

Charter of the City of Galesburg

PREAMBLE

We, the people of the City of Galesburg, Kalamazoo County, pursuant to the authority granted by the constitution and laws of the State of Michigan do hereby ordain and adopt this charter of the City of Galesburg.

Chapter I BOUNDARIES

City Boundaries.

SECTION 1.1. The municipal corporation now existing and known as the City of Galesburg, being in the County of Kalamazoo and the State of Michigan as its limits now are or hereafter may be established through annexation or detachment, shall continue to be a political and corporate body of the City of Galesburg.

Chapter II CORPORATE POWERS

General Powers of the City.

SECTION 2.1. The City shall have all powers possible for a City to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

Construction.

SECTION 2.2. The powers of the City under this charter shall be construed liberally in the favor of the City and the specific mention of particular powers herein shall not be construed as limiting in any way the general powers stated herein.

Intergovernmental Regulations.

SECTION 2.3. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more governmen-

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Mayor.

SECTION 4.4. The Mayor shall be the chief executive officer of the City and shall serve as the official head of the City government for all ceremonial purposed, represent the City in intergovernmental relationships and be recognized by the Governor for the purpose of military law. The Mayor shall preside at all Council meetings with full voting privileges. The Mayor shall from time to time give the Council information concerning the affairs of the City, and recommend such measures as shall be deemed expedient. The Mayor shall sign all warrants for the payment of public funds from the City treasury.

The Council shall appoint from among its members a Deputy Mayor who in case of the absence or disability of the Mayor shall act as Mayor for the duration of such absence or disability.

Restrictions Upon Council.

SECTION 4.5. Except where authorized by law, no member of the City Council shall hold any other City office or City employment, except as a noncompensated volunteer, during the Council member's term of office.

Compensation; Expenses.

SECTION 4.6. The City Council shall appoint by ordinance a Local Officer's Compensation Commission pursuant to statute. The City Council shall be compensated, subject to Council approval, for expenses incurred in the performance of their duties upon submission of records, logs and/or receipts documenting expenditures realized therefrom.

Vacancies.

SECTION 4.7. The office of Mayor or Council member shall become vacant if, before the expiration of the term of such office, any of the following occur:

- A. A vacancy is created pursuant to law.
- B. Death of any member of the Council.
- C. The effective date of a written resignation.
- D. A member of Council ceases to reside in the City of Galesburg.
- E. A member of Council misses either four (4) consecutive regular meetings of the Council or twenty-five percent (25%) of all meetings, regular or special, in any calendar year, unless said absences are excused by majority vote of the Council and the reasons there fore entered into the proceedings of the Council.

- F. Misconduct, misfeasance or malfeasance related to or connected with the performance of official duties constituting willful or intentional neglect, gross negligence or failure to discharge the duties of the office.

Filling of Vacancies.

SECTION 4.8. If a vacancy occurs, as set forth in section 4.7 the vacancy shall be filled as follows.

- A. If a City election is scheduled within six (6) months or less, City Council shall appoint a qualified person after application and review within thirty (30) days of the effective date the vacancy occurred to fill the remainder of the term of office.
- B. If the unexpired term of vacancy is more than six months, the City Council shall fill the vacancy by appointment within 60 days thereafter. Each appointment after a vacancy shall end on the first Monday following the next regular City election. At that election, the remainder of the term, if any, for which there was an appointment shall be filled. (November 4, 2014)

SECTION 4.9. The City Council shall be governed by the following procedure unless otherwise established by law.

- A. Meetings. The City Council shall meet on the 1st Monday in January following the regular City Election and shall hold at least one regular stated meeting each month for the transaction of business at such times as may be prescribed by ordinance or resolution provided that there shall be a regular meeting not less than once per month. Special meetings may be called at any time by the Mayor or by two (2) other Council members, and by giving each member such notice as may be practicable or required by law. All meetings shall be open to the public, except as may be provided by law. Any person may address the Council upon matters pending before it.
- B. Rules and Minutes. The Council shall keep its own rules and order of business. Minutes shall be kept as a permanent record in the English language or as otherwise provided by law.
- C. Quorum. A majority of the members shall constitute a quorum for the transaction of business. In the absence of a quorum, the meeting shall be adjourned to the next regular scheduled meeting date.
- D. Voting. The affirmative vote of a majority of members in office

shall be necessary to adopt any ordinance or resolution or take any other action allowed by law or this charter unless otherwise required by law. Voting on all ordinances or resolutions shall be by roll call and the ayes and nays shall be recorded and entered upon the record.

