

CHARTER
OF THE
CITY OF NIAGARA FALLS

NIAGARA FALLS, NEW YORK

REVISED May 23, 2018

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**ARTICLE I
GENERAL PROVISIONS**

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SECTION 1.1 SHORT TITLE

This Charter and all amendments to it shall be known and cited as the "Niagara Falls City Charter."

SECTION 1.2 CORPORATION CONTINUED; BOUNDARIES CONTINUED

The citizens of the State of New York who may from time to time be inhabitants of the City of Niagara Falls, as it now exists and so, hereafter established in the manner provided by law, are continued a municipal corporation in perpetuity: under the name of "The City of Niagara Falls." The boundaries of said City shall be as now established and as hereinafter set forth, or as hereafter modified in the manner provided by law. The metes and bounds of said boundaries hereinafter described shall also be set forth by the City Engineer in a map filed with the Clerk of Niagara County.

SECTION 1.3 BOUNDARIES DESCRIBED

The boundaries of said City shall be as follows:

Commencing at a point the center line of the east channel of the Niagara River where the center line of said river is intersected by the west line of the Town of Wheatfield at 102nd Street produced southerly; thence running northerly along the westerly line of the Town of Wheatfield at 102nd Street and said line produced to its intersection with the Mile Line; thence southeasterly along the Mile Line to the most easterly City Line, said City Line, also being the division line between the Towns of Niagara and Wheatfield produced southerly; thence northerly, westerly and northerly along the City Line to its intersection with the south line of Porter Road; thence westerly along the south line of Porter Road to the center line of 98th Street; running thence southerly along the center line of 98th Street to a point 400 feet north of Pine Avenue measured at right angles; running thence southwesterly along the City Line said City Line being parallel to and 400 feet north of Pine Avenue measured at right angles, to the center line of Tuscarora Road; running thence southeasterly along the center line of Tuscarora Road, to a point; thence westerly along the City Line to the west line of Military Road; thence northwesterly along the west line of Military Road, to the north boundary of lands owned by the Board of Education of the School District

of the City of Niagara Falls; thence westerly along the north line of the Board of Education property to the west line of the Board of Education property; thence southerly along the west line of the Board of Education property to its intersection with the south line of lands owned by the Niagara Mohawk Power Corporation; thence westerly along the south line of Niagara Mohawk Power Corporation property to the center line of 56th Street produced northerly; thence northerly along the center line of 56th Street so produced to its intersection with the north line of Lockport Road; thence westerly along the north line of Lockport Road, to its intersection with the east line of Hyde Park Boulevard; thence northwesterly along the east line of Hyde Park Boulevard to the center line of Garfield Avenue produced easterly; thence westerly along the center line of Garfield Avenue produced easterly, the center line of Garfield Avenue and said center line produced westerly to its intersection with the center line of the Niagara River forming the International Boundary; thence southerly and westerly in an upstream direction along the center line of the Niagara River, said center line being the International Boundary to its intersection with the center line of the east channel of the Niagara River; thence easterly along said center line of the east channel of the Niagara River to the place of beginning.

SECTION 1.4 POWERS OF CITY; CONSTRUCTION OF CHARTER PROVISIONS

A. The City shall have and may exercise all powers of local government delegated by the constitution and laws of the State of New York to cities generally or to the City of Niagara Falls. Said City shall have all further and additional powers which could be delegated to the City under the constitution of this State as fully and completely as though they were specifically enumerated in this Charter.

B. The provisions of this Charter shall be construed liberally to effectuate its lawful objectives and purposes.

SECTION 1.5 DEFINITIONS

For the purposes of this Charter, and of the interpretation and application of any local law or ordinance heretofore or hereafter adopted, except as the context may otherwise require:

A. "Charter" shall mean this charter setting forth the form and structure of City government and the manner in which it shall function.

B. "Council" shall mean the legislative body of the City, constituted and elected pursuant to the Charter.

C. "Mayor" shall mean the Mayor of the City duly elected pursuant to the Charter.

D. "Administrator" shall mean the Administrator of the City duly appointed pursuant to the Charter.

E. "Ordinances" shall mean the codified ordinances of the City of Niagara Falls in effect on the effective date of this Charter or as thereafter adopted by Council.

F. "Department" shall mean an administrative unit of the City government established or, designated by or pursuant to the Charter as a department.

G. "Officer" shall mean all elected and appointed officers, members of boards, agencies, commissions and like instrumentalities, head of departments and their deputies and any others so designated by or pursuant to law and this Charter.

H. "City" shall mean the City of Niagara Falls.

I. "Year" shall mean the calendar year unless otherwise specifically provided.

ARTICLE II
FORM OF GOVERNMENT; OFFICERS AND ELECTIONS

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SECTION 2.1 FORM OF GOVERNMENT

The government of the City of Niagara Falls shall be of the Mayor-Administrator-Council form. There shall be separate and independent legislative and executive branches of City government. The Council shall be the legislative branch of government and shall determine policy, enact legislation, adopt annual operating and capital budgets, and perform all like acts of policy determination and legislation as may be prescribed hereinafter and by law. The Mayor shall be the chief executive and administrative officer of the City and head of the executive branch of government. The Mayor shall direct and administer the functions of the City government and shall execute the laws and ordinances as hereinafter provided. The administrative power of the Mayor as chief administrative officer shall be exercised through the Administrator.

SECTION 2.2 ELECTIVE OFFICERS; TERMS

A. The Mayor shall be elected by the qualified electors of the City at large at the general election to be held in the year 1987 and every fourth year thereafter, for a term of four (4) years beginning January 1st next following such election. The Mayor in office upon the adoption date of this Charter shall continue as Mayor for the remainder of his or her unexpired term, but shall not have or exercise the powers prescribed herein.

B. On and after January 1, 2002 the City Council shall be comprised of five (5) members elected by the qualified electors of the City at large for terms of four (4) years.

(1) A member of the City Council in office upon the adoption of this Charter in 1985 shall continue as a City Council member for the remainder of his or her unexpired term; and the two council members elected at the 1985 general election, whose terms shall commence January 1, 1986, shall serve full four (4) year terms;

(2) Five (5) City Council members shall be elected by the qualified electors of the City at the 1987 general election for terms commencing January 1, 1988; the candidates receiving the three highest total votes shall serve until replaced by successors to be elected in the general election in the year 1991 and every fourth year thereafter; the candidates receiving the two lowest vote totals shall serve until replaced by successors to be elected in the general election in the year 1989 and every fourth year thereafter.

(3) Three (3) City Council Members shall be elected by the qualified electors of the City at the 1999 general election, whose terms shall commence January 1, 2000; the candidates receiving the two highest total votes shall serve four (4) years; the candidate receiving the third highest total vote shall serve only two (2) years.

(4) Three (3) City Council Members shall be elected by the qualified electors of the City at the 2001 general election, whose terms shall commence January 1, 2002; and said candidates receiving the three highest total votes shall serve four (4) years.

(5) Two (2) City Council Members shall be elected by the qualified electors of the City at the 2003 general election, whose terms shall commence January 1, 2004; and said candidates receiving the two highest total votes shall serve four (4) years.

C. An election to fill an office vacated by its duly elected incumbent shall be held at the time and in the manner prescribed hereinafter and provided by law. The elective officers of the City may be removed or suspended from office pursuant to law or as hereinafter provided.

SECTION 2.3 APPOINTIVE OFFICERS; TERMS; REMOVAL

A. The Mayor shall appoint the Administrator, who shall serve at his or her pleasure. The Mayor shall also appoint, subject to confirmation by a majority of the Council, a Corporation Counsel, a City Controller, and a City Clerk, who serve at the pleasure of the Mayor except that they shall not be dismissed from office unless the Council shall confirm such action by majority vote. The Mayor may dismiss a Corporation Counsel, a City Controller or a City Clerk for incompetency or misconduct, without confirmation by a majority of the Council, in accordance with the procedures as set forth in Section 75(2), 75(3) and 75(4) of the Civil service law. However, nothing herein is intended to, nor shall it be construed to grant or confer any rights or other entitlements to a Corporation Counsel, a City Controller or a City Clerk pursuant to the Civil Service Law.

B. The officers and employees of all other departments of the executive branch shall be appointed by the Administrator, except as provided in this Charter. The heads of all departments appointed by the

Administrator shall serve at his or her pleasure and shall be subject to removal by him or her.

C. The Mayor shall appoint the members and executive officers of all boards, commissions, or other agencies and instrumentalities of the City whose appointments were vested in the Mayor or City Administrator under the Charter in effect at the time this Charter was adopted in 1985. Such members shall serve for the terms, and be subject to removal, as provided by this Charter or Law. The Mayor shall continue to appoint the members of the Niagara Falls Urban Renewal Agency in the manner provided by law, and shall appoint the members of all boards, commissions of other agencies and instrumentalities which may hereafter be established, unless otherwise provided by this Charter or Law.

D. The Council shall continue to appoint the members and executive officers of all boards, commissions, or other agencies or instrumentalities of the City whose appointments were vested in the City Council under the Charter in effect at the time this Charter is adopted.

SECTION 2.4 QUALIFICATIONS

A. A candidate for the Office of Mayor or Council member shall have been an elector of the City for at least one year immediately prior to his or her nomination. If such elective officer ceases to be a resident of the City, the office thereupon shall be vacant.

B. An appointive officer shall, at the time of his or her appointment, possess such qualifications as may be prescribed by this Charter and applicable law. Said officer shall be a resident at the time of his or her appointment, or become one within six months therefrom, and shall remain a resident of the City throughout the term of office.

C. Members of boards, commission and like agencies and instrumentalities of the City shall be residents of the City at the time or their appointment and shall remain so during their tenure of office. They shall serve without salary except as otherwise provided by this Charter or Law.

