

City of Canandaigua, NY
Thursday, February 11, 2016

Chapter C. Charter

[HISTORY: Effective 1-1-1978; printed as amended 3-25-1993 by L.L. No. 2-1993, subsequent amendments noted where applicable.]

CHAPTER 1. General Provisions

§ 1.1. Incorporation

Upon the adoption of this Charter, the inhabitants of the City of Canandaigua, in the County of Ontario, State of New York, within the boundaries herein described, shall continue to be incorporated as a Municipal Corporation with perpetual succession.

§ 1.2. Name.

The corporate name of the City shall be City of Canandaigua.

§ 1.3. Boundaries.

[Amended 11-17-2005 by L.L. No. 4-2005]

The boundaries of said City shall be as follows:

Beginning at a point in the northern terminus of the western boundary line of West Street in the present City of Canandaigua and continuing northerly in a straight line extending along the same course as said western boundary line of West Street until it intersects a line extending westerly from and in the same course as the northern boundary line of North Street; Thence extending easterly from said intersection along the northern boundary line of North Street and continuing easterly in a straight line extending along the same course as said northern boundary line of North Street until it intersects the eastern boundary line of East Street in said City of Canandaigua; Thence southerly in a straight line along the eastern boundary line of East Street until it intersects the northern boundary line of lands conveyed to the Canandaigua City School District by deed dated October, 1985 and recorded in the Ontario County Clerk's Office in Liber 844 of Deeds at Page 1043; thence north 71°43'10" east a distance of 1,446.86 feet to a point; thence south 17°16'50" east a distance of 902.78 feet to a point; thence south 71°43'10" west a distance of 1,448.65 feet to a point in the eastern boundary line of East Street; thence continuing southerly in a straight line along the eastern boundary line of East Street and continuing southerly in a straight line extending along the same course as the eastern boundary line of East Street until it intersects the southern boundary of Lakeshore Drive in said City of Canandaigua (formerly called The Canandaigua-Geneva State Road, formerly called the "Seneca Turnpike"); Thence westerly in a straight line across the northern end of Canandaigua Lake along a tie line between said intersection and the northeast corner of back lot no. 10, west of Main Street on the west shore of Canandaigua Lake, to a point where said tie line intersects lands now or formerly of Rosewil Associates; thence southerly and westerly along said Rosewil lands to the high water line of Canandaigua Lake at the tie line; thence westerly and northerly along said high water line of said tie line; to a point formed by the northeast corner of back lot no. 10, west of Main Street, on the west shore of Canandaigua

Lake; thence extending westerly along the northern boundary line of said lot no. 10, and a continuation thereof, until it intersects a line extending southerly from, and in the same course as the western boundary line of the said West Street; Thence northerly in a straight line from said intersection along the southerly extension of the western boundary line of the said West Street to the place of beginning, being the same and all of the territory now contained within the corporate limits of the present City of Canandaigua, in the County of Ontario and State of New York.

§ 1.4. Wards.

The City shall be divided into four wards, bounded respectively as follows:

Ward 1. The First Ward shall include all that part of said City bounded on the north and east by the north and east lines of said City; on the west by the center of Main Street, and on the south by a line running from Main Street east along the center line of Gibson Street.

Ward 2. The Second Ward shall include all that part of said City bounded on the north by the south line of Ward 1; on the east by the east line of said City; on the south by the south line of said City; and on the west by the center of Main Street.

Ward 3. The Third Ward shall include all that part of said City bounded on the north by the center of West Avenue; on the east by the center of Main Street; and on the south and west by the south and west lines of said City.

Ward 4. The Fourth Ward shall include all that part of said City bounded on the north and west by the north and west lines of said City; on the east by the center of Main Street; on the south by the center of West Avenue.

§ 1.5. Election districts.

The Wards hereinbefore described shall, until otherwise lawfully changed, constitute the Election Districts for holding all elections held in the City. There shall be four election inspectors from each election district who shall be appointed in accordance with the Election Law of the State of New York, and shall possess the powers and qualifications and discharge the duties as prescribed by said Election law.

CHAPTER 2. Definitions and Powers

§ 2.1. Definitions.

For the purposes of this Charter, except as the context may otherwise require:

- (a) **"Bureau"** shall mean any agency or instrumentality of the City government allocated or assigned within a Department.
- (b) **"Charter"** shall mean the Charter of the City of Canandaigua herein set forth, the Municipal Home Rule Law and such other State Statutes as are lawfully applicable to the City.
- (c) **"City Council"** shall mean the local legislative body of the City elected in the manner provided by this Charter.
- (d) **"Department"** shall mean an organization unit of the City government established or designated by or pursuant to this Charter as a department.
- (e) **"Employee"** shall mean any person directly employed and compensated by the City of Canandaigua, except persons employed in the legislative or judicial branch thereof.

[Added 11-17-2005 by L.L. No. 4-2005]

- (f) **"Law"** shall mean a State Statute, Charter, Local Law, Ordinance or Resolution.
[Amended 11-17-2005 by L.L. No. 4-2005]
- (g) **"Local Law"** shall mean a law adopted pursuant to the Municipal Home Rule Law or to other authorization of a State Statute or this Charter by the City Council or proposed by a Charter Commission or by petition, and ratified by a popular vote, as provided in Article IV of the Municipal Home Rule Law or as Provided by State Statute, this Charter or Local Law; but shall not mean or include an Ordinance, Resolution or other similar acts of the City Council or of other board or body of this City.
[Amended 11-17-2005 by L.L. No. 4-2005]
- (h) **"Manager"** shall mean the administrator of the City government appointed pursuant to this Charter or the Acting Manager temporarily serving in place of the Manager pursuant to this Charter or Local Law.
[Amended 11-17-2005 by L.L. No. 4-2005]
- (i) **"Ordinance"** shall mean a legislative act of the City Council which is permanent in nature unless specifically self-limiting, general in its application and may or may not contain penal provisions for its violation and must be in written form. It shall be enacted in accordance with the provisions hereinafter provided.
[Amended 11-17-2005 by L.L. No. 4-2005]
- (j) **"Officer"** includes every person who is elected by the electors of the City of Canandaigua; every person who holds a position as an officer of the City of Canandaigua as a municipal corporation of the state; and every person who is appointed as the Head of any Department listed in § 4.2 subdivision (a) — (g).
[Added 11-17-2005 by L.L. No. 4-2005]
- (k) **"Resolution"** shall mean a legislative act of the City Council which is limited in its application or of a temporary nature or both, or as otherwise provided by law. Unless specifically provided, it need not be in written form.
[Amended 11-17-2005 by L.L. No. 4-2005]

§ 2.2. General powers.

Subject to the provisions of the Charter, the City shall have all powers of local government, functions, rights, privileges and jurisdiction delegated to cities under the Constitution and Laws of the State of New York, or which it would be competent for this Charter specifically to enumerate. The City may provide for the distribution of such powers among and within its departments and regulate and control the exercise thereof by its officers and employees. All powers of the City, whether express or implied, shall be exercised in the manner provided by this Charter or by local law or ordinance not inconsistent herewith.

§ 2.3. Auxiliary powers.

In the exercise of its powers for any Municipal purpose the City may use a corporate seal; may sue and be sued; may acquire property within and without its boundaries for any Municipal purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require; may require licenses and permits and enter into contracts; may exercise powers of taxation delegated to it; and may adopt, amend and repeal local laws, ordinances and resolutions.

CHAPTER 3. The City Council

§ 3.1. City Council.

The legislative power of the City shall be exercised by the City Council, which shall have power to adopt, amend and repeal Local Laws under the provisions of the Municipal Home Rule Law or otherwise, without the concurrence of consent of any other body or officer, except where the approval of the electors is required by this Charter.