CHAPTER V ADMINISTRATION OF CITY AFFAIRS

Administrative Offices.

SECTION 5.1. The City Council, by majority vote, shall appoint a Clerk, Treasurer, Assessor and Board of Review and may establish such City offices as it deems necessary for the efficient and proper transaction of City affairs and prescribe the function of all such offices, except that no function assigned by this charter may be discontinued or assigned to an office other than as set forth herein.

Public Works Administrator.

SECTION 5.2. The Public Works Administrator shall have complete charge of streets, walks, and alleys, water supply, sewers, cemeteries, parks and all similar or related activities of the City with authority to employ such assistance as may be needed with the approval of Council and to recommend the purchase of such equipment and supplies as may be required. The Public Works Administrator shall attend all meeting of the Council, with the privilege of speaking but not of voting, and shall submit to the Council a monthly report of activities in such detail as the Council shall require.

City Clerk.

SECTION 5.3. The City Clerk shall give notice of Council meetings to its members and the public, keep a journal of its proceedings and perform such other duties as are assigned by this charter or by the Council or by state law. The City Clerk, acting as Purchasing Agent, shall purchase all commodities, equipment and supplies required in any department of the City. No purchase shall be made for the City except by authority of the Purchasing Agent. The City Council shall approve the purchase of any item which exceeds one percent (1%) of the current budget, or items purchased in any one month which exceed three percent (3%) of the current budget. At no one time shall the purchasing agent expend more than one hundred dollars (\$100) for any one item purchased without the approval

of the Council. No regular or standing payments previously contracted or approved by Council shall be considered a part of the purchasing agent's expenditures during any one month. The Purchasing Agent shall make a monthly report to the City Council, in such detail as the Council shall require.

City Treasurer.

SECTION 5.4. The City Treasurer shall have the care and custody of all moneys and all evidences of values belonging to or held in trust by the City. The Treasurer shall perform such other duties as required by charter, or prescribed by Council or law.

City Assessor.

SECTION 5.5. The Assessor shall perform all duties as required by charter or as prescribed by Council or law.

Job Responsibilities and Qualifications.

SECTION 5.6. Responsibilities and duties of all administrative officials and other City employees as established and not otherwise specified by this charter, state law or by ordinance shall be governed by the appropriate job descriptions as approved by the City Council. Regardless of the applicable job description the administrative officials must possess the education and experience commensurate with the position held and have the ability to perform the duties of that office.

Compensation.

SECTION 5.7 A. Except as otherwise provided in this charter, the compensation of all administrative officials, except members of the Council and the Mayor, shall be established by the Council.

SECTION 5.7 B. Consistent with all applicable federal and state laws the City Council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to the effective administration of the employees of the City departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in service training, grievances and relationships with employee organizations.

Removal of City Officials.

SECTION 5.8. All Administrative officials not subject to an express

written contract serve at the pleasure of the Council. Any appointive officer may be removed at any time by the affirmative vote of not less than five (5) members of the Council, except that no officer who has served the City for more than one year immediately previous to that time may be removed during the six months between January 1st following the regular City election and July 1st, unless by unanimous vote if the City Council.

CHAPTER VI LEGISLATION

Legislative.

SECTION 6.1. No member Council shall vote on any question in which they have a financial interest or any question concerning their own official conduct; but on all other questions every member of the Council present shall vote. On all votes which are not unanimous, the yea and nay vote of each member shall be recorded and published in the regular proceedings of the meeting.

Legislative Powers.

SECTION 6.2. The City Council shall have the power to regulate, control, prohibit, or provide for, by ordinance or resolution, such matters as may be allowed by law or this charter for, the purposes of preserving, protecting, or promoting the health, safety and welfare of its residents.

Prior Legislation.

SECTION 6.3. All ordinances, resolutions, rules, regulations and policies not inconsistent with the provision of this charter, and which are in force and effect at the time of the adoption of this charter shall continue in full force and effect until or unless repealed or amended.

Legislative Enactment.

SECTION 6.4 A. All legislation of the City of Galesburg shall be by ordinance or resolution of the City Council. All acts or omissions carrying a penalty for the violation thereof shall be by ordinance. Each ordinance shall be in writing and numbered consecutively. The enacting clause of all ordinances shall be, "The City of Galesburg 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 and shall be reenacted and published in summary form. Excepting ordi-

nancess which are declared by the Council to be emergency ordinances, no ordinance shall be passed at the same Council meeting at which it is introduced. No ordinance imposing a penalty shall take effect until at least ten (10) days after publication and no measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as emergency measure.