SECTION 2.5 PROHIBITION ON ACTIVITIES OF CITY OFFICERS

An officer of the City shall not engage in private employment, render services for private interests or hold office in any other political, jurisdiction if such employment, service or office is incompatible with the proper discharge of official duties or would impair his or her independence of judgment or actions in the performance of official duties as hereinafter provided.

SECTION 2.6 CERTIFICATE OF APPOINTMENTS

Every appointment to a City office shall be made by certificate in writing signed by the Mayor if the appointment be his or her, and in all

other cases by the Administrator and such certificate shall be filed in the office of the City Clerk.

SECTION 2.7 OFFICIAL OATHS; BONDS

Each officer and other appointee of the City shall, before entering upon the duties of his or her office, take and file with the City Clerk the constitutional oath of office. The City shall provide for purchase of blanket surety bonds for all officers and employees and such other persons handling City funds as maybe required by law. All such bonds, shall be approved by the Corporation Counsel as to form. All bonds shall be filed in the office of the City Clerk and the premiums on all such bonds shall be paid by the City.

SECTION 2.8 VACANCIES; CONTINUITY OF GOVERNMENT

A. A vacancy in the office of Council member, other than by expiration of term of office, shall be filled at the next general election which is held not less than sixty (60) days after such vacancy occurs for the unexpired term of said member. The Council shall fill such vacancy temporarily by appointing a qualified person of the same political party as the prior incumbent to serve until, the qualification of a successor so elected. Such Council appointment shall be by affirmative vote of no fewer than three (3) Council members. In the event that the Council does not make such appointment within twenty (20) days of the date such vacancy occurred, the Mayor shall forthwith appoint a person with the qualifications prescribed herein.

B. The office of Mayor shall be deemed vacant upon the death of the Mayor and as otherwise provided in the Public Officers Law, or when declared vacant by the State Supreme Court acting upon petition of the Council as hereinafter provided.

C. A vacancy in an appointive office or position may be temporarily filled by an appointee of the Mayor unless otherwise prescribed by law. Said appointee shall serve in an acting capacity until such vacancy is fully filled pursuant to the Charter, Administrative Code or applicable law.

D. The office of a Council member shall be deemed vacant upon the death of such member and as otherwise provided in the Public Officers Law, or when declared vacant by the State Supreme Court acting upon petition brought by either the Mayor or Council.

SECTION 2.9 FRAUD OF OFFICERS AND EMPLOYEES

An officer or employee of the City who shall be convicted of willfully violating or evading any provisions of law relating to the office or employment, or committing any fraud upon the City, or converting any public property to his or her own use, or knowingly permitting any other so to convert it or by gross or culpable neglect of duty allowing the same to be lost to the City shall, in addition to

the penalties imposed by law and on conviction, forfeit such office or employment and be excluded forever after from receiving or holding any office or employment in the City government.

SECTION 2.10 CONVICTION INVOLVING MORAL TURPITUDE

A. A person convicted of a crime or offense involving moral turpitude shall be ineligible to assume or continue in any City office, position or employment. Upon conviction such person shall automatically forfeit such office, position or employment.

SECTION 2.11 PROHIBITED ACTIVITIES

A. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any official City office; employment or position because of ethnic origin, race, sex, political or religious opinion, or affiliations.

B. No person who seeks appointment or promotion with respect to any appointive City office, employment or position shall directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or in connection with such test, appointment, promotion or proposed promotion.

C. No officer, employee or any other person shall, directly or indirectly, compel subscription or contribution to any political party, or for any political purpose. No officer, employee or any other person shall promise an appointment to any position or office as a reward for any political activity, including subscription or contribution to any political party or for any political purpose.

D. No officer or employee shall solicit, negotiate for, or promise to accept employment with any person, firm, or corporation with which he or she is engaged on behalf of the City; or transact business which is or may be affected by his or her official actions.

**ARTICLE III
CITY COUNCIL AND LEGISLATIVE BRANCH**

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| Section 3.1 | Composition; Powers. |
| Section 3.2 | Organization: Presiding Officer; City Clerk; Corporation Counsel; Committees |
| Section 3.3 | Composition. |
| Section 3.4 | General Powers, Duties and Limitations |
| Section 3.5 | Power over Organization of City Government |
| Section 3.6 | Boards, Commissions, Agencies and Other Instrumentalities |
| Section 3.7 | Power of Investigation |
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| Section 3.10 | Council Actions: Local Laws; Ordinances; Resolutions; Appropriations Acts |
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| Section 3.14 | Approval or Veto by Mayor: Override; Automatic Approval; Reconsideration |
| Section 3.20 | Conservation Advisory Council |

SECTION 3.1 COMPOSITION; POWERS

There shall be a City Council, herein referred to as the "Council," which shall consist of five members elected in the manner provided in this Charter and which shall be the legislative and policy-making body of the City. The Council shall be a continuing body, the members of which shall serve part-time. No measure pending before Council shall abate or be discontinued by reason of the expiration of the term of office, or the resignation, vacancy, absence or removal of any of the members thereof.

SECTION 3.2 ORGANIZATION: PRESIDING OFFICER; CITY CLERK; CORPORATION COUNSEL; COMMITTEES

A. The Council shall annually elect a presiding officer from among its members at the first meeting in January who shall be known as the Council Chairman. The Chairman shall be elected by a majority vote of all Council members and shall serve for a term of one year to end December 31 of that year. If a Chairman is not elected by January 31 of each year, then the Mayor shall appoint him or her. The Chairman shall preside at all meetings and shall then have the same powers as all Council members to introduce and vote upon all matter coming before the Council. In the event that the office of Chairman shall become vacant, the Council shall appoint another one of its members to fill the vacancy.

B. The City Clerk shall be the Clerk of the Council, herein referred to as "Clerk," and shall be responsible for the preparation and distribution of the agenda. All proposed legislation and resolutions pertaining to the agenda shall be pre-filed for the Council with the Clerk no later than 11:00 a.m. on the Thursday preceding the regularly scheduled Council meeting. The Clerk or the Deputy Clerk shall attend all meetings of the Council and shall see that all local laws, ordinances, resolutions and other matters requiring notice and/or publication are published by title in the official newspaper. The Clerk shall keep a journal for public inspection which shall be the official record of proceeding and which shall be published annually. The Clerk shall have custody of the City Seal and shall affix the same to such documents and actions as may be required. The Clerk shall discharge such other duties as may be required by this Charter, law or ordinance.

C. The Corporation Counsel shall be the attorney and legal counsel for the City of Niagara Falls, and shall provide all necessary advice, assistance and service to the Mayor and Council in the performance of their joint and several duties. The Corporation Counsel shall appoint the members of the professional legal staff, including the Deputy and Assistant Corporation Counsels, and the confidential secretary, who shall serve at his or her pleasure.

D. The Council shall be constituted, and shall meet from time to time, as a committee of-the-whole. The Council may establish ad hoc and/or standing committees of its own members to review and make recommendations relative to proposed legislation, but such legislation shall be acted upon by the Council as a committee of-the-whole. The Council Chairman shall appoint or reappoint the members and designate the Chairman of each committee to serve from date of appointment or reappointment until the next succeeding January one.

E. The City Council may provide for the position of a confidential secretary, who shall be appointed by a majority vote of its members.

SECTION 3.3 COMPENSATION

The compensation for Council members effective January 1, 1988 shall be set at eight thousand dollars (\$8,000.00) per annum. Thereafter, the Council may change such compensation of its members by ordinance, by vote of four or more Council members, provided that any change in said compensation shall not become effective until the January following the next general election at which Council members are elected.

SECTION 3.4 GENERAL POWERS; DUTIES AND LIMITATIONS

The Council shall be the policy-making, legislative and appropriating body of the City. In addition to powers and duties conferred by law and by the specific provisions of this Charter the Council shall have the following general powers:

A. To exercise all powers of local legislation with respect to enacting, amending or rescinding local laws ordinances or resolutions.

B. To levy taxes, special assessments and other charges and to borrow money, subject to the limitations and requirements of applicable law.

C. To adopt an annual budget and make appropriations for municipal purposes, with due regard to the legislative, budgetary and capital program recommendations of the Mayor.

D. To fix the salaries of City officers and employees except as otherwise provided herein, with due regard to the provisions of proposed collective negotiation agreements and recommendations of the Mayor.

E. To fix the amount of bond to be required of City officers and employees.

F. To enter into contracts, franchises, and other agreements, including agreements with other units of government for all lawful purposes.

G. To require the Mayor to submit periodic and special reports concerning the operation of City departments, agencies and instrumentalities.

H. To exercise all of the powers conferred on the City and the Council by Chapter 530 of the Laws of 1916, as amended, which to the extent not in conflict with the provisions of this Charter and not herein enumerated or otherwise provided for, are specifically adopted and incorporated as a part of this Charter.

SECTION 3.5 POWER OVER ORGANIZATION OF CITY GOVERNMENT

A. The power to amend this Charter to establish, combine or abolish departments, agencies and other instrumentalities of City government

shall be vested in the Council. Said power shall be exercised only through enactment of a local law and shall be pursuant to a proposal presented by the Mayor as provided in Section 4.8-c, except as otherwise provided hereinafter.

B. The Council shall forthwith, upon receipt from the Mayor of such a proposed local law relating to City government organization, initiate the procedure established by law or this Charter respectively for the enactment of a local law. Said Council shall enact or reject the same not later than its next regular meeting following conclusion of the required public hearings, at which any interested officer, employee and member of the public at large shall be heard. In the event that the Council shall enact the same, it shall be enacted in its entirety and as originally proposed by the Mayor, except that the local law as finally enacted may contain any modifications in, deletions from and additions to the original proposal as amended, and shall be subject to the veto of the Mayor and override by Council.

C. The Council may request the Mayor to present a proposal concerning the establishment, combination or abolition of a specific department or departments. Upon failure of the Mayor to present said proposal at the next Council meeting occurring not less than thirty (30) days following such request, any Council member may propose an appropriate local law, and the procedure for enactment shall be as prescribed in Section 3.11.