§ 3.2. Composition and qualifications.

The City Council shall consist of the Mayor and eight Councilmembers, one to be elected from each of the City's four Wards and four to be elected from the City at large. The Mayor shall be a voting member of the City Council. Members of the City Council shall be bonafide electors and residents of the City for a period of one year prior to their election and, in the case of Ward Councilmembers, of the Ward in and from which they are elected. Except as specifically provided by this Charter, members of City Council, while a member of the body, shall hold no other public office except the office of Notary Public. If a member of the City Council shall cease to possess such qualifications, or shall be convicted of a felony or a misdemeanor involving a crime of moral turpitude while in office, the office shall immediately become vacant.

§ 3.3. Prohibitions.

- (a) Holding other office. Except where authorized by law, no member of the City Council shall hold any other elected public office during the term for which the member was elected to the City Council. No member of the City Council shall hold any other City office or City employment during the term for which the member was elected to the City Council. No former member of the City Council shall hold any compensated appointive office, or employment with the City until one year after the expiration of the term for which the member was elected to the City Council, except as a member of the Planning Commission, the Zoning Board of Appeals, the Board of Assessment Review, or as a replacement to fill the vacancy of an elected office. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former Councilmember to represent the City on the governing board of any regional or other inter-governmental agency.
- (b) Appointments and removals. Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (c) Interference with administration. Except for the purpose of inquiries and investigations, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

§ 3.4. Term; vacancies.

Councilmembers shall be elected at the general election in the odd numbered years, each to serve for a term of two years. The term of office of each Councilmember shall commence on the first day of January next following the election. If a vacancy shall occur in any elective office of the City otherwise than by expiration of term, the City Council shall appoint a person to fill such vacancy who shall hold office until the first day of January, succeeding the next general election held in the City, at which election a successor to such appointee shall be elected for the remainder of the term. In the case of a Ward Councilmember, such

appointee shall be a resident of the same Ward.

§ 3.5. Councilmember; compensation.

Councilmembers shall serve with compensation as fixed by the City Council and may be reimbursed for actual expenses incurred in the performance of their official duties.

§ 3.6. Continuing body.

The City Council shall be a continuing body and no measure pending before it shall abate or be discontinued by reason of expiration of the term of office or removal of the members thereof, or any of them.

§ 3.7. Organization and procedure.

The City Council shall organize biennially at the meeting of the first Monday following the New Year, or if that is a public holiday, the next day thereafter following each regular election of Mayor and Councilmembers. At the meeting, the City Council shall adopt rules governing its procedure, the conduct of its meetings and the discipline of its members.

§ 3.8. Mayor.

The Mayor shall preside at meetings of the City Council, be an advocate on behalf of the City in intergovernmental relationships and shall appoint all committees of the City Council authorized by its rules to be appointed. The Mayor shall be recognized as the executive head of the City government, but shall have no administrative duties. The Mayor shall be elected at large for a two-year term at the general election in odd numbered years. The Mayor shall serve with compensation as fixed by the City Council and may be reimbursed for actual and necessary expenses incurred in the performance of official duties. Any increase in compensation shall become effective upon the commencement of the term of Mayor elected at the next general election. The City Council shall also elect, at each organizational meeting from among its members, a President of the City Council who shall act in place of the Mayor in the event of the latter's absence or disability to perform the duties of the office.

§ 3.9. Meetings; regular and special.

The City Council shall meet regularly at least once each month. It shall provide at each organizational meeting, the time for such meeting and other regular meetings and the manner in which special meetings shall be called. All meetings of the City Council shall be public except as otherwise authorized by State Law.

§ 3.10. Quorum.

Six members of the City Council shall constitute a quorum to do business. The affirmative vote of at least five members of the City Council shall be necessary to adopt any Local Law or Ordinance, Resolution or Order. No member shall be excused from voting except on matters involving the consideration of their own official conduct or where their financial interests are involved.

§ 3.11. Legislative powers generally.

In the exercise of the local legislative power, the City Council may, subject to the Charter, the Constitution and Laws of the State, adopt, amend and repeal Local Laws to:

- (a) Organize and regulate the property, affairs and government of the City and to establish, alter and abolish offices, positions and employments and define the functions, powers and duties thereof and to fix the term, tenure and compensation thereof.
- (b) Exercise the authority for the good rule and government of the City, for the order, protection and government of persons and property; for the preservation of the public health, comfort, peace and prosperity of the City and its inhabitants; and to effectuate the purposes and provisions of this Charter or of the other laws relating to the City.
- (c) Construct, acquire, operate or maintain any and all properties, public improvements, projects or enterprises, for any public purpose, which is in the best interests of the City of Canandaigua, subject to referendum requirements otherwise imposed by law.
- (d) Provide for the exercise of all powers of local government vested in the City by Charter or otherwise.
- (e) Provide for the enforcement of Local Laws by legal or equitable proceedings, prescribe that violations thereof shall constitute misdemeanors and provide for the punishment of such violations by civil penalty, fine, forfeiture or imprisonment or by two or more of such punishments. Any enumeration of powers in this Charter shall not be held to limit the legislative power of the City Council except as otherwise specifically provided herein.
- (f) Provide for the reapportionment of representation within the City as provided by New York State Law, based upon the population.

§ 3.12. Local legislation.

The City Council shall act in relation to legislative matters by Local Law or Ordinance. The enacting clause of all Local Laws and Ordinances shall be: "Be it enacted by the City Council of the City of Canandaigua as follows:"

§ 3.13. Ordinances and Resolutions; generally.

- (a) All Ordinances for any purpose and all Resolutions involving the expenditure of money, shall be introduced in the City Council only in typewritten, printed or other duplicated form. Copies thereof shall be made available to the public, upon request, immediately following introduction. No Ordinance shall be passed at the same meeting at which it is introduced, except upon the unanimous consent of all the members of the City Council. The final reading of each Ordinance shall be in full unless a copy thereof shall have been furnished to each member of the City Council prior to such reading. Ordinances shall be confined to one subject and such subject shall be clearly expressed in the title. The yeas and nays shall be taken upon the passage of all Ordinances and Resolutions and entered upon the journal of the proceedings of the City Council.
- (b) An Ordinance levying a tax or making an appropriation, relating to local improvements or assessments, or directing an investigation of City affairs shall take effect at such time as it may provide; all other Ordinances shall take effect not less than 30 days after the date of passage unless the City Council shall by Resolution adopted by an affirmative vote of eight Councilmembers declare an emergency requiring the Ordinance to take effect within such time.

§ 3.14. Local laws; generally.

All Local Laws shall be introduced, considered and enacted in accordance with the procedure prescribed by the Municipal Home Rule Law. Notice of public hearing on Local Laws shall be given by publication in the official newspaper at least three days prior to such hearing.

§ 3.15. Local laws; mandatory referendum.

A Local Law shall be submitted for the approval of the electors at the next general election held not less than 60 days after the adoption thereof (excepting submission of a new or revised Charter in accordance with the Municipal Home Rule Law for which no prior adoption is required), and shall become operative according to its terms only upon the approval of a majority of those voting thereon at such election, if such Local Law:

- (a) Abolishes or changes the form or composition of the City Council or the vote to which any member of the City Council is entitled or delegates or transfers any appointive or legislative power of the City Council;
- (b) Abolishes, transfers or curtails the authority of any department head created by Charter or creates a new elective office except as expressly provided in this Charter,
- (c) Changes the manner of appointment or removal or the tenure of office of the Manager, or abolishes, transfers or modifies the functions, powers or duties of the Manager.
- (d) Changes a provision of law relating to public utility franchises;
- (e) Reduces the salary or compensation of a City officer or employee, increases his hours of employment or changes his working conditions if such salary, compensation, hours or conditions have been fixed by a State Statute and approved by the vote of the qualified electors of such City;
- (f) Modifies any provision of this section; or is required by the Municipal Home Rule Law to be submitted to referendum.