SECTION 6.4 B. All ordinances when legally enacted shall be recorded by the City Clerk in a book to be called "The City Code of Ordinances" and it shall be the duty of the Mayor and City Clerk to authenticate such records by their official signatures. Any ordinance may be repealed by reference to its number and title only or any section of any ordinance may be repealed by reference to the number and title of the ordinance and the number of the section to be repealed. If the Council shall order a general revision and compilation of all ordinances, the printing and binding of not less than one hundred (100) copies of the compilation shall be deemed sufficient publication and all ordinances published in said compilation shall be read and received in evidence in all courts with out further proof.

Publication of Ordinances.

SECTION 6.5. Each ordinance shall be published within fifteen (15) days after its adoption or as required by law. All ordinances shall become effective ten days (10) after publication thereof unless otherwise required by law.

Technical Codes.

SECTION 6.6 Ordinances and codes of a technical nature may be enacted and published by reference in a manner allowed for by law.

Penalties.

SECTION 6.7. Each ordinance shall contain penalty provisions for the violation thereof. Punishment for the violation of any ordinance or this charter shall not exceed a fine of five hundred dollars (\$500), imprisonment for ninety (90) days or both.

Investigations.

SECTION 6.8. The City Council may make investigations into affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a law

ful order issued in the exercise of these powers by the City Council shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500), imprisonment for ninety (90) days or both or the maximum allowed by law, which ever is greater.

Open Meetings Act.

SECTION 6.9. The business performed by Council and any other legislative body of the City shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being section 15.261 to 15.275 of the Michigan Compiled Laws. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being section 15.231 to 15.246 of the Michigan Compiled Laws.

**Chapter VII
FINANCES**

Fiscal Year.

SECTION 7.1. The fiscal year of the City shall begin with the first day of July.

Uniform Budget and Accounting.

SECTION 7.2. The budgeting and accounting system of the City shall comply with a uniform system of municipal budgeting and accounting as required by law.

Presentation of Budget Document.

SECTION 7.3. Before the first Monday in April all City administrative officials shall submit to the City Clerk an itemized estimate of the expenditures for the next fiscal year, of the department or departments under their control. The City Clerk shall prepare a complete itemized budget for the next fiscal year and shall submit it to the City Council on or before the first Monday in May.

Budget Document.

SECTION 7.4. All budget accounts shall be separated as to maintenance and capital expenditures and every important item in each account shall be listed separately.

Budget Hearing.

SECTION 7.5. Before the final adoption of the budget, a public hearing shall be held on the proposed budget with notice of that hearing to be published in a newspaper of general circulation at least ten (10) days prior to the hearing. The notice shall include the time and place of the hearing and the location of a copy of the proposed budget for prior inspection by the public.

Adoption.

SECTION 7.6. The Council shall, not later than the first Monday in June adopt by resolution a budget for the ensuing fiscal year and make appropriations for that purpose. The City Council shall set by resolution the amount necessary to be raised by property taxes, which amount shall not be greater than the amount permitted by law.

Transfer of Funds.

SECTION 7.7. After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation.

The City Council may authorize transfer of moneys to any unencumbered appropriation, balance or any portion thereof from one department, fund or agency to another during the fiscal year. The balance of any appropriation which has not been expended at the end of the fiscal year may be reapportioned during the fiscal year as determined by the Council.

Budget Control.

SECTION 7.8. At the beginning of each quarter during the fiscal year, and more often if required by the City Council, the City Clerk shall submit to the Council data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is less than anticipated, the Council may reduce appropriations, except any amounts required for debt and interest charges, to such degree as may be necessary to keep expenditures within income and designated reserves. If the revenues exceed the amounts estimated in the budget, the Council may make supplemental appropriations.

Independent Audit.

SECTION 7.9. An independent audit shall be made of all City accounts

at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by an independent Certified Public Accountant and shall comply with the Generally Accepted Auditing Standards.

Chapter VIII BORROWING

Borrowing Authority.