SECTION 3.6 BOARDS, COMMISSIONS, AGENCIES & OTHER INSTRUMENTALITIES

A. The Council may from time to time establish such citizen advisory bodies as it deems necessary to provide itself with advice and recommendations with respect to specific matters, except as may affect the executive branch. Each such body shall be disbanded and the terms of its members shall terminate forthwith upon presentation of a report of its recommendations or upon like evidence of the attainment of the purposes for which it was established. Said members shall not be entitled to any form of compensation, except as may be provided specifically by State or federal Law.

B. The Council shall not establish commissions, boards and other agencies or instrumentalities of City government separate from the executive branch except as same may be specifically mandated by statute or otherwise required by the State or Federal government. In such event the Council shall consider the Mayor's recommendations, if any, regarding the composition and organization of said agency or instrumentality, and its relationship with the executive branch, before enacting a local law or ordinance as provided in Section 3.11.

C. The Council shall not establish an additional commission, board or other agency or instrumentality to perform a function or duty that is substantially similar to those already performed by an existing department, agency or other instrumentality of City government, unless

same is specifically mandated by statute or otherwise required by the State or Federal government.

D. Absent affirmative action by the Council to continue such board, commission, agency or instrumentality in a subsequent year shall be disbanded and the terms of its members shall terminate on the last day of the year in which it is created. No later than thirty (30) days prior to December 31 of each year, the Council shall evaluate and determine whether such body shall continue for a subsequent year.

SECTION 3.7 POWER OF INVESTIGATION

The Council shall have the power to investigate the affairs of every City department, board, commission, agency or other instrumentality of City government and the official conduct of every City officer except the Mayor. The Council shall have access to all records and papers kept by all City officers, departments, boards, commissions, agencies and other instrumentalities of City government and shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence at any meeting of the Council, and for that purpose may issue subpoenas signed by the Chairman of the Council.

SECTION 3.8 RELATIONS WITH EXECUTIVE BRANCH

A. A Council member may file in the office of the Mayor or Administrator requests for additions to or improvements in Municipal services, as well as complaints relating to any aspect of City government. Such requests and complaints shall be transmitted by the Mayor or Administrator to the appropriate department for consideration and such action as may be appropriate, except as otherwise provided in this Charter.

B. Neither the Council nor any of its members shall in any manner interfere in the appointment or the removal of any officer or employee of the City, except that the Council and any of its members may express their joint and several views and fully and freely discuss with the Mayor or Administrator anything pertaining to the appointment and removal of such officers and employees.

C. Except for the purpose of inquiries and investigations as provided herein, the Council and its members shall deal with City officers and employees solely through the Mayor or Administrator, and neither the Council nor its members shall give orders to any officer and employee either publicly or privately. This section shall not apply to communications and relationships between the Council and its several members and either the City Clerk, Corporation Counsel, or Finance Director.

SECTION 3.9 PROCEDURES: MEETINGS; RULES AND JOURNALS; VOTING

A. The Council shall meet at 11:00 a.m. at the Council Chambers at the City Hall on the first day in January, and shall organize and elect from among its members a Chairman as provided in Section 3.2 herein. In the event that such date falls on Sunday, then said meeting shall be held on the second day of January. Thereafter, the Council shall schedule regular meetings no less frequently than once monthly at such times as the Council may prescribe by rule, except during the month of August, when the Council shall recess.

B. Special meetings may be held at any time on the call of the Chairman or any three members of the Council. The Mayor may also call a special meeting provided that the Mayor shall be present at such meeting. The notice of any special meeting shall be served personally upon each member of the Council or delivered to his or her residence or place of business not less than seventy-two (72) hours before the time fixed for such special meeting and shall contain a statement of the specific items of business to be transacted. No other business shall be conducted at such meeting. Special meetings on less than seventy-two (72) hours' notice may only be held with the written consent of all Council members.

C. All meetings of the Council shall be open to the public, and public notice of such meeting and the agenda shall be posted as provided by law. The Council at a regular or committee of-the-whole meeting may recess in a closed or executive session as provided by law. Convening of an executive session shall be by majority vote of the Council and the yeas and nays shall be recorded in the Journal.

D. Except as otherwise provided herein, the Council shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings. The Journal shall be a public record. In the event that no rules are adopted, the latest edition of Robert's Rules of Order shall apply.

E. A majority of the Council members shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by rules of the Council. No action of the Council shall be valid or binding unless it shall have received the majority affirmative vote of the total voting power of the council; and on final passage, the names of the members present and their votes shall be entered in the Journal.

SECTION 3.10 COUNCIL ACTIONS: LOCAL LAWS; ORDINANCES; RESOLUTIONS; APPROPRIATIONS ACT

Legislative acts of the Council shall be by local law, ordinance or resolution provided, however, that local legislation shall not be enacted by resolution unless specifically authorized by law. No appropriation of money shall be made for any purpose except by ordinance specifying the amount thereof and the department, program or specific

purpose for which the appropriation is made. The annual budget and capital improvement program shall be considered such an ordinance.

SECTION 3.11 PROCEDURE FOR AMENDMENT OF CHARTER BY LOCAL LAW; ADOPTION OF LOCAL LAWS; ORDINANCES

A. Every local law or ordinance, except the budget and capital program ordinance or an ordinance making a codification of ordinances, shall be confined to a single subject which shall be clearly expressed in its title. All local laws and ordinances shall be introduced in typewritten or printed form. The enacting clause of a local law shall as required by law and the sections or subsections amended or repealed shall be set forth in full.

B. Unless another date is specified therein, an ordinance shall take effect and become operatively immediately following adoption by the Council and a local law shall become effective as prescribed by law and shall become Operative in accordance with its terms. An ordinance may be introduced at any regular meeting by any member of the Council or by the Mayor. The procedure for enactment of a local law, including an amendment to this Charter, except as provided in Section 3.5, shall be as provided in subsection C hereof.

C. A local law shall be introduced only by a member of the Council, except as otherwise prescribed by State law. Upon introduction, the City Council may set a day and hour not earlier than the seventh day thereafter or a regular meeting, at which time the Council shall hold a public hearing on the proposed local law. Such public hearing shall be on public notice of at least three (3) days, published in the official newspaper, and it shall include publication by title of local laws. Copies of proposed local laws shall be available to the public for inspection in the office of the Clerk.

SECTION 3.12 RECORD OF LEGISLATION: PUBLICATION; OFFICIAL NEWSPAPER

Upon its final passage every local law, ordinance or resolution shall be certified by the Clerk after its passage by the Council and shall be recorded in separate books for each which shall be indexed by him or her, and certified copies of local laws shall be filed as required by law.

At the first meeting of the Council in each year or as soon thereafter as possible, the Council shall designate one newspaper to be the official newspaper of the City. All local laws and ordinances shall be published by the Clerk once by title in the official newspaper within ten days after approval.

SECTION 3.13 PENALTIES FOR VIOLATION OF LOCAL LAWS AND ORDINANCES

The Council shall have the power to prescribe penalties for the violation of any local law or ordinance. The City may maintain an action or proceeding in a court of competent jurisdiction to compel compliance

with or restrain by injunction the violation of any local law or ordinance of the Council, notwithstanding that these may provide a penalty for such violations.

SECTION 3.14 APPROVAL OR VETO BY MAYOR: OVERRIDE; AUTOMATIC APPROVAL; RECONSTRUCTION

A. Every local law and ordinance shall be certified by the Clerk after its passage by the Council and shall be presented to the Mayor for approval or veto as prescribed hereinafter. The Clerk shall present said legislative measure to the Mayor not later than two (2) working days after enactment by the Council.

B. The Council may reconsider any such measure of local legislation on or before the next regular meeting date following veto and return of same by the Mayor, as prescribed in Section 4.5 herein. If after such reconsideration the Council shall determine by affirmative vote of four (4) or more of its members that such local legislation shall be adopted, it shall be deemed enacted notwithstanding the objections of the Mayor. Upon such reconsideration only one vote shall be taken by the Council and it shall be by yeas and nays which shall be entered in the Journal.

C. If within ten (10) working days after local legislation shall have been presented to him or her, the Mayor shall neither approve it nor return it to the Clerk with his or her objections, it shall be deemed to be adopted in like manner as if it had been signed. In the event of the Mayor's absence or incapacity however, such legislation shall not be deemed adopted if neither approved nor vetoed by the interim Mayor prescribed in Section 4.2, until fifty-six (56) days after the beginning of the Mayor's absence or incapacity.

D. At any time prior to such approval or veto of a local law or ordinance by the Mayor, as the case may be, the Council may recall the same and reconsider its action thereon.

SECTION 3.20 CONSERVATION ADVISORY COUNCIL

A. Legislative intent.

The preservation and improvement of the quality of the natural and man-made environment within the City of Niagara Falls, in the face of population change, urbanization, and technologic evolution with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare, and economic well-being of present and future inhabitants and require forthright action by the City of Niagara Falls. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and the natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the City working in partnership with local and state officials and with various public and private institutions, agencies and organizations. Establishment of a

conservation advisory council is a necessary step in fostering unified action on environmental problems.

B. Establishment of the Council.

A Conservation Advisory Council which shall be known as the City of Niagara Falls Conservation Advisory Council is hereby established.

C. Membership.

(1) The Council shall consist of nine members of whom seven shall be appointed by the City Council and who shall serve for two years, at the pleasure of the City Council, and the remainder shall be ex-officio members as provided herein. Persons residing in the City of Niagara Falls who are interested in the improvement and preservation of environmental quality shall be eligible for an appointment as a member of the Council. Vacancies on the Council shall be filled in the same manner as the original appointment except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term.

(2) One member of the City Council and the Director of Environmental Services shall be ex officio, non-voting members of the Council.