CHAPTER 4. Administrative Organization, Generally

§ 4.1. City Council action.

The City Council shall be responsible to the electorate for the efficient and economical management of the City Government. It shall deal with legislative matters as a body and effectuate its policy decisions solely through the office of the Manager, as hereinafter established. There shall be no administrative committees of the City Council. Councilmembers shall not negotiate individually with the Manager or with any department or bureau head regarding any matter for which the City Council as a whole is responsible under this Charter.

§ 4.2. Departmental organization.

The administrative, executive and judicial functions, powers and duties of the City government shall be exercised and discharged by the following departments, offices and agencies, as provided in this Charter:

- (a) Manager.
- (b) Department of Administration.
- (c) Department of Assessment.

- (d) Department of Public Works.
- (e) Department of Public Safety.
- (f) Department of Parks and Recreation.
- (g) Corporation Counsel.
- (h) Planning Commission.
- (i) Zoning Board of Appeals.

§ 4.3. Department heads; generally.

The head of a department, in the City government, in addition to such other powers and duties as are elsewhere provided by this Charter, shall:

- (a) Plan, organize and administer the work of the department, subject to the direction and supervision of the Manager.
- (b) Prepare and justify the annual requests of the department for appropriations.
- (c) Review and, where appropriate, approve all invoices and vouchers chargeable to appropriations made for the department, and append thereto certifications that the work, labor or services for which payment is demanded has been rendered, or that the goods, materials or equipment have been received and delivered, and that to the best knowledge, information and belief that the amount demanded is lawfully due and owing by the City.
- (d) Implement the program prescribed by the Manager for the annual evaluation of all employees within the departments for the purpose of maintaining and improving employee performance.

CHAPTER 5. Manager

§ 5.1. Appointment; compensation; qualifications.

The City Council shall appoint a Manager for an indefinite term and fix the compensation annually. The Manager shall be appointed solely on the basis of executive and administrative qualifications for the duties of the office. Prior to the appointment, the Manager shall be qualified by at least one year's special training in public administration and finance, and by at least three years of successful experience in a responsible executive position in governmental administration, or by any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration. The Manager may reside outside the City during the tenure of the office only with the approval of the City Council.

§ 5.2. Removal.

The City Council may remove the Manager from office in accordance with the following procedures:

- (a) The City Manager may be suspended by a Resolution approved by a two-thirds majority of the total membership of the City Council which shall set forth the reasons for suspension and proposed removal. A copy of such Resolution shall be served immediately upon the City Manager. The City Manager shall have 15 days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than 10 days nor later than 15 days after such hearing is

requested. After the public hearing, if one is requested, and after full consideration, the City Council by a two-thirds majority vote of its total membership may adopt a final Resolution of removal. The City Manager shall continue to receive full salary until the effective date of a final Resolution of removal.

- (b) Upon adoption of a final Resolution of removal, the departing City Manager shall be paid any unused accrued leave time. In addition, the City Council may provide a financial severance package to the departing City Manager.

§ 5.3. Acting City Manager.

By letter filed with the City Clerk/Treasurer, the City Manager shall designate subject to approval of the City Council, a qualified City employee to exercise the powers and perform the duties of the City Manager during the Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another qualified individual to serve until the City Manager returns.

§ 5.4. Manager, powers and duties.

The Manager shall be the chief administrative officer of the City, and shall be responsible to the City Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. Except as otherwise provided in the Consolidated Laws of the State of New York, any reference in the Consolidated Laws to the chief executive officer of the City of Canandaigua shall mean the Manager, and the Manager shall be the chief executive officer of the City for all said purposes. The City Manager shall:

- (a) See that all laws, provisions of this charter, acts of the City Council, and all State laws subject to enforcement by City action, are faithfully enforced and executed.
- (b) Have, exercise, and perform all functions, powers and duties vested by State or Local Law or Ordinance in the chief administrative officer of the City, except as may be otherwise specifically provided by this Charter.
- (c) Represent the City and assert its proper interest in relation to the State and other political subdivisions, and with respect to municipal contracts and franchises.
- (d) Appoint and, when the City Manager deems it necessary for the good of the City, suspend or remove any City employee and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter, and shall authorize any administrative officer who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that department, office or agency.
- (e) Attend all meetings of the City Council with the right to take part in the discussions, but without the right to vote.
- (f) Serve as chief financial officer of the City.
- (g) Serve as the personnel officer of the City.
- (h) Prescribe and enforce a general accounting system for the City government and each of its offices, departments and agencies.
- (i) Provide for the exercise of budgetary control for each separate appropriation account; establish procedures and practices for the pre-auditing and control of all City revenues and expenditures; provide for the safety and investment of all City funds; provide for the management of the City debt; develop policies to safeguard the City's financial interest in the fullest extent.
- (j) Prepare the current expense and revenue estimates for the annual budget in cooperation with

department heads.

- (k) Compile the capital expenditure estimates for the annual budget.
- (l) Keep the City Council advised of the financial condition of the City; make reports to the City Council as requested by it; and at least once a year make an annual report to City Council and the citizens on the administration of the City government.
- (m) Study the governmental and administrative operations and needs of the City government, and prepare and recommend to the City Council necessary and desirable plans and programs to meet present and foreseeable needs.
- (n) Assign and transfer administrative functions, powers and duties among and within departments, as the best interest of the City may appear, subject to the Charter and Local Law.
- (o) Delegate to department heads such powers as may be deemed necessary for efficient administration.
- (p) Develop and implement a program of annual evaluation of all City employees for the purpose of maintaining and improving employee performance.
- (q) Perform such other duties as are specified in this Charter or may be required by the City Council.

CHAPTER 6. Department of Administration

§ 6.1. Administration department.

There shall be a Department of Administration, the head of which shall be the Clerk/Treasurer, who shall be appointed by the City Manager with the approval of the City Council, for a term of one year, and thereafter annually by the Manager. Prior to appointment, the City Manager shall be satisfied that the Clerk/Treasurer possesses the training, education, and experience necessary to perform the duties of the position.

§ 6.2. Clerk's functions.

The Clerk/Treasurer shall be the custodian of the seal of the City, and of all records, books, and documents of the City other than those committed by Charter, Local Law or Ordinance, to some other office or transferred thereto by the Manager. The Clerk/Treasurer, subject to the direction and supervision of the Manager shall:

- (a) Upon request and upon payment of fees prescribed pursuant to law for use of the City, furnish a certified copy of any record, document or paper in the Clerk/Treasurer's custody, under the corporate seal of the City.
- (b) Cause the corporate seal to be affixed to such instruments and writings as may be authorized by Local Law or Ordinance, or as may be required by general law.
- (c) Be the depository and custodian of all performance bonds running to the City and of official surety bonds furnished by or on account of any officer or employee, except the Clerk/Treasurer's own bond, (which shall be placed in the custody of the Manager); of all insurance policies upon or with respect to risks insured for the benefit of the City or to protect it against any claim, demand or liability whatsoever; and all leases and formal contracts for work, labor, services, supplies, equipment, and materials to which the City may be a party.
- (d) Serve as registrar of vital statistics unless the City Council makes other provisions for such function; perform all other functions required of a City Clerk by any State law and administer such provisions of

Local Laws and Ordinances which require licenses, permits or certificates to be obtained from a City Clerk.