SECTION 8.1. Subject to law and this charter, the City Council may, by ordinance or resolution, authorize the borrowing of money for any purpose within the scope of the powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness. Such bonds or other evidences of indebtedness shall include, but not be limited to, the following types:

- A. General obligation bonds which pledge the full faith, credit and resources of the City for repayment thereof.
- B. Notes in anticipation of collection of taxes provided the proceeds of such notes be spent only in accordance with the appropriations as provided by section 7.6.
- C. In the case of fire, flood or other calamity, the Council may borrow for the relief of the inhabitants of the City and for the preservation of municipal property, a sum not to exceed three-eighths ($\frac{3}{8}$) of one (1) percent (0.375%) of the assessed value of all real and personal property in the City, due in not more than five (5) years, even if the loan would cause the indebtedness of the City to exceed any limit established by law.
- D. Special assessment bonds in anticipation of the payment of special assessments made for the purpose of paying for the cost of any public improvement.
- E. Mortgage bonds for the acquiring, owning, purchasing, construction, improving or operation of any public utility.
- F. Bonds for the refunding of the indebtedness of the City.
- G. Revenue bonds authorized by law which are secure only by the revenues from a public improvement or public utility and do not constitute a general obligation of the City.
- H. Bonds in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the State as permitted by law.

Preparation and Record of Bonds.

SECTION 8.2. Each bond or other evidence of indebtedness shall bear the signature of the Mayor and City Clerk under seal of the City. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the City Clerk or other designee(s).

Installment Purchases.

SECTION 8.3. The City commission may authorize and enter into any installment contract or agreement for the purchase of lands, property or equipment for public purposes as may be permitted by law. All deferred payments shall be included in the budget for the year for which the installment is payable.

Limits of Borrowing Authority.

SECTION 8.4. The net indebtedness incurred for all public purposes shall not, at any time, exceed the maximum amount permitted by law.

Chapter IX TAXATION

Subject of Taxation.

SECTION 9.1. The subjects of taxation for the City's purposes shall be the same as for the State, County and School purposes under the General Law.

Power to Tax.

SECTION 9.2. The City shall have the authority to assess, levy and collect taxes rents and excises, except as otherwise provided by law, in an amount not to exceed one and one half percent (1.5%) of the assessed value of the real and personal property in the City. Assessments, levies and collections shall be made in a manner provided by law or this charter.

Assessment Date.

SECTION 9.3. Unless otherwise provided by law, the 31st day of December in each year shall be the assessment date for both real and personal property in the City.

Assessment Rolls.

SECTION 9.4. The City Assessor shall make complete assessment rolls

of the City in the form and manner provided by law not later than the first Monday in March of each year.

Board of Review.

SECTION 9.5. A Board of Review consisting of three (3) members, shall be appointed and serve according to law. Compensation of the Board of Review shall be determined by the City Council.

The Board of Review shall convene at such times provided by law and at such place as designated by the City Council. Notice of the meeting of the Board of Review shall be given in accordance with law. At the first meeting each year, the Board of Review shall elect one of its members as chairperson. The City Assessor shall be secretary of the board and shall attend all meetings with the privilege of participating and commenting, but without the right to vote upon any decision of the board. It shall be the duty of the secretary to keep a permanent record of all proceedings and to record all resolutions and decisions of the board. A majority of the members of the board shall constitute a quorum. The members of the board shall take the oath of office which shall be filed with the City Clerk. For the purpose of reviewing and correcting assessments, the Board of Review shall have all powers granted by law. It shall hear the complaint of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just. No change of status of any property may be made after final consideration by the board unless otherwise directed by a court or tribunal of competent jurisdiction.

Endorsement of Roll.

SECTION 9.6. After the board shall have completed its review of the assessment roll, a majority of its members shall immediately endorse thereon and sign a statement to the effect that same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. Upon completion of the roll, the same shall be the assessment roll of the City for county, school, and City taxes and for any other taxes on real or personal property that may be authorized by law and shall be conclusively presumed be all courts and tribunals to be valid and shall not be set aside except for cause allowed for by law.

Clerk to Certify Tax Levy.

SECTION 9.7. Within seven (7) days after the City Council has adopted the budget for the ensuing year, the City Clerk shall certify to the City Assessor the total amount which the City Council determines shall be raised by general tax; all amounts of special assessments which the City Council requires to be assessed or reassessed upon any property or against any person; and all other amounts which the Council may determine shall be charged, assessed or reassessed against any person or property.

City Tax Roll.

