 15 registered electors for candidates having those qualifications required for the respective elective city offices by this charter. Petitions shall be accepted only when accompanied by an Affidavit of Identity as required by MCL 168.558. The city clerk shall within two business days examine the petitions and investigate the validity and genuineness of signatures submitted and, after the last day specified for receiving and filing nominating petitions, shall certify to the election commission the name and post office address of each candidate whose petitions meet the requirements set forth in the election act. The city clerk shall immediately notify the candidates in writing of his or her determination. Objections to the city clerk's determination shall be filed by sworn complaint with the county clerk or as otherwise provided by state law.

Section 4.11 NOMINATIONS – WITHDRAWAL OF CANDIDATE

After the filing of a nomination petition by or on behalf of a proposed candidate for a city office, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the city clerk not later than 4:00 o'clock, local time, in the afternoon of the third day after the last day for filing petitions as provided in this charter, unless the third day falls on Saturday, Sunday or city holiday, in which case the notice of withdrawal may be served on the clerk up to 4:00 o'clock, local time, in the afternoon on the next regular business day following said Saturday, Sunday or city holiday.

Section 4.12 PUBLIC INSPECTION OF PETITIONS

All nomination petitions filed shall be open to public inspection in the office of the city clerk.

Section 4.13 ELECTION COMMISSION CREATED; COMPOSITION; DUTIES; COMPENSATION

An Election Commission is hereby created, consisting of the clerk of the City of Caro, and one city official, and one qualified registered elector, both to be appointed by city council not less than forty-five (45) days before each election. The council shall determine compensation, if any, of the members of the Election Commission. The city clerk shall be the chairperson and two (2) members of such board shall constitute a quorum. The commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of the election personnel shall be determined, in advance, by the council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

Section 4.14 FORM OF BALLOT

The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform to that prescribed by statute, except that no party designation or emblem shall appear.

Section 4.15 CUSTODY AND SAFEKEEPING OF REGISTRATION LISTS AND SUPPLIES

The city clerk shall be responsible for the custody and safekeeping of all registration lists and supplies. On Election Day, the city clerk shall deliver them to the respective board of inspectors of election, taking his or her receipt therefore.

Section 4.16 ABSENTEE BALLOTS

The electors of the city shall be entitled to vote by absentee ballots at any city election as provided by statute.

Section 4.17 DETERMINATION OF ELECTION ENDING IN A TIE VOTE

If, at any city election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the Tuscola County Board of Canvassers shall name a date for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by statute.

Section 4.18 RECOUNT

A recount of the votes cast at any city election of any office or upon any proposition may be had in accordance with the statute.

Section 4.19 INTERIM ELECTION CYCLE

Subject to Sections 16.5 through 16.7 of this charter, the city council and mayor shall be elected. The mayor shall be elected for a term ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011. Three (3) city councilpersons shall be elected for terms ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2011 and three city councilpersons shall be elected for terms ending at the first regularly scheduled or special meeting of the council following the date of the city election in 2013. At each subsequent election, the mayor and councilpersons shall be elected subject to Section 3.4 of this charter.

Section 4.20 PURITY OF ELECTION; STATE LAWFUL AND UNLAWFUL ACTS

All laws of the State of Michigan now in force or hereinafter enacted relating to the purity of elections, and as to what are lawful and what are unlawful acts, shall apply to all elections held under this chapter.

Section 4.21 RECALL

Any elected official may be recalled from office by the electors of the city in the manner provided by statute. The temporary vacancy of a recalled officer may be filled within sixty (60) days by a majority vote of the members of the City Council then in office and shall be effective until a successor shall be elected under the provisions of the Election Code, MCL 168.970 to 168.976.