- (e) Serve as Clerk of the City Council and shall:
- (1) Attend all meetings of the City Council, and when required, of its legislative committees.
 - (2) Keep full and accurate minutes of each meeting of the City Council, and arrange for their preservation in properly bound and indexed volumes.
 - (3) Record, bind and preserve the Local Laws, Ordinances and Resolutions of a permanent character passed by the City Council; and the Mayor or other presiding officer shall sign, and the Clerk/Treasurer shall certify each such Local Law, Ordinance or Resolution attesting that it was duly adopted upon a date stated; and the copy so signed and certified shall be deemed to be a public record of the Local Law, Ordinance or Resolution.
 - (4) At the close of each year, with the advice and assistance of the Corporation Counsel, bind compile and codify all of the Local Laws, Ordinances and Resolutions or true copies thereof, which then remain in force and effect, and properly index such record, compilation or codification.
- (f) Have such other, different and additional functions, powers and duties as may be prescribed by State Law, Local Law or Ordinance, or delegated by the Manager.

§ 6.3. Treasurer's functions.

The Clerk/Treasurer, subject to the direction and supervision of the City Manager, shall:

- (a) Exercise commonly accepted or statutorily required accounting functions as are necessary to confirm that the financial records are kept in accordance with standard municipal accounting procedures and that all necessary financial reports are made by all officers and employees.
- (b) Have such other, different and additional functions, powers and duties as may be prescribed by State Law, Local Law or Ordinance, or delegated by the City Manager.

§ 6.4. Commitments and disbursements.

- (a) No department, office or agency of the City government shall expend or commit any funds of the City unless the Manager shall first certify that there is an unencumbered balance of appropriation and funds available for the purpose, as provided in § 14.7.
- (b) Prior to payments of any bill, claim or demand against the City, a department head shall certify that the materials, supplies, or equipment have been received according to purchase order or that the work, labor or services have been rendered according to order or contract.
- (c) Disbursements in payment of bills, claims and demands shall be made by the Clerk/Treasurer upon pre-audit and warrant of the Manager. Every warrant shall be in the form of a warrant-check payable to the order of the person or firm entitled to receive it, and shall specify the purpose for which it is drawn and the account or appropriation to which it is chargeable. Each warrant-check shall bear the signature of the Clerk/Treasurer or acting Clerk/Treasurer and of the Manager or acting Manager, as the case may be.

§ 6.5. Power to modify department structure.

Should it serve the best interest of the City to separate the Clerk and Treasurer functions, the City Council is empowered to cause separate positions to be created for the more efficient administration of this Department.

CHAPTER 7. Department of Assessments

§ 7.1. Department of Assessments.

There shall be a Department of Assessments, the head of which shall be the City Assessor. The Assessor shall be appointed by the Manager with City Council approval. Prior to appointment, the Assessor shall possess the qualifications required by the Real Property Tax Law. The Assessor shall perform all duties necessary to insure that the City Real Property Tax assessment practices are consistent with the State law, and shall perform any other duties as may be prescribed by Local Law or Ordinance, or delegated by the City Manager.

§ 7.2. Assessment roll calendar.

[Amended 8-7-2008 by L.L. No. 4-2008

The City Assessor shall adhere to the following calendar in preparing the assessment roll.

Valuation date	July first (prior year)
Taxable Status date	March first
File Tentative Roll	Mayfirst
Grievance Day	FourthTuesday in May
File Final Roll	July first (active year)

§ 7.3. Board of Assessment Review.

[Amended 10-7-2004 by L.L. No. 3-2004; 8-2-2012 by L.L. No. 2-2012]

There shall be a Board of Assessment Review, for the purpose of reviewing assessment complaints made in accordance with the New York State Real Property Tax Law. The Board of Assessment Review shall consist of no less than three nor more than five members appointed by the City Council. Members shall have a knowledge of local property values. The terms of office of the Board of Assessment Review shall be five years and shall commence on the first day of October and terminate on the 30th day of September, five years thereafter. In the case of appointments made on or after October 1, 1992, however, the terms shall be of such length that not more than one will expire in each succeeding year. No citizen may serve more than two consecutive terms. Any vacancy occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term only. After serving two consecutive full terms, the citizen will not be eligible for a new appointment to any Board until a period of three years has passed.

§ 7.4. Revaluation.

It is intended that the assessment of all properties within the City be maintained in uniform relationship to current market value. The City Council may, from time to time, provide for professional consultant services to meet this objective.

CHAPTER 8. Department of Public Works

§ 8.1. Department of Public Works.

There shall be a Department of Public Works, the head of which shall be the Director of Public Works. The Director of Public Works shall be appointed by the Manager, with City Council approval.

§ 8.2. Director of Public Works.

The Director of Public Works shall be appointed by, and shall be under the directions and supervision of the City Manager. Prior to appointment, the City Manager shall be satisfied that the Director of Public Works possesses the training, education and experience necessary to perform the duties of the position.

§ 8.3. Powers and duties of the Director of Public Works.

The Director of Public Works shall, except as otherwise provided by this Charter or by law:

- (a) Manage, maintain and operate all of the public works and physical properties of the City consistent with the provisions of Chapter 10.
- (b) Direct and supervise all bureaus within the Department of Public Works.
- (c) Perform duties and assignments as outlined in the job description maintained by the Personnel Officer.

§ 8.4. Bureaus.

[Amended 11-17-2005 by L.L. No. 4-2005]

Within the Department of Public Works there shall be the following bureaus: Street and Water/Sewers. The Head of each Bureau shall be appointed by the Director of Public Works with the approval of the City Manager. Bureaus may be added, consolidated or re-aligned by the City Council to provide for the department fulfillment of its duties and responsibilities.

CHAPTER 9. Department of Public Safety

§ 9.1. Department of Public Safety.

There shall be a Department of Public Safety consisting of the Police Bureau, Fire Bureau, Inspection Bureau, and Health and Sanitation Bureau of the City. The head of the department shall be the Director of Public Safety. The City Manager, without additional compensation, shall serve as the Director of Public Safety.

§ 9.2. Police Bureau.

There shall be a Police Bureau, the head of which shall be the Chief of Police.

§ 9.3. Chief of Police.

The head of the Police Bureau shall be the Chief of Police, who shall be appointed by the Director of Public

Safety with City Council approval. Prior to appointment, the Director of Public Safety shall be satisfied that the Chief of Police possesses the training, education, and experience necessary to perform the duties of the position.

§ 9.4. Chief of Police: powers and duties.

The Chief of Police, under the direction and supervision of the Director of Public Safety shall:

- (a) Perform the duties and assignments as outlined in the job description maintained by the Personnel Officer.
- (b) Enforce laws and Ordinances adopted by the City Council and applicable State and Federal Statutes.
- (c) Perform such other functions as may be determined by the Director or Public Safety to be the responsibility of the Police Chief.

§ 9.5. Term of service and removal of Police.

The City Council shall determine the number of superior officers, police officers and civilian employees who shall constitute the Police Bureau. The Director of Public Safety shall appoint, as vacancies occur, all officers and employees thereof. All employees of the Police Bureau shall be appointed and be subject to suspension and removal in accordance with the Civil Service Law of the State of New York, unless otherwise provided.

§ 9.6. Police Officers: powers and duties.

The members of the Police Bureau shall enforce the Local Laws and Ordinances of the City, serve criminal process pursuant to law, execute orders and commitments of the City Court, enforce all applicable State laws within the City; and shall have all the common law and statutory powers of constables, except that they may serve civil process only on behalf of the City or any Department or officer thereof.

§ 9.7. Fire Bureau.