SECTION 9.8. After the last day for the meeting of the Board of Review, the City Assessor shall, upon receiving the certification of several amounts to be raised, as provided in the proceeding section, proceed forthwith to spread upon the assessment roll the several amounts determined by the City Council to be charged, assessed or reassessed against person or property; and shall also proceed to spread the amounts of the general City tax according to and in proportion to the several evaluations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the City Assessor may add to the amount of the several taxes to be raised not more than one-half of one percent (0.5%). The amount so added shall belong to the City to extend permitted by law.

Tax Roll Certified for Collection.

SECTION 9.9. Not later than June 15 of each year, the City Assessor shall certify said tax roll, with the warrant attached thereto, directing and requiring the City Treasurer to collect from the persons named therein the various sums mentioned and granting to the City Treasurer all powers and immunities possessed by Township Treasurers for the collection of taxes under law.

Collection of Taxes.

SECTION 9.10. City taxes shall be due and payable on the 1st day of July of each year. To all taxes paid after August 14th, there shall be added a penalty as permitted by law, and to all taxes paid after said date, there shall be added interest at the rate of one percent (1%) for each month or fraction thereof between said date and the date of payment, or the first day of March of the next succeeding calendar year, whichever date shall occur first. The added penalties and interest herein provided shall belong to the City and shall constitute a charge and a lien against the property to which the taxes themselves apply, collectible in the same manner as the

taxes to which they are added.

Delinquent Tax Roll to County Treasurer.

SECTION 9.11. Any taxes on the City tax roll which remain unpaid the first day of March following the date when said roll was received by the City Treasurer shall be returned to the County Treasurer in the same manner and with like effect as returns by Township Treasurers for Townships, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the City Treasurer and shall include all additional charges and fees hereinbefore provided, which charges and fees shall be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer and shall remain a lien upon the lands against which they are assessed until paid.

Taxes as Lien on Property.

SECTION 9.12. Every tax assessed shall become a lien upon such real property on the first day of July and liens for such amount and for all interest and other charges thereon shall continue until such taxes are paid. All personal property taxes shall be first lien, prior, superior and paramount, upon all personal property of the person so assessed from and after the first day of July in each year and shall so remain until paid, which said tax lien shall have precedence over all other claims, encumbrances and liens upon said personal property whatsoever.

Protection of City Liens.

SECTION 9.13. The City shall have the power to acquire by purchase any premises within the City at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City for taxes or special assessment, or both, on said premises and may hold, lease or sell the same. Any such procedure exercised by the City for the protection of its tax lien shall be deemed to be for a public purpose.

State, County and School Taxes.

SECTION 9.14. For the purpose of assessing and collecting taxes, the City shall have the same powers and immunities as a township. Except as stated herein, all provisions of law pertaining to the collection of such taxes and fees to be paid therefore, the accounting therefore, to the appropriate taxing units, and the returning of property to the County Treasurer

for nonpayment thereof shall apply to the performance thereof by the City Treasurer, who shall perform the same duties and have the same powers as Township Treasurers under law.

**CHAPTER X
PUBLIC IMPROVEMENTS AND
SPECIAL ASSESSMENTS**

General Powers.

SECTION 10.1. The City is hereby given the power to acquire, establish, construct and maintain streets, alleys, parks, parking places, public buildings, facilities for furnishing light, heat, power, water, sewage disposal and all other facilities for reserving the interests of the residents of the City. The City shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in special assessment district including the power of reassessment when property is especially benefited.

Procedure Set By Ordinance.

SECTION 10.2. The City Council shall prescribe, by ordinance, a complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings, confirmation of the assessment rolls and any other matters concerning the making and financing of improvements by special assessments.

**CHAPTER XI
MUNICIPALLY OWNED UTILITIES**

General Powers.

SECTION 11.1. The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, maintain and provide, either within or without its corporate limits, including but not limited to, public utilities for supplying water, light, heat, power, gas, sewage treatment, land fill and garbage and trash disposal facilities. The City shall have the power to sell and deliver such public utility service outside its corporate limits for a fee set by the City Council not to exceed and limitation established by law.

Control of Utilities.

SECTION 11.2. The City Council may enact such ordinances or adopt such resolutions as may be necessary for the care, protection, preservation, control, and operation of any public utility owned or operated by the City.

Rates and Charges.

SECTION 11.3. The city Council shall provide for the charging of such just and reasonable rate as may be necessary for the operation of any utility.

Collection of Utility Charges.