D. Officers, meeting and committees.

The City Council shall designate a member of the Council to act as chairman thereof. At the first meeting of the Council its members shall elect from among themselves a recording secretary. The Council shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as hereinafter provided.

E. Powers and duties of the Council.

The powers and duties of the Council shall be as follows:

(1) To advise the City Council on matters affecting the preservation, development, and use of the natural and man-made features and conditions of the City insofar as environmental factors are concerned; in the case of man's activities and developments, to advise on any major threats posed to environmental quality, so as to enhance the long range value of the environment to the people of the City.

(2) To seek to coordinate the activities of unofficial bodies organized for similar purposes and to cooperate with other City boards and agencies in the area of community planning.

(3) To recommend from time to time to the Planning Board and to the City Council, plans and programs relating to environmental improvement for inclusion in the master plan of the City of Niagara Falls

and similarly, to recommend to the City Council appropriate and desirable changes in existing local laws and ordinances relating to environmental and land use controls or recommend new local laws and ordinances.

(4) Carry out such other, duties as may be assigned from time to time by the City Council with respect to environmental matters.

F. Reports.

The Council shall keep accurate records of its meetings and actions and shall submit an annual report to the City Council not later than the thirty-first day of December of each year, concerning the activities and work of the Council. From time to time the Council shall submit such reports and recommendations as may be necessary to fulfill the purpose of this section 3.20. The Mayor shall submit all environmental reports and recommendations including environmental assessments and impact statements to the Council for their purview and recommendations to the City Council.

G. Compensation and expenses.

The members of the Council including ex-officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available thereof.

H. Construction.

This section 3.20 shall be deemed an exercise of the powers of the City of Niagara Falls to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This section 3.20 is not intended and shall not be construed so as to abolish, diminish or impair the powers or functions or duties of the Director of Environmental Services and any existing department, board, commission, agency or other instrumentality of the City of Niagara Falls.

**ARTICLE IV
MAYOR AND EXECUTIVE BRANCH**

| | |
|-------------|---|
| Section 4.1 | Election; Qualifications; Compensation |
| Section 4.2 | Vacancy; Temporary Disability; Succession |
| Section 4.3 | General Powers and Duties |
| Section 4.4 | Veto Power |
| Section 4.5 | Administrator; Appointment and Removal; Powers and Duties |
| Section 4.6 | Executive Orders; Administrative Rules & Regulations |
| Section 4.7 | Executive Office of Mayor; Deputies |
| Section 4.8 | Organization and Administration of Executive Branch |

SECTION 4.1 ELECTION: QUALIFICATIONS: COMPENSATION

A. A Mayor shall be elected and serve a term of office as prescribed in Section 2.2 hereof.

B. For one year prior to the nomination and election, and throughout his or her term of office, he or she shall be and remain a qualified elector of the City. He or she shall devote his or her full time to the duties of the office and shall hold no other public office except as otherwise provided in this Charter. He or she may be not engaged in another occupation, employment, or profession for compensation.

C. The Mayor shall receive an initial salary of thirty thousand dollars (\$30,000.00) per annum. Thereafter, the Mayor shall receive such compensation as shall be fixed by the City Council. Said compensation shall not be changed during a Mayor's term of office, nor during a succeeding term commencing less than six (6) months following any such change.

SECTION 4.2 VACANCY; TEMPORARY DISABILITY; SUCCESSION

A. The Mayor shall designate in writing a succession of two or more officers or employees of the executive branch to perform the duties of Mayor during said Mayor's incapacity or absence from the City for no longer than forty-five (45) days. In addition, the Mayor may designate a member of the City Council to perform the duties of Mayor during such absence and may, from time to time, designate a member of the City Council to perform the duties of Mayor, for a specific event or function. The Acting Mayor so designated shall neither have nor exercise the power of permanent appointment to or removal from office, nor the power to approve or veto local legislative enactments. Such written designation shall be filed with the City Clerk not later than sixty (60) days after the Mayor assumes office and may be terminated or superseded at any time by the Mayor through written notice of such termination or by a supersedure filed in the same manner as the original written designation.

B. In the event an absence or incapacity of the Mayor continues for more than forty-five (45) days, the Council shall select one of its members who shall thereupon become interim Mayor. He or she shall exercise all of the powers and perform all of the duties of the Mayor's office until such absence or incapacity is terminated.

C. At the first regular Council meeting following the sixtieth day of a Mayor's absence or incapacity, or at an earlier date when the Council shall deem such absence or incapacity likely to be of prolonged or indefinite duration, the Council shall initiate action in the Supreme Court to determine whether a vacancy exists in the office of the Mayor.

D. In the event that the Office of Mayor shall become vacant due to death, resignation or as prescribed hereinabove, the Council shall choose one of its members as interim mayor until the next general election occurring not less than sixty (60) days after the occurrence of said vacancy; otherwise it shall be filled in the general election held in the following year. The Mayor elected at said general election shall immediately take and file his or her oath of office and shall serve for the unexpired balance of the term of the Mayor originally elected.

SECTION 4.3 GENERAL POWERS AND DUTIES

The Mayor shall be the chief executive and administrative officer of the City and head of the executive branch of government. He or she shall be responsible for the execution and enforcement of the laws of the State and the local legislative acts of the Council, within the City boundaries. He or she shall exercise the executive powers conferred upon the chief executive officer of a City by this Charter and applicable law, and all other powers and duties implied or incidental to them. Among such powers and duties, but not by way of limitation, are the following:

(1) He or she shall, through the Administrator, direct, co-ordinate and supervise the operation and administration of all departments, offices and agencies of the City government, unless otherwise provided by law.

(2) He or she may attend meetings of the Council and shall have the right to take part in discussions and to recommend legislative measures, but not to vote. It shall be his or her responsibility to review every Council enactment and to approve or veto it as hereinafter provided.

(3) He or she shall prepare and submit to the Council an annual "State of the City" message including legislative recommendations, a proposed budget for the subsequent year and a capital improvement program for the subsequent five years, all as hereinafter provided.

(4) He or she shall submit to the Council and make available to the public a complete report of the finances and administrative activities of the City government as of the end of each fiscal year. He or she shall make such other reports to the Council from time to time,

as the Council may require, to be fully advised of the operating and financial condition of the City government and recommendations regarding policy and legislative requirements.

(5) He or she shall prepare and propose to the Council plans for the establishment, consolidation, or combination of the departments, agencies and other instrumentalities of City government as provided in Section 4.8.

(6) He or she shall negotiate contracts, franchises, and other agreements on behalf of the City subject to ratification by the Council, and he or she shall assure that all terms and conditions imposed in favor of the City or its residents in any such undertaking are faithfully kept and performed.

(7) He or she shall provide for the collection of revenues, and for the audit, control and accounting of disbursements and expenditures. He or she shall assure that the City does not, except in case of unforeseen emergency, incur deficit in any fiscal year. He or she shall promptly report to the Council any such unforeseen development along with a specific plan for service reduction or other action necessary to prevent incurring said deficit.

(8) He or she shall declare the existence of a public emergency whenever he or she deems that circumstances exist which may adversely affect the life, health or safety of the residents of the City, and, except as otherwise specifically provided by law, perform all acts necessary for their protection.

SECTION 4.4 VETO POWER

A. Local legislation generally. The Mayor shall sign each local law and ordinance if he or she approves it, whereupon it shall become effective in accordance with its terms. If the Mayor disapproves any local law or ordinance he or she shall return it to the Clerk within ten (10) working days with the objections stated in writing. The Clerk shall present said objections to the Council at its next meeting whereupon said objections shall be entered in the Journal. The Council may then reconsider said local law or ordinance and may override the Mayor's veto as provided in Section 3.14.

B. Budget and appropriation measures. If a local law or ordinance presented to the Mayor shall contain one or more items of appropriation of money, the Mayor may object in whole or in part to any such item or items while approving the other portions of said local law or ordinance. In such event the Mayor shall append to the measure at the time of signing it a statement of each item or part so objected to. Each item so objected to shall not take effect unless, upon reconsideration as in the case of local law or ordinance from which the Mayor has withheld approval, such item or part thereof shall be approved by the Council as herein provided. All of the provisions of the preceding paragraph in relation to local laws and ordinances not approved by the Mayor shall

apply to instances in which he or she shall withhold the approval from any item or items or part thereof contained in a measure appropriating money.

SECTION 4.5 ADMINISTRATOR; APPOINTMENT AND REMOVAL; POWERS AND DUTIES

A. All administrative authority and responsibility over the operation of the various departments of the City vested in the Mayor as chief administrative officer of the City shall be exercised by the Administrator, who shall be appointed by the Mayor, and who shall serve during the Mayor's pleasure. The appointment and removal of the Administrator shall not be subject to confirmation by the Council or judicial review. The Administrator shall be a person other than the Mayor, appointed on the basis of administrative qualifications, including education and experience in public or business administration. In the event the office of Administrator shall become vacant, the Mayor shall appoint a qualified successor within forty-five (45) days of the occurrence of the vacancy.

B. The Administrator shall direct, co-ordinate and supervise the operation of all departments, offices and agencies of City government. He or she shall, together with the Controller, assist the Mayor in the preparation or presentation of the budget and capital improvement programs. He or she shall appoint, and where he or she deems it necessary, suspend or remove all department heads and all employees of the City, except those department heads and employees whose appointment and removal is conferred upon the Mayor by this Charter or by law as chief executive officer, or as otherwise provided herein. All department heads and employees of the executive branch shall serve under the direction and supervision of, and report directly to the Administrator, except the Corporation Counsel, Director of Finance and their appointed staffs, and the Clerk, who shall serve directly under the Mayor. The Clerk shall further exercise all duties and responsibilities delegated to him or her by the Mayor, which shall not, however, include the power to propose legislations, appoint or remove any mayoral appointment or veto on the Mayor's behalf. He or she shall issue such administrative orders relating to the organization and internal management of the City as he or she deems necessary.