There shall be a Fire Bureau, the head of which shall be the Fire Chief. The Fire Bureau shall include the paid fire fighters, as well as the members of the volunteer fire companies.

§ 9.8. Fire Chief.

The head of the Fire Bureau shall be the Fire Chief who shall be appointed by the Director of Public Safety with City Council approval. Prior to appointment, the Director of Public Safety shall be satisfied that the Fire Chief possesses the training, education, and experience necessary to perform the duties of the position.

§ 9.9. Fire Chief: powers and duties.

The Fire Chief, under the direction and supervision of the Director of Public Safety shall:

- (a) Perform the duties and assignments as outlined in the job description maintained by the Personnel Officer.

- (b) Perform such other functions as may be determined by the Director of Public Safety to be the responsibility of the Fire Chief.

§ 9.10. Term of service and removal of paid Fire Fighters.

The City Council shall determine the number of paid fire fighters in the Fire Bureau. The Director of Public Safety shall appoint, as vacancies occur, all paid fire fighters. All paid members of the Fire Bureau shall be appointed and be subject to suspension and removal in accordance with the provisions of the Civil Service Law of the State of New York, unless otherwise provided.

§ 9.11. Health and Sanitation Bureau.

There shall be a Health and Sanitation Bureau, the head of which shall be the Health Officer.

§ 9.12. Health Officer.

The head of the Health and Sanitation Bureau shall be the Health Officer, who shall be a licensed physician appointed by the Director of Public Safety, for a term of four years.

§ 9.13. Health Officer: powers and duties.

The Health Officer shall perform such duties as may be required by the provisions of the Public Health Law of the State of New York and the Ordinances of the City of Canandaigua.

§ 9.14. Sanitation Inspector.

The Sanitation Inspector shall be appointed by the Director of Public Safety.

§ 9.15. Sanitation Inspector: powers and duties.

The Sanitation Inspector shall perform such duties as may be required by the provisions of the Public Health Law of the State of New York and the Ordinances of the City of Canandaigua.

§ 9.16. Inspection Bureau.

[Amended 12-15-2005 by L.L. No. 5-2005]

There shall be an Inspection Bureau, the head of which shall be the Code Enforcement Officer. The Code Enforcement Officer shall be appointed by the Director of Public Safety.

§ 9.17. Code Enforcement Officer: powers and duties.

[Amended 12-15-2005 by L.L. No. 5-2005]

The Code Enforcement Officer, under the direction and supervision of the Director of Public Safety shall:

- (a) Perform the duties and assignments as outlined in the job description maintained by the Personnel

Officer.

- (b) Enforce the Local Laws, codes and Ordinances adopted by the City Council and applicable State and Federal regulations.
- (c) Perform such other functions as may be determined by the Director of Public Safety to be the responsibility of the Code Enforcement Officer.
- (d) Have such other, different and additional functions, powers and duties as may be prescribed by State Law, Local Law or Ordinance, or delegated by the Manager.

CHAPTER 10. Department of Parks and Recreation

§ 10.1. Department of Parks and Recreation.

There shall be a Department of Parks and Recreation, the head of which shall be the Director of Parks and Recreation. The Director of Parks and Recreation shall be appointed by the Manager with City Council approval. Prior to appointment, the City Manager shall be satisfied that the Director of Parks and Recreation possesses the training, education and experience necessary to perform the duties of the position.

§ 10.2. Director of Parks and Recreation; general powers and duties.

The Director of Parks and Recreation, under the direction and supervision of the City Manager shall:

- (a) Perform those duties and assignments as outlined in the job description maintained by the Personnel Officer.
- (b) Exercise general management responsibilities over all City parks, playgrounds, and other recreation facilities.
- (c) Be responsible for the maintenance of all City parks, playgrounds, and recreation facilities. This responsibility shall be coordinated with the Director of Public Works, and be assisted by the Department of Public Works with its personnel and equipment.
- (d) Perform such other functions as may be determined by the City Manager to be the responsibility of the Director of Parks and Recreation.

CHAPTER 11. Corporation Counsel

§ 11.1. Corporation Counsel.

[Amended 11-17-2005 by L.L. No. 4-2005]

There shall be a Corporation Counsel who shall be appointed by the City Council for an indefinite term with compensation determined by the City Council. The Corporation Counsel may be removed during said period for any cause or reason by a Resolution approved by two-thirds of the total members of the City Council. Prior to appointment the Corporation Counsel shall be admitted to practice law in the State of New York and practicing as such for at least five years previous to the appointment as Corporation Counsel. Corporation Counsel shall be the legal advisor of and attorney for the City, the City Council, the City Manager, and all City departments, bureaus, boards and commissions thereof, in matters relating to their official duties, and when requested by either the City Council or City Manager, shall prosecute or defend all

actions, suits and proceedings for and in behalf of the City.

§ 11.2. Actions, suits and proceedings.

When required to do so by the Manager or by Resolution or Ordinance, Corporation Counsel shall prosecute or defend for and in behalf of the City, all actions, suits, proceedings and controversies to which the City is a party or in which it is in any way interested. Corporation Counsel shall have power to appeal from orders, decisions or judgments, and shall, subject to the approval of the City Council, have power to enter into any agreement, compromise or settlement of any claims against the City.

§ 11.3. Contracts, bonds and other instruments.

The Corporation Counsel shall prepare or review all contracts, bonds and other instruments in which the City is concerned, and before execution thereof, shall endorse on each the approval of the form and correctness thereof when requested by the City Council or the City Manager.

§ 11.4. Private practice.

Neither the Corporation Counsel nor any assistant shall in a professional capacity appear or advise or be interested, directly or indirectly, in any matter, action or proceeding in which the interest of the City may be adverse.

§ 11.5. Employment of counsel.

The Corporation Counsel, when authorized or directed by the City Council, or the City Manager, may employ counsel for assistance in the argument and conduct of cases or proceedings in which the City is interested or a party.

CHAPTER 12. Planning Commission

§ 12.1. Planning Commission.

There shall be a City Planning Commission of seven members constituted and empowered pursuant to the General City Law.

§ 12.2. Term and appointment.

[Amended 10-7-2004 by L.L. No. 3-2004; 1-3-2006 by L.L. No. 6-2005; 8-2-2012 by L.L. No. 2-2012]
Members of the Planning Commission shall be appointed by the City Council, each to serve for a term of three years. No citizen may serve more than three consecutive terms. In calculating term limits a break in service or absence from the Planning Commission of any amount of time prior to the enactment of Local Law Number 3 of 2004 shall have the effect that any term served before the break in service shall not be deemed or considered to be a consecutive term. Any vacancy occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term only. After serving three consecutive full terms, the citizen will not be eligible for a new appointment to any Board until a period of three years has passed.

§ 12.3. Powers and duties.

The members of the Commission shall select a Chairman from among their own number. The Commission shall have such powers and duties as are prescribed by Charter, statute, local law or ordinance.

CHAPTER 13. Zoning Board of Appeals

§ 13.1. Zoning Board of Appeals.

[Amended 10-7-2004 by L.L. No. 3-2004; 8-2-2012 by L.L. No. 2-2012]

There shall be a Zoning Board of Appeals, which shall be constituted and established pursuant to law. The Board shall have the powers authorized under § 81 of the General City Law of the State of New York and such powers and duties as are conferred by Statute, Charter, Local Law or Ordinance. Said Board shall consist of seven members. The Council shall appoint all members. All appointments to the Board shall be for a term of three years. No citizen may serve more than three consecutive terms. Any vacancy occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term only. After serving three consecutive full terms, the citizen will not be eligible for a new appointment to any Board until a period of three years has passed.

CHAPTER 14. Budget and Finance

§ 14.1. Fiscal year.