SECTION 11.4. The City Council shall provide for the collection of all public utility charges and, for such purpose, shall have all power granted to cities by law. When any person, firm or corporation shall fail or refuse to pay any utility charges due, the service upon which such delinquency exists may be discontinued, a lien subject to limitations imposed by state law, placed upon the premises to which service were provided and any and all procedures for collection, including suit in any court or competent jurisdiction, may be instituted by the City for the collection of such charges and may include the cost of collection.

Accounts.

SECTION 11.5. Accounts shall be kept for each public utility owned or operated by the City distinct from other City accounts, and in such a manner as to show the true and complete financial result thereof. The City Council shall annually cause to be made and published for public distribution, a report showing the financial results thereof, which report(s) shall give accurate and full information concerning the financial condition of said utilities and such further information as the City Council may require.

**CHAPTER XII
FRANCHISES AND PERMITS**

Franchises.

SECTION 12.1. The City Council shall have the power to grant franchises for the operation of public utilities within the City. All franchises shall be subject to revocation at the will of the City unless such franchises

are approved by the voters pursuant to Article VII, section 25 of the Constitution of 1963. All franchises presently in operation shall continue and not be deemed repealed by adoption of this charter. All franchises, renewals, extensions, amendments, transfers and assignments shall only be granted by ordinance. No exclusive franchise shall be granted. No franchise shall be granted for a period longer than thirty (30) years. No proposed ordinance shall be submitted to the electors until the grantee has filed its unconditional acceptance of the franchise and paid to the City Treasurer a sum determined by the City Council to be sufficient to pay for the election expenses incurred as a result of submitting the proposed franchise to the electors. No franchise shall be transferred, directly or indirectly, except with the prior consent of the City Council.

Right of Regulation.

SECTION 12.2. A public utility or service franchise shall be subject to the right of the City:

- A. To repeal the same for misuse or non-use, or failure to comply with the terms of franchise;
- B. To require proper and adequate extension of physical plant, service and the maintenance thereof at the highest practicable standards of efficiency;
- C. To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in services or rates;
- D. To make independent audit and require explanation of accounts at any time, and to require reports annually;
- E. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the period thereof;
- F. To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them;
- G. To impose such other regulations as may be determined by City Council to be conducive to the safety, welfare and accommodation of the public.

Regulation of Rates.

SECTION 12.3. All public utility franchises shall make provision for the fixing of rates, fares and charges and may provide for readjustment thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, good will or prospective profits.

Condemnation.

SECTION 12.4. The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with law.

Revocable Permits.

SECTION 12.5. Temporary permits for public utilities, revocable at any time at the will of the City Council, may be granted by the City Council by resolution on such terms and conditions as it shall determine provided that such permits shall in no event be construed to be franchises or amendments to franchises.

Assignment of Franchises.

SECTION 12.6. No franchise granted by the City Council shall ever be leased, assigned, sold, transferred or otherwise alienated except with prior approval of the City Council.

Joint Use.

SECTION 12.7. Every public utility, during the term of its franchise, may be required by the City to permit joint use of its property, appurtenance and equipment located in the streets, alleys, right of ways and public places by the City or other public utility, provided that such joint use is reasonable and upon payment of a reasonable rental. In the event of disagreement as to the reasonable rental, the City Council shall provide for binding arbitration as to the compensation, terms and conditions of the proposed joint use, which arbitration award shall be final.

Use of Street and Public Places.

SECTION 12.8. The right to use, control and regulate the use of its streets, alleys, bridges, right of ways and public places, and the space above and beneath them is hereby reserved to the City, to which every public utility shall be subject. Every public utility shall pay any cost of improvement or maintenance which shall arise from its use of streets, alleys, bridges, right of ways and public places and shall indemnify and hold harmless the City from all liability, claims, demands, damages, costs, interest and attorney's fees arising, direct or indirect, from the public utility use of the streets, alleys, bridges, right of ways and public places.

**CHAPTER XIII
MISCELLANEOUS**

No Estoppel by Representation.

SECTION 13.1. No officer, employee, representative, agent or independent contractor of the City shall have the power to make any representation of fact in any franchise, contract, document or agreement which is contrary to any public record of the City. Any such representation shall be null, void and of no effect.

Public Records.

SECTION 13.2. Except where otherwise provided by law, all records of the City shall be public and in the English language.

Publication.

SECTION 13.3. When by this charter any officer is required to give publication to any notice, such notice shall also be posted in at least five (5) public places within the City.

Headings.

SECTION 13.4. The chapter and section headings used in this charter are for reference only and shall not be considered a part of this charter.