SECTION 4.6 EXECUTIVE ORDERS; ADMINISTRATIVE RULES & REGULATIONS

A. All policies, rules and regulations of the executive branch shall be promulgated by executive order signed by the Mayor and filed with the Clerk as public records. Administrative Orders relating to the organization and internal management of City government shall be distributed to City officers by the Administrator not later than three days after being filed with the Clerk, whereupon they shall take full force and effect.

B. The Clerk shall publish notice of the availability for public inspection of executive orders relating to matters other than Administrative orders relating to the organization and internal

management of City government not later than three days after said executive orders have been filed in the Clerk's office. The Mayor shall provide opportunity for interested members of the public at large to be heard regarding said executive orders not less than fourteen (14) days prior to their taking full force and effect.

SECTION 4.7 EXECUTIVE OFFICE OF MAYOR; DEPUTIES

There shall be an Executive Office of Mayor consisting of the Mayor, the Administrator, and such administrative and clerical assistants to both as the Mayor may deem necessary and proper and as the Council may authorize by appropriating the required monies.

SECTION 4.8 ORGANIZATION AND ADMINISTRATION OF EXECUTIVE BRANCH

A. The several functions, powers and duties of City government shall be allocated among departments according to their major purposes. Said departments shall be established, combined and abolished by local law as heretofore provided. No additional department shall be created hereafter to perform any additional function or duty unless the same bears no substantial relationship to any other function or duty already allocated to an existing department or unless specifically mandated by law or otherwise required by the State or Federal Government.

B. [intentionally omitted]

C. The Mayor shall from time to time, when so requested by the Council or as he or she may deem timely and necessary, prepare and transmit to the Council proposals concerning the establishment, combination or abolition of a specific department or departments of the City government. In such event the Council shall forthwith initiate the procedure established by law for the enactment of a local law as heretofore provided.

D. The Mayor shall file an executive order(s) with the Clerk upon appointment by him or her or the Administrator of an officer of the executive branch as head of each of the several departments of City government. Nothing herein shall preclude a single officer from serving as head of more than one department at the same time, provided that he or she shall receive one single appropriate salary for the combined responsibilities and duties.

E. All department heads shall have, to the extent delegated by the Administrator as hereafter provided, but not by way of limitation, the following powers and duties:

(1) To suspend subordinate officers and employees within the department subject to applicable provisions of the civil service and other laws.

(2) To direct and supervise the work of the department and its employees through such subdivisions as may be duly authorized.

(3) To assign functions, powers and duties to subordinate officers and employees within the department and modify such assignments as he or she may deem necessary and desirable.

(4) To delegate to subordinate officers and employees such of his or her powers as he or she may deem necessary and proper for efficient administration.

**ARTICLE V
BUDGET, CAPITAL PROJECTS AND TAXATION**

- Section 5.1 Responsibility for City finances
- Section 5.2 Fiscal Year
- Section 5.3 Executive Budget Presentation
- Section 5.4 Organization and Content of Budget
- Section 5.5 Capital Improvements Program
- Section 5.6 Council Action
- Section 5.7 Budget Administration
- Section 5.8 Amendments after Adoption of Budget
- Section 5.9 Lapse of Appropriations
- Section 5.10 Taxation Generally; Charges Against Real Property
- Section 5.11 Provisions of Previous Charter Concerning Taxation,
Assessment and Related Matters Continued
- Section 5.12 Provisions of Previous Charter Concerning Identification
of Property Continued
- Section 5.13 Official Depositories
- Section 5.14 Conditions Precedent to Actions against the City
Continued

SECTION 5.1 RESPONSIBILITY FOR CITY FINANCES

A. The Mayor shall be responsible for the financial and fiscal administration of City government. He or she shall have the duty and power to provide, within the Executive branch and through the Administrator, for the organization, coordination and supervision of all functions and services relating to planning, raising, safe-guarding and spending City revenues, as heretofore provided.

B. The Mayor shall designate a Director of Finance to fulfill the functions of a chief fiscal officer pursuant to the Local Finance Law.

C. The Council shall be responsible for appropriating public revenues and levying taxes. It shall have the duty and power to find the facts it deems necessary and proper, through investigative powers heretofore provided, to formulate and assure the faithful and effective execution of its fiscal policies.

SECTION 5.2 FISCAL YEAR

The fiscal year of the City shall begin on the first day of January and shall end on the last day of December.

SECTION 5.3 EXECUTIVE BUDGET PRESENTATION

The Mayor shall annually propose an executive budget to the Council on or before the first working day of October. Said proposal shall include a budget and a capital improvements program along with all

necessary supporting schedules, exhibits, summaries and a budget message. Said message shall describe the main features of the budget proposed for operating and capital expenditures and for the several funds; shall estimate income from all sources and shall explain significant changes from current expenditures and revenue. The budget message shall further include the Mayor's recommendations for financing the budget and a statement of services to be provided and development objectives to be attained through the proposed expenditures.

The Mayor shall cause the budget estimates of the several departments to be grouped into municipal service categories for purposes of analysis, presentation and subsequent administration of appropriations as follows: general government; public safety; highways and streets; economic assistance and opportunity; culture and recreation; and home and community services. The combined revenues and expenditures for each such municipal service category shall be shown in the executive budget classified by basic program, purpose or activity and according to the uniform classification of accounts of the state comptroller. Within each such municipal service category the service objectives and standards to be attained by means of the proposed expenditures shall be shown to the extent practical. Said service objectives and standards shall be construed as a statement of legislative intent regarding results to be attained by the executive branch without exceeding the corresponding appropriation total.

SECTION 5.4 ORGANIZATION AND CONTENT OF BUDGET

A. The executive budget shall provide a complete financial plan of the City funds and activities for the ensuing fiscal year, and the total of proposed expenditures shall not exceed the total of anticipated revenues for each fund. Said budget shall show in detail all estimated revenues classified by fund and source and the proposed property tax levy. Proposed expenditures shall be classified by fund, by department or other agency or instrumentality of City government, and within such organization unit by program, purpose or activity and object to the extent practical, based on the uniform classification of accounts of the state comptroller.

B. The anticipated revenues and proposed expenditures of each utility or other public service enterprise, owned or operated by the City, shall be stated in a separate section of the budget; and as to each such utility, an anticipated surplus for general fund purposes shall be stated in the budget after providing for necessary and proper reserves, and the amounts equivalent to taxes or the anticipated deficit.

SECTION 5.5 CAPITAL IMPROVEMENTS PROGRAM

The capital improvements program heretofore provided shall contain an enumeration and description of each capital improvement proposed to be undertaken within the ensuing six fiscal years, showing: the estimated cost; the proposed method of financing; the order of priority; and, projected operation and maintenance expenses. The first year of said

program shall constitute the capital improvement budget, which shall contain a detailed account of all current revenue and debt requirements for capital improvements for the ensuing fiscal year, except that the authorization of individual obligations of indebtedness shall be made pursuant to the Local Finance Law.

SECTION 5.6 COUNCIL ACTION

A. The Council shall cause public notice of the submission of the executive budget to be published together with a copy of the budget summary, and a notice of the time and place for a public hearing on the executive budget proposal together with information as to where copies of the budget document may be obtained or will be available for public inspection.

B. Said hearing shall be held at least one week subsequent to the date of publication of such notice, but in no event later than the 1st day of November. At said hearing the Mayor, the Administrator, the Director of Finance and such other department heads and personnel as the Mayor may deem necessary and proper shall be present, and any person may be heard for or against the executive budget as presented by the Mayor. The Council shall have and exercise the power, in connection with executive budget hearings, to require the testimony of any officer and employee of the executive branch and the, production of all such records as said Council may consider relevant in reaching independent conclusions and decisions on the proposed executive budget.

C. After public hearing, the Council may adopt the budget and capital improvements program with or without amendment. In amending the budget, the Council may increase or decrease any item of appropriation except an appropriation for debt service or for other purposes required by law and an appropriation for a reserve for uncollected taxes, capital equipment, and for estimated deficit. In the event that the Council shall increase the total expenditures as proposed by the Mayor, such increase shall be reflected in full in the tax rate. In amending the capital improvements program, the Council may delete or decrease any item. It shall not increase or add items however, prior to requesting and considering but not necessarily following, the recommendations of the Mayor regarding the proposed amendment. In the event that the Mayor fails to present a said recommendation to the Council within five days after such request, his or her silence shall be construed as agreement.

D. The Council shall transmit the executive budget with any amendments to the Mayor on or before the first working day of December. The Mayor may veto any such amendments, and the Council may reconsider said item and accept or reject the Mayor's veto, as provided in Section 3.14 hereinabove. Notwithstanding the provisions of Sections 3.14 and 4.4 of this Charter, the time within which the Mayor may exercise the power of veto shall be limited to five (5) working days after the budget shall have been transmitted to him or her by the Council through the Clerk.

E. The Council shall adopt the budget and capital improvements program on or before the 15th day of December. Adoption of said budget and capital improvements program shall constitute an appropriation of the sums stated herein for the various purposes and objects of expenditures, and a levy of the amount stated therein upon: the real property liable for taxation for the ensuing fiscal year. Forthwith following adoption of the executive budget, the Clerk shall certify to the Mayor the amount required to be raised by taxation of property, as stated in the adopted executive budget. Such certificate shall constitute a warrant to spread the: tax levy upon all taxable property within the City at such rate as will be sufficient to raise the sum required, and, to complete the assessment and collection thereof pursuant to law.

F. Adoption of the executive budget shall constitute an authorization of the respective capital improvements projects therein contained, subject to such provisions for the financing thereof as may be provided in said budget, or by: borrowing or by other lawful means as the case may be.

SECTION 5.7 BUDGET ADMINISTRATION.