The fiscal year of the City shall be the calendar year.

§ 14.2. Budget preparation.

The Manager shall prepare the City Budget for each fiscal year. Each department head is required to appear before the City Manager to submit requests for appropriations for the ensuing budget year. Prior to submitting the recommended budget to the City Council, the Manager shall give each Department head the opportunity to review and comment on the recommended budget.

§ 14.3. Budget document.

Upon the basis of the departmental requests, an analysis of the needs and resources of the City and such policy guides as may be prescribed by Resolution of the City Council, the Manager shall prepare a recommended budget in such form as may be approved by the City Council, subject to any requirements of State law. On or before November 1 in each year, the Manager shall present to the City Council a budget document consisting of:

- (a) The recommended budget, and
- (b) A budget message.

§ 14.4. Recommended budget.

The budget shall consist of a balanced program of expenditures and revenues for the budget year, classified and presented by object and purpose of expenditure, having separately stated the amount to be raised by taxation of property, and shall be discussed at a public hearing prior to its adoption by the City Council.

§ 14.5. Budget message.

The budget message shall consist of such explanatory comments, exhibits and schedules concerning the budget as the Manager may deem desirable, together with:

- (a) An outline of the proposed financial policies for the ensuing budget year, including explanations of the important features of the budget and of any major changes in policy.
- (b) An analysis of revenues and expenditures and of work performances contemplated by the budget so far as appropriate units of measurement may have been developed and installed.
- (c) A statement of pending capital projects and proposed new capital projects, relating the amounts required for capital purposes to the down payments and other expenditures financed from current appropriations and to the amount of bonds to be issued during the budget year.

§ 14.6. Budget adoption: tax levy.

Following the submission of the recommended budget, and at least two weeks prior to adoption, the City Council shall hold at least one public hearing in addition to the regularly scheduled meetings, to consider the recommended budget. The City Council may modify the budget submitted by the Manager by a majority vote of the whole number of Councilmembers and shall annually on or before December 15th adopt said budget by such vote. The adoption of said budget shall constitute an appropriation of the amounts stated therein, a levy of the amount to be raised by taxation therein stated, and a warrant to the Clerk/Treasurer to spread and extend such levy upon the current assessment tax rolls and to collect the same.

§ 14.7. Expenditures without appropriation.

[Amended 11-17-2005 by L.L. No. 4-2005]

No expenditure shall be made or obligation authorized by the Manager, or by any officer or board, unless an appropriation thereof has previously been made and there is at the time a sufficient unencumbered balance of such appropriation. The term "appropriation" shall mean an appropriation for a specific object, purpose, department, or major organizational unit in the annual budget as finally adopted in the annual budget resolution. No transfer of funds shall be made without previous approval of the City Council.

§ 14.8. Transfer of appropriations.

At any time during the fiscal year the City Council may by Resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units.

§ 14.9. Amount to be raised by taxation of property.

Except as otherwise provided by the Charter, the amount to be raised annually by taxation of property shall be levied, assessed, apportioned and collected in accordance with the provisions of the Real Property Tax

Law of the State of New York.

§ 14.10. Assessment roll.

In each year the assessor shall complete and file an assessment roll in accordance with the provisions of Chapter 7 of this Charter.

§ 14.11. Action of the Board of Assessment Review.

The Board of Assessment Review shall meet annually in accordance with the provisions of Chapter 7 of this Charter.

§ 14.12. Equalization and levy of county taxes.

The Clerk/Treasurer shall:

- (a) Certify the final assessment roll or a copy thereof under the Seal of the City, and deliver it to the Chairperson or Clerk of the Board of Supervisors of the County of Ontario, at its next annual meeting.
- (b) Upon receipt of a duly adopted Resolution of the Ontario County Board of Supervisors, ascertaining and directing the amount of tax to be levied in the City for State and County purposes, extend and apportion such tax on the assessment roll, and no other extension and apportionment of such State and County taxes need be made.

§ 14.13. Extension and apportionment.

The Clerk/Treasurer shall immediately, upon adoption of the City budget as provided by the Charter and the delivery to the Clerk/Treasurer of the assessment roll, extend and apportion the City taxes upon the roll delivered to the Clerk/Treasurer in each year, and no other extension and apportionment of said taxes need be made.

§ 14.14. Due date.

The amount of taxes on property apportioned and assessed annually shall be due and payable as follows:

- (a) State and County tax on the first day of January: Such taxes shall become delinquent 30 days after the due date. After the expiration of such 30 days, the Clerk/Treasurer shall collect the interest and/or penalty as established by the City Council by Local Law.
- (b) City tax on the first day of May: Such taxes shall become delinquent 30 days after the due date. After the expiration of such 30 days, the Clerk/Treasurer shall collect the interest and/or penalty as established by the City Council by Local Law.

§ 14.15. Lien of taxes.

The amount of all annual taxes and assessments duly levied by the City Council on taxable real property shall be and become a lien thereon as of the first day of January for State and County taxes and the first day of May for City taxes of the fiscal year for which such taxes and assessments are levied and shall remain such a

lien until paid.

§ 14.16. Sale of real property for unpaid taxes.

In addition to other remedies provided by law, whenever any such tax, penalty or interest or any part of them shall remain unpaid on the first day of November after the lien attaches, the Clerk/Treasurer shall proceed to advertise and sell the lands and premises upon which the same was imposed, for the payment of such tax, penalty or interest, or the part remaining unpaid, and the expense of such sale as hereinafter prescribed shall also be a charge upon such lands.

§ 14.17. Sale and redemption.

The Clerk/Treasurer shall cause to be published a notice of such sale containing a description of the lands to be sold, specifying the same by street and number, tax map number, and by specifying the description given on said map of the lands to be sold, and also specifying the time and place of sale, which notice shall be published in a newspaper or newspapers of the City, designated for that purpose by the City Council, once a week for at least six successive weeks immediately prior to the day of the sale, and shall also post such notice of sale in at least three public places of the City at least 42 days before the day of sale. On the day named, the Clerk/Treasurer shall commence the sale of such lands and shall continue such sale from day to day until the whole thereof be sold. At any time before the sale, the owner or any purchaser of land, or a representative, or any person interested therein, may avoid the same thereof by paying the tax or taxes to the Clerk/Treasurer with all accrued interest, fees, additions and expenses.

(a) Manner of conducting sale of land for taxes.

Each parcel shall be sold at public auction to the highest bidder. The purchaser or purchasers on such sale shall pay the amounts of their respective bids to the Clerk/Treasurer immediately after each parcel shall be struck off. In case the purchaser shall fail to pay the amount of the bid as herein prescribed, the Clerk/Treasurer shall forthwith offer the parcel for sale again and proceed as though it had not been struck off.

Should there be no bid of the amount due on any lot or parcel of land to be sold, then the Clerk/Treasurer shall bid in the same for the City, and the City is hereby authorized to acquire said parcels, and the City Council shall have the care, management and control of all such parcels and may lease or sell and convey the same. As soon as practicable after the sale, the Clerk/Treasurer shall prepare and execute in duplicate, as to each parcel sold, a certificate of such sale, describing the parcel purchased by brief general description of the location, stating the fact of the sale, the name of the purchaser, the sum paid therefor, the amount due thereon, the time of sale, the name of the person, persons, association or corporation against whom or which such tax was assessed and the name of the reputed owner thereof. One of the said duplicates shall be delivered to the purchaser, or, in case the parcel was struck off to the City, then it shall be retained and filed in the office of the Clerk/Treasurer. The Clerk/Treasurer shall deliver the other duplicate certificate to the Clerk of the County of Ontario, who shall file said certificate in the Clerk's office and record the same in a book to be kept in said Clerk's office for that purpose, and shall index the certificate in the name of the person, persons, association or corporation to whom or to which the parcel was assessed, the name of the reputed owner thereof, and the name of the purchaser, in the same book and manner as deeds are required by law to be indexed.