Repeal of Prior City Charter.

SECTION 13.5. All prior City ordinances, regulations, resolutions or policies or parts thereof inconsistent with the provisions of this charter are hereby repealed.

All prior ordinances, resolutions, regulations or policies or parts thereof which are consistent with the provisions herein, shall continue in force until or unless repealed or amended.

Affect of Illegality on Any Part of Charter.

SECTION 13.6. Should any provision or section, or part thereof, of this charter be held by any court of competent jurisdiction to be invalid, illegal or unconstitutional, such holding shall not be construed as affecting the validity of the this charter as a whole or any of the remaining provisions or sections, or portions thereof; it being the intent of the Charter Commission and of the electors 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 declared that it was the intent

of the Charter Commission and of the electors, in preparing and adopting this charter, that said instrument should conform in all respects with the provisions and requirements of law. In the event that any provision of this charter shall conflict with or contravene the provisions of any law, the provisions of that law shall govern and precedence.

Obligations Unaffected.

SECTION 13.7. All taxes and assessments levied of assessed and all charges thereon and all fines and penalties imposed, uncollected at the time of this charter, shall be collected as if such change had not been made; if a different remedy is provided by this charter, or by any ordinance or resolution, the remedy shall be deemed cumulative to the remedies already provided.

Amendment.

SECTION 13.8. This charter may be amended at any time in the manner provided by law. Should two (2) or more amendments, adopted at the same election have conflicting provisions, the one receiving the highest number of votes shall prevail as to the provisions.

Definitions.

SECTION 13.9. Where the terms "person" or "persons" are used in this charter, they shall include any person, firm, partnership, association, corporation, or entity recognized by law.

CHAPTER XIV SCHEDULE

Purpose and Status of Schedule.

SECTION 14.1. The purpose of this schedule chapter is to inaugurate the government of the City of Galesburg under this charter and to provide for the transition of the government of the City under the previous charter. It shall constitute a part of this charter only to that extent and for the time required to accomplish that purpose.

Officers of the City.

SECTION 14.2. The elected officers of the City holding office on the effective date of this charter shall continue to hold office to which they were elected for the balance of the terms for which they were elected and

shall conduct their several offices subject to the provisions of this charter. When the terms of the elected officers expire, they shall be elected in accordance with the provisions of this charter.

Council Compensation.

SECTION 14.3. Prior to the initial recommendation of the Local Officers Compensation Commission, the Mayor shall receive a salary in the amount of sixty dollars (\$60.00) per meeting attended and each other Council member shall receive fifty dollars (\$50.00) per meeting attended for up to twenty (20) regular Council meetings per year to be paid monthly. All Council members shall receive ten dollars (\$10.00) for each special meeting attended for up to six (6) such meetings per year.

Election of Charter Created Council Members.

SECTION 14.4. For the vacancies created by approval of this charter, increasing the size of the City Council from five (5) to seven (7) members, the City Council shall appoint those two (2) new members to serve until December 31, 1996. For those members of City Council elected at the first regular municipal election following approval of this charter the three (3) highest vote getters shall serve a four (4) year term with the fourth highest vote getter to serve a two (2) year term. By implementing this provision, terms of City Council members will correspond to the staggered terms as set forth in section 3.2B.

Election.

SECTION 14.5. This charter shall be submitted to a vote of qualified electors of the City of Galesburg at an election which shall be held on August 6, 1996. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. If at such election, the majority of electors voting thereon shall vote in favor of the adoption of this charter, then the City Clerk shall perform all other acts required by law to carry this charter into effect.

Ballot Question.

SECTION 14.6. Shall the proposed charter be adopted as the charter for the City of Galesburg:

Instruction: A "yes" vote indicates that you are in favor of the adoption of the proposed charter. A "no" vote indicates that you are opposed to the adoption of the proposed charted.

Yes No

Effective Date of Charter.

SECTION 14.7 If this charter is adopted at the election thereon, it shall take effect and become the charter of the City of Galesburg on September 1, 1996.

DATED: April 29, 1996

**RESOLUTION OF ADOPTION
OF PROPOSED CHARTER**

A special meeting of the Galesburg Charter Commission was held on Monday, April 29, 1996, at Galesburg City Hall in Council Chambers.

Present: Forrester, Bell, Smith, Kupiecki, Wayne,
Fontaine, Lemon, Vande Wouwer and Weber.
Absent: None.
Also Present: Attorney John W. Kneas and City Clerk Diana Skidmore.