A. The Mayor shall provide for the administration of an encumbrance system of appropriation administration, and may further provide for the allotment of appropriations to months or other periods of the year. No expenditure or commitment in excess of the unencumbered balance of an appropriation allotment available for such purpose shall be authorized. The Mayor shall transmit a report to the Council each month summarizing revenues received and appropriations encumbered to date in relation to the corresponding items of the executive budget as enacted.

B. No officer or employee shall expend or commit any City funds for any purpose in excess of the amounts appropriated for that purpose or authorized to be borrowed by the Council. Any officer or employee of the City who knowingly authorizes or makes any payment or incurs any obligation in violation of the provisions of this section or is party to such an act, may be removed from office or employment and barred from holding future City office or employment.

C. Any contract, verbal or written, made in violation of this section shall be voidable at the discretion of the Mayor. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to the extent that they are financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made when authorized by local law or ordinance.

SECTION 5.8 AMENDMENTS AFTER ADOPTION OF BUDGET

A. Supplemental and Emergency Appropriation. The Council may appropriate additional funds after enacting the budget only upon written request of the Mayor certifying to an imminent public emergency or other

unforeseen circumstances affecting life, health or property. To the extent that there are no available unappropriated revenues to meet said supplementary or emergency appropriation requirement, the Council may authorize the issuance of budget notes as provided in the Local Finance Law. Every supplemental or emergency appropriation shall be made by ordinance adopted by affirmative vote of four or more council members, declaring the existence and fully describing the nature of the emergency or other circumstances requiring said appropriation.

B. Reduction of Appropriations. The Mayor shall promptly report to the Council as heretofore provided any development which in his or her judgment might result in a deficit. The report shall indicate the estimated amount of the deficit, any remedial actions already taken by him or her, and specific proposals for service reduction or other actions that would have the effect of preventing the anticipated deficit. The Council shall enact the Mayor's recommendations or another alternative, to prevent or minimize said deficit. For such purpose it may reduce one or more appropriations except that no appropriation for debt service shall be reduced, nor shall any appropriation be reduced below any amount required by law or by more than the amount of any unencumbered balance.

C. Transfer of Appropriations. The Mayor may at any time after the third month of the fiscal year transfer an unencumbered appropriation balance or any portion thereof between classifications and objects of expenditures within a department. No such transfer shall be permitted, however, where the effect is to restore positions or raise salaries eliminated or reduced respectively by the Council in adopting the executive budget and appropriating monies therefor. The Mayor may at any time after the sixth month of the fiscal year transfer: an unencumbered appropriation balance or any portion thereof between departments in the same municipal service category, provided that said transfer neither impairs nor diminishes the service standards and objectives for said municipal service category set forth in the executive budget as adopted. Nor shall such transfer be permitted where the effect is to restore positions or raise salaries eliminated or reduced respectively by the Council in adopting the executive budget and appropriating monies therefor. The Council may at any time by resolution authorize the Mayor, upon receipt of a written request transmitted by him or her, to transfer an unencumbered appropriation balance or any portion thereof between municipal service categories and to restore positions or salaries eliminated or reduced respectively by the Council in adopting the executive budget and appropriating the monies therefor.

SECTION 5.9 LAPSE OF APPROPRIATIONS

Every appropriation, except an appropriation for capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; and the purpose of any; such appropriation shall be deemed abandoned if three years pass without any

disbursement from or encumbrance of the appropriation. All such lapsed appropriations shall be credited to the general fund.

SECTION 5.10 TAXATION GENERALLY; CHARGES AGAINST REAL PROPERTY

A. Real property taxes shall be levied, assessed and collected under the provisions of the Real Property Tax Law (Consolidated Laws, Chapter 50-a as hereafter amended) except as otherwise provided in the Charter or Administrative Code. It shall be the duty of the Mayor to provide for the effective, efficient and the lawful administration of said functions. It shall be the duty of the Council to enact real property and other taxes, charges and financial measures which will result in adequate revenues to finance the government and affairs of the City.

B. The Mayor shall recommend from time to time, and the Council may revise and shall enact, a schedule of charges and penalties to be levied against the users of the City's water or sewer services.

C. The Council shall have the power to enact local laws to impose service charges on real property, including real property for which exemptions from general assessments have been allowed by law, but exclusive of property used entirely for religious, charitable, hospital, educational or cemetery purposes.

D. The Council shall have the power to enact local laws to impose charges for such purposes as building demolition and to compel compliance with laws and ordinances. All charges on real property shall be entered on the general City tax roll and added to all other items of unpaid taxes and penalties assessed against the property whereon the said charges were levied, and shall be collected and enforced in the same manner as City taxes, insofar as allowed by law.

SECTION 5.11 PROVISIONS OF PREVIOUS CHARTER CONCERNING TAXATION, ASSESSMENT AND RELATED MATTERS CONTINUED

The provisions of Article VIII of the Charter of the City of Niagara Falls, New York, as enacted by Chapter 530 of the Laws of 1916 as amended, entitled "Taxation and Assessment" in effect when this Charter is adopted, including but not limited to such provisions continued therein concerning the method of taxation exemptions and clarifications of real property, taxable status date, liens, Board of Assessment Review, levy, collections and enforcement, collection of county taxes, charges against real property, the hotel room and occupancy tax, and Sewer use law, are hereby continued and hereby incorporated in full as part of this Charter. Upon adoption of this Charter, the Corporation Counsel shall revise said Article VIII to delete all obsolete provisions or those in conflict with the provisions of this Charter prior to the full implementation hereof, which revisions shall be adopted by the Council in accordance with the provisions of the Municipal Home Rule Law governing the adopting of local laws, but shall not be subject to referendum.

SECTION 5.12 PROVISIONS OF PREVIOUS CHARTER CONCERNING IDENTIFICATION OF PROPERTY CONTINUED

The provisions of Section 3, Subdivisions (1) through (15) inclusive, of Article I of the Charter of the City of Niagara Falls, New York, (Laws 1916, Chapter 530, as amended) relating to the identification of real property for location and assessment purposes, is hereby continued and incorporated as part of this Charter.

SECTION 5.13 OFFICIAL DEPOSITORIES

The Council shall designate annually the official depositories for municipal funds, not inconsistent with the requirements of law, with due consideration to the recommendations of the Mayor. The interest on such deposits shall belong to the City.

Depositories with whom City monies are deposited shall first file with the Clerk indemnity bonds for the protection of the City against loss, in such an amount and such form as shall be decided by the Council. The Council may elect to authorize said depositories to deposit bonds, mortgages or other collateral of the kind and to the amount approved by the Council and not inconsistent with the requirements of New York Law in-lieu of such indemnity bond, secure the City monies or funds deposited with such depositories.

SECTION 5.14 CONDITIONS PRECEDENT TO ACTIONS AGAINST THE CITY

No action or proceeding to recover or enforce any unliquidated account or claim against the City shall be brought until such claim shall have been filed with the City Clerk or, in case of a claim founded upon tort, shall not be brought until notice of claim is served as required by the provisions of section fifty-e of the General Municipal Law.

No civil action shall be maintained against the City for damage or injuries to person or property sustained in consequence of any street, part or portion of any street including the curb thereof and any encumbrances thereon or attachments thereto, tree, bridge, viaduct, underpass, culvert, parkway or park approach, sidewalk or crosswalk; pedestrian walk or path being defective, out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of accumulation of snow or ice upon any street, bridge, viaduct, underpass, culvert, parkway or park approach, sidewalk or crosswalk, pedestrian walk or path, unless previous to the occurrence resulting in such damage or injuries written notice of such alleged condition relating to the particular place and location was actually given to the Director of Operations and Technical Services and there was a failure or neglect within a reasonable time thereafter to remedy or correct the alleged condition complained of.

**ARTICLE VI
DEPARTMENT OF PUBLIC WORKS**

- Section 6.1 Department; Director; duties.
 6.2 Power to require permanent sidewalks to be laid.
 6.3 Director may require repairs to sidewalks.
 6.4 Director may close dangerous places and streets.
 6.5 Reference.

SECTION 6.1 DEPARTMENTS DIRECTOR DUTIES

There is hereby created a Department of Public Works under the control and supervision of the Director of Public Works. The Department of Public Works shall be responsible for providing services and facilities to the public and City property through the care, construction, maintenance and repair of streets, sidewalks, structures and improvements thereto; the care, maintenance and repair of automotive vehicles and related equipment; the collection and disposal of garbage and refuse; responsibility for traffic engineering; and enforcement of the related ordinances, and such other operations as may be assigned by the City Administrator.

The Director shall prepare rules and regulations governing practices, procedures, and general operations of the Department and shall be responsible for the implementation of such rules and regulations. The Director shall supervise and review the work of departmental subordinates.

SECTION 6.2 PERMANENT SIDEWALKS

The Director shall have the power to determine whether public convenience requires permanent sidewalks to be laid or constructed, made, paved, flagged, relaid, or changed on any street or portion of street in said City of such width as the City Council may direct, and also to require all sidewalks to be kept free from ice and snow by the owners of the land adjoining such sidewalk or proposed sidewalk and require any such improvement, act or thing to be done in such manner and at such time and of such material as he or she may prescribe and direct, provided, however, that the City shall not authorize or permit any board or wooden sidewalk to be laid or constructed in the City.

SECTION 6.3 SIDEWALK REPAIRS

A. Said Director shall give written notice to such land owner or owners for the performance of the acts aforesaid by mail addressed to the owner's last address known to the director, postage prepaid, and if such owner shall fail to comply with said notice within ten days, excepting that in the case of repairs to sidewalks the time limit shall

be two days after the giving of the notice as aforesaid, said Director shall report such default to the Mayor who shall cause such improvement, act or things to be made or done by contract let through the Department of Engineering to the lowest responsible bidder, or by the Department of Public Works at an expense not exceeding the regular price of labor, materials, and other necessary costs for such purposes, and the officer performing such work shall keep an accurate itemized account of the expenses incurred for all labor and materials furnished and other necessary costs in and about such construction or rebuilding and certify to the correctness thereof and enter that fact in the records of the Department, specifying the amount and the person or persons for whom said work was done, and the property to be charged therewith. The City may finance the cost of such construction from assessments as provided for in this Charter and/or from bonds and notes as permitted by the Local Finance Law.