(b) Disposition of proceeds of sale. The proceeds of the sale of each parcel, other than those struck off to the City, shall be applied to the payment of the expenses of the sale as herein provided, and the extinguishment of the tax, penalty or interest for which it was sold, and if there shall be any residue, the Clerk/Treasurer shall hold the same until the owner of the premises at the time of the sale shall redeem them from the sale as herein provided, and the Clerk/Treasurer shall pay such owner the said surplus. In all other cases the Clerk/Treasurer shall hold the same until after the period of redemption

shall have expired and then shall pay such surplus, and the person, persons, association, or corporation entitled thereto shall be ascertained in the same manner and by the same proceedings as in the case of surplus on statutory foreclosure of a mortgage of real estate. In case any taxes shall be assessed and levied on real estate which has been sold for taxes, subsequent to such sale, and before the redemption thereof or the conveyance thereof to the purchaser and the same shall be unpaid, the Clerk/Treasurer may deduct the amount thereof from any surplus in the Clerk/Treasurer's hands of the sum bid for the same, if there be any surplus; if there shall be no surplus or the same shall be insufficient to pay such taxes, the person redeeming shall pay the same, otherwise the purchaser shall pay the same before he shall receive conveyance of the same.

- (c) Redemption of lands. The owner of, or any person interested in or having a lien upon any parcel or lot so sold, may redeem the same from such sale at any time within 12 months by paying to the Clerk/Treasurer for the use of the purchaser or assigns or, if they shall have been redeemed by any person other than the owner thereof, then for the use of such person, the sum mentioned in the certificate as having been bid for the premises, with interest thereon at the rate of 10% per annum from the day of sale, together with any tax or assessment upon any parcel or any part thereof, that the said purchaser or assigns before redeeming shall have been paid between the day of sale and the day of the redemption, with interest at the rate of 10% upon such tax or assessment from the time of payment. The time during which such redemption may be made shall not commence to run against infants or incompetent persons, until the termination of their disability. In case of the redemption of any land sold for taxes as herein provided, by the person who was the owner thereof at the time of the sale, the Clerk/Treasurer shall give such owner a receipt for the amount paid to effect such redemption, and on the production thereof by the owner to the County Clerk, the County Clerk shall cancel the certificate of sale by a proper entry at the foot of the record of such certificate in the Clerk's office.
- (d) Notice of redemption. At least three months before the expiration of the time for the final redemption of any parcels or lots so sold, the Clerk/Treasurer shall commence the publication of a notice of redemption from such sales, which shall show the year when the sale took place, and the last day for the redemption of the lands not already redeemed by the owners, without other or further description, and such notice shall be published at least twice in each of said three months, in the newspaper or newspapers designated for the purpose by the City Council. A copy of such notice shall be served personally on the owners or the occupant of the lands, or, if unoccupied posted on the premises, at least 20 days before the expiration of such time for final redemption. The publication and service of such notice shall bar and preclude any and all persons except the purchaser on such sale, or assigns, or the person finally redeeming, from claiming any interest in or lien upon such lands or any part thereof, in case the said lands shall not be redeemed from such sale as hereinbefore provided.
- (e) Conveyance of land sold for taxes. If any parcel or lot so sold shall not be redeemed as herein provided, the Clerk/Treasurer immediately after the expiration of the said 12 months, shall execute and deliver to the purchaser, heirs or assigns, as the case may be, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an estate in fee, subject only to the liens, if any, of unpaid taxes or assessments thereon. The Clerk/Treasurer executing such conveyance shall be entitled to demand and receive from the grantee a fee as established by the City Council, for preparing every such conveyance, but all purchases made for the City in any year, shall be included in one conveyance, and no fee will be charged therefor. Every such conveyance shall be executed by the Clerk/Treasurer and the execution thereof shall be acknowledged before some officer authorized to take and certify acknowledgements of instruments for record in said County, and such conveyance shall be conclusive evidence that the sale or subsequent proceedings were regular and presumptive evidence that all the previous proceedings were regular and according to law. Any such conveyance may be recorded in like manner and with like effect as any other conveyance of real estate. The said grantee or assigns, or the City or its assigns, as the case may be, shall be entitled to have and to possess the granted lands from and after the execution of such conveyance, and may cause the occupants of such lands to be removed therefrom and the possession thereof delivered to them in the same manner and by the

same proceedings and by and before the same officers as in the case of a tenant holding over after the expiration of a term without permission of the landlord.

(f) Settlement of Clerk/Treasurer for taxes collected.

It shall be the duty of the Clerk/Treasurer to pay over to the Treasurer of the County of Ontario on or before June first, all moneys received by the Clerk/Treasurer for County and State taxes. The Clerk/Treasurer shall take duplicate receipts for such payment, one of which shall be immediately filed with the Clerk/Treasurer's office.

Except as otherwise provided in this act, the Clerk/Treasurer shall settle with the County Treasurer for State and County taxes in the manner required by law of town collectors, and with the City Council for City taxes and assessments in the same manner. Upon the final settlement with the County Treasurer, the Clerk/Treasurer shall pay from the general fund of the City, the amount of the uncollected State and County taxes due for collection, and thereupon such taxes shall belong to the City of Canandaigua. At the time of the delivering of the City Roll and Tax Warrant, the Clerk/Treasurer shall receipt for the same, and shall then be charged with the whole amount which the Clerk/Treasurer is hereby authorized to collect. The Clerk/Treasurer shall not be authorized to be credited with any amount as unpaid on any warrant until the Clerk/Treasurer makes and files with the Clerk/Treasurer's office an affidavit stating the amount paid, and setting forth the reason in each case why such tax or assessment is not or has not been collected. The City Council may thereupon order and authorize the Clerk/Treasurer to be credited with the whole or any part of said tax or assessment unpaid, and the Clerk/Treasurer shall be credited only with such amount as the City Council shall so order. Upon settling with the City Council, the Clerk/Treasurer must show that the Clerk/Treasurer has duly settled with the County Treasurer for State and County funds.

§ 14.18. Water and sewer liens.

All water rates for water used and all sewer rents, and any charges for water and sewer installation or repair, from and after their respective due dates, shall be a lien on the real property to the same extent as City taxes, and they may be included in the general City tax roll and enforced in the same manner as other City taxes.

CHAPTER 15. Officers and Employees Generally

§ 15.1. County Supervisors.

There shall be two Supervisors elected from within the wards of the City, one to be elected by the electors of the first and fourth wards, one to be elected by the electors of the second and third wards.

§ 15.2. Elections.

The members of the City Council and the Supervisors shall be elected at the general election in the odd numbered years pursuant to the Election Law of the State of New York. The provisions of the Election Law of the State of New York shall apply to and govern all elections of City officers of the City elected from wards or at-large. In case of a tie vote at any election the office shall be filled by the drawings of lots among the tied candidates.

§ 15.3. Appointive officers and employees, generally.

In addition to the offices created by Charter, there shall be such other officers and employees of the City,

and they shall receive such compensation, as the City Council may provide by Resolution, Ordinance or Local Law. Except as otherwise specifically provided by this Charter, subordinate officers and employees shall be appointed and subject to removal by the head of the department in which they are employed, subject to the provisions of the Civil Service Law and regulations, when applicable.

§ 15.4. Surety bonds.