The following resolution was offered by Commissioner David Wayne:

WHEREAS, the Galesburg Charter Commission has been duly elected and authorized to revise the charter of the City of Galesburg; and

WHEREAS, after research, review and deliberation, we have approved the attached as the proposed charter of the City of Galesburg to be placed before the electors of the City on August 6, 1996;

IT IS HEREBY RESOLVED that the attached proposed charter be transmitted to the Governor of the State of Michigan for his approval and signature and that this charter be submitted to the electors of the City at the election on August 6, 1996.

The foregoing resolution was supported by Commissioner Kathy Bell and adopted by the following vote:

Ayes: Wayne, Smith, Vande Wouwer, Forrester, Bell,
Fontaine, Weber, Lemon and Kupiecki.
Nays: None.

Alex Forrester, Chairman

Dated: April 29, 1996

State of Michigan)
)SS
Kalamazoo County)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and adopted by the Galesburg Charter Commission at a special meeting held on the 29th day of April 1996.

Diana Skidmore, Clerk of Commission

**RESOLUTION OF ADOPTION OF CHANGES
TO PROPOSED CHARTER**

At a special meeting of the Galesburg Charter Commission held on Wednesday May 29, 1996, at the Galesburg City Hall in Council Chambers.

Present: Forrester, Bell, Kupiecki, Smith, and
Vande Wouwer.
Absent: Lemon, Weber, Wayne and Fontaine.
Also Present: Attorney Kneas and Clerk Skidmore.

The following resolution was offered by Commissioner Kathy Bell.

WHEREAS, upon the review of the comments received from the Attorney General's office dated May 23, 1996 on corrections to the proposed charter for the City of Galesburg:

WHEREAS, after deliberation, we have approved the attached corrected document as the proposed charter of the City of Galesburg to be placed before the electors of the City on August 6, 1996;

IT IS HEREBY RESOLVED that the attached proposed charter be transmitted to the Attorney General's office and Governor of the State of Michigan for his approval and signature and that this charter be submitted to the electors of the City at an election on August 6, 1996.

The foregoing resolution was supported by Commissioner Sydney Smith and adopted by the following vote:

Ayes: Smith, Vande Wouwer, Forrester, Bell and Kupiecki.
Nays: None.

Alex Forrester, Chairman

Dated: May 29, 1996

State of Michigan)
)SS
Kalamazoo County)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and adopted by the Galesburg Charter Commission at a special meeting held on the 29th day of May 1996.

Diana Skidmore, Clerk of Commission

**STATE OF MICHIGAN
COUNTY OF KALAMAZOO**

I, Diana Skidmore, Clerk of the Charter Commission for the City of Galesburg, having been duly sworn, do hereby testify and affirm that an election was duly called and held in the City of Galesburg on the 27th day of September, 1994. At that election the following named persons were duly elected as members of the charter commission to frame a revised charter for the City of Galesburg, and at the organizational meeting of the charter commission held Tuesday, the 11th day of October, 1994, a chair and vice chair were elected:

Alex Forrester, Chairman
Kathy Bell, Vice Chair
Micheal Kupiecki
Richard Fontaine
Dennis Liskovec
David Wayne
Judy Lemon
Lester Carpenter
Sydney Smith

The charter set forth herein was duly framed and adopted by the charter commission by the foregoing resolution, which is a true and correct copy thereof. The charter commission directed that this charter be presented to the electors of the City of Galesburg in accordance with the laws of the State of Michigan.

Dated this 17th day of September 1996.

Diana Skidmore
Clerk of the Charter Commission

Subscribed and sworn before me this 17th day of September 1996.

Lisa K. Wilson, Notary
Kalamazoo, County, Michigan
Commission expires: January 3, 2001

APPROVAL BY GOVERNOR

I hereby approve the foregoing charter of the City of Galesburg this 18th day of June, 1996.

John Engler
Governor of the State of Michigan

I, Diana Skidmore, Clerk of the City of Galesburg, Kalamazoo County, Michigan, hereby certify the foregoing is a true copy of the revised charter of the City of Galesburg, duly adopted at an election held on the 6th day of August, A.D., 1996. The result of the vote is as follows:

Yes - 80
No - 67

I further certify that the vote was canvassed and approved on the 5th day of September 1996.

I further certify that two copies of this charter were filed with the County Clerk and with the Secretary of State on October 11, 1996.

Diana Skidmore
City Clerk
City of Galesburg, Michigan