(1) The City Assessor shall prepare an assessment roll which shall make the cost of such expenditure an assessment against the owner or owners of the property abutting the said sidewalk improvements, and upon the completion of such assessment, the said City Assessor shall cause to be published daily for three successive days in the official paper of said City, a notice subscribed by him or her stating that said assessment has been completed and that the roll thereof will remain in the office of the City Assessor for inspection by all persons interested therein for five business days next following the day of the first publication.

Upon the day of the first publication of said notice, said City Assessor shall deposit in the post office of said City, a printed copy of said notice directed to each of the persons whose names shall be entered upon such roll and residing in said City. At the expiration of said five days, said City Assessor shall report such assessment to the City Council and before any further action is had, except as herein otherwise provided, the assessment shall be approved by the City Council, or, if disapproved, a like assessment shall be ordered and like proceedings had thereon as in the first assessment. When any such assessment shall be reported by the City Assessor to the City Council, the City Clerk shall enter that fact in the minutes of its proceedings specifying the assessment and stating, in substance, that at a designated meeting of said Council to be held not less than three days after the publication of said notice, the City Council will consider and act upon such assessment and that any and all persons interested therein will be heard by the City Council as to its approval of the same, and the publication of such entry in the official paper of said City as part of the proceedings of said City Council shall be sufficient notice of the facts therein stated to all parties therein assessed or interested.

(2) Any person interested may file with the City Clerk before the City Council shall consider and act upon such assessment, written allegations in favor of the approval or disapproval thereof.

(3) The time for the payment of the assessment made on account of such improvements shall be in five equal annual installments and, immediately after the confirmation of the assessment by the Council, the City Clerk shall attach a warrant for the collection of the first installment and deliver the same to the City Controller who shall proceed in the same manner and in accordance with the same provisions as relate to the collection of local assessments for street paving, and the first installment shall be payable immediately after the delivery of the first warrant for the collection thereof to the Controller the remaining installments shall be payable each successive year thereafter on warrants issued for the collection thereof with interest on the whole amount of such assessment unpaid at the rate of three and one-half percentum per annum from the twentieth day after the first warrant is delivered to the City Controller payable with each of said installments. In addition to the interest herein provided to be paid, any unpaid balances remaining due after the time designated for the payment thereof shall carry fees and interest in the same amount as provided in Section 10.11 of the City Charter with respect to delinquent paving installments.

(4) The first warrant shall command the collection of the first installment only and each successive warrant shall command the City Controller to collect the installment or installments then due, together with interest as above provided, all of which shall be with the privilege on the part of the person assessed to pay the entire assessment on the first warrant or to pay all unpaid assessments, together with interest thereon to the date of payment on any warrant thereafter issued.

(5) After a review of the installments of such local assessment as remain due and unpaid and before the completion of the next general City tax roll, the City Controller shall make a statement of such unpaid items and file the same with the City Assessor who shall place and assess such unpaid items, with the interest and fees thereon, computed as hereinbefore prescribed in a separate column headed "Local Assessments," on said general tax roll, against the respective lots or parcels of land upon which said unpaid local taxes were originally assessed, and with some proper note or memorandum designating the local assessments from which said items were derived, and the same shall be added to the annual City tax and such other items of taxes as may be assessed on said general City tax roll on or against the respective lots or parcels of land upon which such unpaid items were assessed, and be placed together therewith as one sum in the last total column on said general City tax roll, and thereafter the said aggregate amount in each case shall be regarded and described in all proceedings as "General City" tax and shall be collected in the same manner with the same interest, percentages and effect as other general City taxes.

C. In case any sidewalk shall be considered by or reported to the Director of Public Works as unsafe and liable to result in personal injury to any persons or things walking over the same, he or she may give two days' written notice to the owner to repair, which notice shall be in writing and shall be left with the occupant of the premises if the same be occupied, and if not shall be mailed to the owner thereof,

postage prepaid, at his or her last post office address known to the said Director and which notice shall require the said owner to repair the same. If said owner shall not make repairs within two days, the Director of Public Works, under the direction of the City Administrator, may proceed to make said repairs in the same manner and the cost thereof shall be assessed and collected in the same manner as provided by the provisions of this Charter relating to the construction of sidewalks in the City. The Director may, upon receiving notice of the dangerous conditions of any sidewalk, if in his or her judgment he or she deems that the emergency demands it, proceed to rope off such sidewalk against public use until said repairs are completed.

SECTION 6.4 CLOSURE

Whenever, in the opinion of the Director of Public Works or the City Engineer any street, bridge, or public place, or portion thereof, shall be in a dangerous condition the Director may declare said street, bridge or place closed to public travel for such time as the danger may remain, and may barricade said street, bridge, or public place, erecting signs thereon "Closed, Danger". Should the Director or City Engineer determine that a street or bridge is unsafe or in a dangerous condition for vehicles weighing over a certain amount, he or she may erect signs thereon "Closed to Vehicles Weighing Over Tons," inserting before the word tons the number of tons which he or she determines to be the maximum weight permissible on said street or bridge. After such barricading and placing of such signs the City of Niagara Falls shall not be liable for any injuries or damages caused to persons or property within the limits of a street, bridge or public place so closed; or for damages or injuries caused because of the use of a vehicle of a prohibited weight upon a bridge or street upon which such a sign is erected.

SECTION 6.5

Whenever in this Charter or other provision of law there is reference to the Department of Operations and Technical Services or Director of Operations and Technical Services said reference shall be deemed a reference to the Department of Public Works or Director of Public Works.

ARTICLE VII
DEPARTMENT OF POLICE

SECTION 7.1

The Superintendent of Police shall be the head of the Department of Police of said City and, under the direction of the City Administrator, shall have immediate direction and control of the police officers and other subordinates and employees of said department, and shall have charge of the said department under the rules, regulations and ordinances of said City. He or she shall discharge all duties imposed upon the heads of police departments of cities by statute or imposed upon him or her by any ordinances of said City. He or she shall from time to time report to the City Administrator concerning the affairs of the Department of Police of said City as directed by said City Administrator or the City Council and shall do all things necessary for the enforcement of law or the ordinances of said City, properly enforceable through the Police Department of said City.

SECTION 7.2

The City Administrator may at any time remove the Superintendent of Police without charges. The City Administrator may appoint one or more captains or lieutenants in his or her discretion, and such number of police officers, patrol wagon drivers and operators for the police signal system as in his or her judgment shall from time to time be necessary; provided, however, that no appointment shall be so made which will increase the membership of the department of police to a number greater than the number of such members fixed by resolution of the City Council. The captains or lieutenants shall be appointed from among the members of the force.

SECTION 7.3

All appointments in or to the police force of said City shall be evidenced by a commission naming the appointees signed by the City Administrator and the same shall be immediately filed in the office of the City Clerk of the said City. Every person so appointed shall hold office until removed for cause, or causes herein specified, excepting the Superintendent of Police.

SECTION 7.4

In accordance with the provisions of paragraph three (3) of subdivision 4 of Section 30 of the Public Officers Law of the State of New York, all members of the police force of the City of Niagara Falls are hereby required to reside within the City of Niagara Falls except as to those members of said police force covered by paragraph (1) or paragraph (2) of said sub-division 4 of Section 30 of the Public Officers Law of the State of New York.

SECTION 7.5

Charges may be made by any person against any member of the police force for incompetency, neglect of duty, misconduct in office, conduct unbecoming a police officer. These charges must be in writing, verified by the person making the charge as a complaint in a court record and filed with the City Administrator and a copy thereof must be served upon the accused officer. The City Administrator shall proceed to hear said charges in accordance with the rules of the bureau of police of said city so far as the same are applicable. Pending the aforesaid hearing the accused may be suspended from duty by the City Administrator for a period not exceeding ten days. The officer accused may be present in person or by Council and evidence may be given in his or her defense. All trials shall be open to the public. If the officer accused is found guilty of the charge against him or her, the City Administrator may suspend the officer without pay for a definite time, impose a fine not exceeding fifty dollars or reduce his or her grade or dismiss him or her from the police force, or impose on the officer any other discipline not inconsistent with the statute. Decision shall be in writing and immediately filed with the City Clerk.

SECTION 7.6

The Superintendent of Police shall prepare rules and regulations for the direction of the police force, submit the same to the City Administrator who shall submit them to the City Council for approval and upon such approval they shall be enforced through the Superintendent of Police.

SECTION 7.7

Rewards to induce persons to give information leading to the detection, arrest or conviction of persons guilty of crime or violation of the law shall, be made by the City Council and shall be audited and paid from the contingent fund to the person who shall have given such information upon the certificate of the superintendent of police that such person is properly entitled thereto.

SECTION 7.8

The Superintendent of Police and police officers shall severally possess all the common law and statutory powers of constables, but shall not serve civil process. They may arrest without process persons offending against the laws of this state or the ordinances of said City committed within their views; they may enter any building or place where any person in their hearing or presence commits a breach of the peace of a violation of any law or ordinance, or shall be guilty of disorderly conduct, and may arrest the offending person. Such person shall be arraigned before the police justice without unnecessary delay pending which the offender shall be retained at the police station. If the charge laid against the offender is a misdemeanor the officer in charge at

police headquarters may admit the offender to bail in the same manner as might the police justice. Members of the police force shall discharge their duties as prescribed by the ordinances of the City and by statute; they shall have exclusive power of serving all criminal process issued by the police justice or acting police justice of said City, and it shall be their duty to do so.