Unless otherwise provided by law, each officer of the City who has possession of or control over any funds of the City shall give bond for the faithful performance of their duties in such sum as may be fixed and with such sureties as may be approved by the City Council. Such bonds shall run to the City and shall be subject to approval as to form and sufficiency by the Corporation Counsel. The premium shall be paid out of City funds.

§ 15.5. Conflicts of interest.

Any City officer or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in the making of such a contract or sale. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit their office or position. Violations of this section with the knowledge expressed or implied of the person or corporation contracting with or making the sale to the City shall render the contract voidable by the Manager or the City Council.

§ 15.6. False reports, etc.

Any officer or employee of the City who shall knowingly make a false or deceptive report or statement in the course of performing one's duty or shall, except as in this Charter otherwise provided, receive compensation except from the City for performing any official duty, or shall accept or receive any gratuity from any person whose interests may be affected by the officer's or City employee's official action, shall be guilty of a misdemeanor and if convicted shall forfeit their office or employment.

CHAPTER 16. Claims and Actions

§ 16.1. Limitations of actions against the City.

All claims for injury to the person or property alleged to have been caused or sustained by reason of any defects in, want of repair or obstruction of any of the highways, streets, alleys, sidewalks or crosswalks or public places of the City, shall be presented in accordance with the General Municipal Law. The Clerk/Treasurer shall at the next meeting of the City Council present all such notices of claim to the City Council. Nothing contained in this section shall be held to repeal or modify existing requirements or statute of limitations which is applicable to this class of actions, but on the contrary shall be held to be an additional requirement for the right to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the City any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel. A majority of the City Council shall have the power to pay, compromise or settle any such claim which may be made against the City for damages, provided such claim is presented within the time and in the manner hereinbefore prescribed and the sum or sums so expended shall be included in available appropriations.

§ 16.2. Actual notice of defects.

- (a) The City of Canandaigua shall not be liable, and no action shall be maintained against it for damages for injuries to person or property sustained by reason of any street, sidewalk, roadway, highway, bridge, culvert, drain, sewer, crosswalk, public park, trees, or public place being out of repair, unsafe, dangerous, defective or obstructed, unless it appear that written notice of such defective, unsafe, dangerous or obstructed condition, specifying the particular location thereof, has been served upon the Manager, Clerk/Treasurer, or Corporation Counsel of the City unless there was a failure or neglect by the City to repair or remove the defect, danger or obstruction complained of, within a reasonable time after the service of such notice.
- (b) The City of Canandaigua shall not be liable, and no action shall be maintained against it, for damages for injuries to person or property sustained in consequence of the existence of snow or ice, or both, upon any sidewalk, crosswalk, street, highway, roadway, bridge, culvert, public park or public place unless written notice thereof, specifying the particular place and location of the snow or ice, or both, complained of, has been served upon the Manager, Clerk/Treasurer or Corporation Counsel of the City and there was a failure or neglect by the City to cause such snow or ice, or both, to be removed, or the place to be otherwise made reasonably safe, within a reasonable time after the service of such notices.

§ 16.3. Civil action to recover penalties.

Civil actions to recover any penalties or forfeiture incurred under the Charter may be brought in any court having jurisdiction thereof. Such action shall be brought in the corporate name of the City, and in any action in the City Court it shall be lawful to complain generally for the amount of such penalty or forfeiture stating the section of the Charter or of the Local Law or Ordinance under which the penalty is claimed, and to give the special matter in evidence, and the defendant may answer by simply denying the truth of the complaint and give the special matter in evidence. If such action be brought in the City Court against an alleged owner of real property, the fact that title to real property comes in question on the pleadings or appears on the trial shall not deprive the court of jurisdiction but may be litigated and determined by the judge as the right of the case may appear; but such judgment shall not be evidence concerning the title of real property in any other action or proceeding. The first process, in any such action brought in the City Court, shall be by summons, which may be made returnable forthwith, and an execution may be issued immediately on the rendition of judgment. All penalties and forfeitures shall upon collection be paid to the Clerk/Treasurer. When any judgment shall be rendered in the City Court in favor of or against the City of Canandaigua, in any action brought for the recovery of any penalty, or for forfeiture or any other action in which the City of Canandaigua shall be a party, the City Judge shall, within 10 days thereafter, file with the Clerk/Treasurer, a transcript of such judgment for which the City Judge shall be entitled to charge a fee to be determined by the Clerk/Treasurer, and include the same in the costs of said judgment. Whenever a judgment in favor of the City shall be recovered for \$25 or upwards, exclusive of costs, a transcript thereof may be filed in the office of the Clerk of Ontario County, and thereupon the same shall become a lien upon the property of the defendant in such judgment to the same extent and may be collected and enforced in the same manner, as other judgments in the County Court.

CHAPTER 17. Transitional Provisions

§ 17.1. Charter supersedes certain laws.

Local Laws and Ordinances Saved. Upon the adoption of this Charter, all laws and parts of laws relating to or affecting the City of Canandaigua remaining in force when this Charter shall take effect are hereby repealed and superseded, but only to the extent that they or any of them are inconsistent with the

provisions of this Charter. All local laws and ordinances of the City of Canandaigua in effect on the effective date of this Charter shall remain in full force and effect thereafter to the extent that they are not inconsistent with any of the provisions of this Charter.

§ 17.2. Officers and employees.

Except as otherwise provided, nothing in this Charter shall affect or impair:

- (a) The rights or privileges of any officer or employee of the City, or
- (b) The rights or privileges of any agency existing at the time when this Charter shall take effect, or
- (c) Any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter.

Wherever this Charter provides for an office, board or commission by the same name or title as existed under the prior Charter, the incumbent or incumbents of such prior office, board or commission shall continue as officers or members of the board or commission under this Charter for the remainder of their unexpired terms.

§ 17.3. Transfer of personnel and functions.

Wherever by any provision of this Charter functions, powers or duties are assigned to any department or officer which have been heretofore exercised by any other agency or officer, all officers and employees in the classified civil service who at the time when this Charter shall take effect are engaged in the performance of such functions, powers or duties shall be transferred to the department to which such functions, powers or duties are assigned by this Charter, without examination and without affecting existing compensation or pension or retirement rights, privileges or obligations of such officers and employees.

§ 17.4. Continuation of powers and duties.

Any department or officer to whom are assigned by this Charter any powers and duties shall exercise such powers and duties in continuation of their exercise by the agency or officer which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency or officer by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject matter of such powers or duties and applicable to the agency or officer formerly exercising such powers and duties shall, so far as not inconsistent with the provisions of this Charter, apply to the department or officer to which such powers and duties are assigned by this Charter.

§ 17.5. Pending actions and proceedings.

No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the City or any agency or officer, shall be affected or abated by the adoption of this Charter or by anything therein contained; but all such action or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this Charter be assigned or transferred to another agency or officer; but in that event the same may be prosecuted or defended by the head of the department to which such functions, powers and duties have been assigned or transferred by this Charter.

§ 17.6. Repealer.

The Charter of the City of Canandaigua enacted effective January 1, 1968, as amended, is hereby repealed.

§ 17.7. Effective date.

This Charter shall take effect January 1, 1978.

CHAPTER 18. Separability

§ 18.1. Severability.

If any clause, sentence, paragraph, word, section or part of this Charter is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder but shall be confined in its operation to the clause, sentence, paragraph, section or part directly involved in the controversy in which such judgment is rendered.

§ 18.2. Liberal construction.

The provisions of this Charter shall be liberally construed to achieve the objectives and purposes of this Charter.

CHAPTER 19. Amendment

§ 19.1. Amendment according to statute.

This Charter may be amended at such time and in such manner as prescribed by the Municipal Home Rule Law of the State of New York.