SECTION 7.9

Members of the police force shall wear, while on duty, such uniforms as are approved by the City Council, upon recommendation of the Superintendent of Police.

SECTION 7.10

The actual and necessary expenses of any member of the force, when directed by the Superintendent of Police or the City Administrator, in serving or executing any process, or endeavoring to detect, discover or arrest the perpetrator of any crime against the laws of this state or ordinances of the City and their necessary traveling expenses in serving criminal process beyond the City limits or conveying convicts to a prison outside of said City, shall be paid by the City. For the purpose of providing for the expenses above mentioned, and for a secret service fund, the Council shall set apart in the hands of the Controller a sum to be known as "the special police fund," not exceeding in the aggregate two thousand dollars in any one year, which fund shall be paid out under the direction of the City Administrator by warrants drawn upon such fund, to be signed by him or her. An account of such expenses shall be made out in detail, and verified by the party making the same, to the effect that the sums therein charged have been actually and necessarily paid out by him or her, which the City Clerk shall retain and file in the Clerk's office.

SECTION 7.11

Subject to the direction of the City Council, the City Administrator may, at any time, appoint, if he or she considers it necessary for the public interests, special police officers and detectives as he or she deems necessary to hold office during his or her pleasure; said special police officers shall have no salary or compensation from said City. In case of public disturbance or other emergency the City Administrator may appoint such police officers as he or she deems necessary who shall act not to exceed thirty days, and shall receive from the City such compensation as is fixed by the City Administrator. The City Administrator shall report any action taken by him or her under this section to the City Council at its next meeting.

**ARTICLE VII
DEPARTMENT OF FIRE**

SECTION 8.1

The City Administrator shall appoint for the Department of Fire a Fire Chief to serve during good behavior.

SECTION 8.2

The City Administrator shall appoint for the Department of Fire a Deputy Fire Chief and may at any time remove the Deputy Fire Chief without charges. The Deputy Fire Chief shall act in the capacity of the Fire Chief, under the direction of the City Administrator, in the absence of the Fire Chief, or during the inability of the Fire Chief to act; at all other times the Deputy Fire Chief, performing such duties of the Fire Chief as the Fire Chief shall delegate to him or her and such other related duties as the Fire Chief or City Administrator shall deem necessary and proper.

SECTION 8.3

A. The City Administrator may appoint a captain of each fire hall in said City who shall have command of said fire hall and who shall serve during good behavior.

B. Any Deputy Fire Chief or Fire Captain shall be appointed from the paid firefighters of said City. Said Fire Chief shall at all times, under the direction of the City Administrator, have full control and charge of all members of the said Department of Fire of said City.

C. The City Administrator shall have power to appoint such number of firefighters and engineers of steam fire engines of said City as in his or her judgment shall be necessary; provided, however, that no appointment shall be so made which will increase the membership of the Department of Fire to a number greater than the number of such members fixed by resolution of the City Council. Such appointees shall hold office until removed for cause.

SECTION 8.4

All members of the Department of Fire shall devote their entire time to their duties as such firefighters and officers of said department. They may be removed by the City Administrator at any time for incapacity, neglect or misconduct in office. Such removal shall be founded on charges in writing, a copy of which shall be furnished to the accused officer or firefighter, the original filed with the City Clerk. Before such removal the accused shall have an opportunity to appear in person or by counsel and be heard in the defense at a public hearing. Pending such hearing the accused may be suspended from duty by the City

Administrator for a period not exceeding ten days. Such charges shall be heard by the City Administrator and such accusations may be made by any person.

SECTION 8.5

The City Administrator and City Council may organize, disband or reorganize fire companies in said City.

SECTION 8.6

A. The Fire Chief, under the direction of the City Administrator and subject to the provisions of the ordinances of the City, shall have charge of all the property belonging to said City for the use of said fire department. He or she shall recommend from time to time, whenever necessary, the purchase and repairs of engines, trucks, carts, hose and other apparatus, implements and supplies requisite and proper in and about the efficient management and operation of said department, which recommendation shall be filed with the City Administrator for his or her report thereon and by him or her referred to the City Council for action unless otherwise prescribed by ordinances of said City.

B. The Fire Chief and his or her staff shall have power at all reasonable times to enter upon and examine any premises within said City, when necessary for the purposes of said department, and they shall report all violations of statute or ordinances relating to fire to the City Administrator forthwith. The Fire Chief shall report to the City Administrator and City Council from time to time concerning the condition of the Department of Fire with recommendations the Fire Chief deems advisable.

C. The Fire Chief shall investigate the cause and origin of fire in the City when directed to do so by the City Administrator or City Council; testimony taken before him or her shall be reduced to writing, subscribed to by the witnesses and filed with his or her report with the City Administrator who shall report the same to the City Council for such action as is deemed advisable.

D. Every bystander at a fire shall be subject to the Fire Department Official in command during the progress of a fire.

SECTION 8.7

The Fire Chief or the official in command at a fire may direct any burning building or other building he or she deems hazardous and likely to take fire and endanger the safety of other buildings to be torn down, blown up or otherwise destroyed, and may after any fire direct that all buildings or walls of any buildings damaged by such fire, if he or she deems them hazardous or dangerous to persons or property, be torn down or otherwise destroyed. No action shall lie at or be maintainable against said Fire Chief or the official, but the owner or party interested shall have the remedy provided in the next section.

SECTION 8.8

A. Any person owning or having an interest in any building injured or destroyed by any act authorized by the last preceding section may, within three months thereafter present to the Council a claim therefor in detail, in manner and form as provided in this act. Unless so presented within said time such claim shall be barred. If so presented and not paid or compromised within the forty days thereafter, as herein provided, the claimant may, after said forty days and within one year after the building was injured, or destroyed, present a petition to the Supreme Court or the County Court of Niagara County (upon which all requisite jurisdiction in the premises is hereby conferred) for the appointment of three commissioners to appraise the damages. If such petition be not presented within said year all claim for damages shall be barred. The petition shall be verified and a copy of it, with notice of the time and place of its presentation, shall be served on the Corporation Counsel at least fourteen days before the day when it shall be presented. The court shall hear the proofs and allegations of the parties and shall, in a proper case, appoint three persons to ascertain the just compensation to be made to the claimant, and fix the time and place for their first meeting.

B. The commissioners so appointed shall be paid a reasonable compensation for their services, not exceeding to each five dollars per day. Before entering upon their duties they shall take and subscribe an oath that they will faithfully discharge their duties. Any of them may issue subpoenas and administer oaths to witnesses. A majority of them may adjourn the proceeding before them from time to time in their discretion. They may view the premises, hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing and after the testimony is closed, they shall, without unnecessary delay, ascertain and determine the amount which ought justly to be paid by the City to the claimant. In determining such amount the commissioners shall decide whether the building so injured or destroyed would have been injured or destroyed, they shall not award to the claimant an amount exceeding the amount of valid insurance which such claimant had then existing in the claimant's favor upon such building, and which the claimant would lose by such injury or destruction. They shall make and sign their report and deliver the same to the City Clerk.

C. The said City or any person owning or having an interest in any building so injured or destroyed may within thirty days after the filing of said report, appeal from the decision of the commissioner to the court whereby they were appointed by filing with the City Clerk and serving on each of said commissioners a notice of appeal, stating the grounds thereof; the appellant shall at the same time pay to each of the commissioners two dollars for making return of said appeal; the commissioners shall, upon such service and payment, and within ten days thereafter, make and file with the Clerk of Niagara County a full return of all their proceedings, and of all the evidence taken before them, together with a copy of their report; and the commissioners may be

compelled to make amended and further return in the same manner as in cases of returns by justices of the peace on appeal to county courts.

D. The hearing on appeal, if in the Supreme Court, may be brought on by either or any party thereto, at any Special Term thereof, for hearing contested motions held in the Counties of Niagara and Erie; if in any County Court, at any term thereof at which contested motions are heard upon like notice as other motions in said court. Upon the return of the commissioners, their report and the notice of appeal, the court may confirm the report or refer it back to the commissioners with instruction to correct the same according to the decision of the court in the premises.

E. In case no appeal is taken, the court may, upon application of the Council, or any person interested, without notice, confirm said report. The correction of said report in pursuance of the decision of the court, or the confirmation of the same, shall be final and conclusive. The final order, and all other papers, shall be made into a roll and filed with the County Clerk, and a certified copy of the final order shall be filed in the office of the City Clerk.

F. The Council, upon confirmation or correction of the report of the commissioners, upon agreement with the claimant, shall cause the amount awarded or agreed upon, with interest thereon from the date of the destruction or injury to the buildings, to be added to the next general tax levy in addition to any other sums hereby authorized to be raised thereon, and pay the same as in case of a judgment against the City.

SECTION 8.9

No certificate of discharge exempting a firefighter from jury or military duty shall hereafter be given until the said firefighter shall have made and filed with the Clerk an affidavit that for five preceding years the firefighter has actually habitually been present with his or her company at fires in the City when not detained therefrom by illness, or other unavoidable circumstances.

SECTION 8.10

The Council may by ordinance from time to time as the public interest in said City in its judgment may require, divide said City into fire districts and for the purpose of preserving the health of its inhabitants and of guarding against calamities by fire, shall have power by ordinance to prohibit or regulate the erection, placing, alteration or enlargement within said districts or any of them of buildings constructed chiefly of wood or other material and to regulate and prescribe the character and mode of construction, alteration, enlargement, or repairing thereof, and to prescribe the materials which shall be used therefor, and to require that all or any buildings within said districts or any of them shall be made or constructed of stone or brick or other non-combustible material with partition walls of the same

or other prescribed material, fireproof roofs, and brick, stone, or metallic cornices and eaves troughs, under such penalty as may be prescribed by such ordinances, not exceeding one hundred dollars for each offense and twenty-five dollars for each week any building so prohibited shall be continued. Every building hereafter erected, placed, altered or repaired contrary to the foregoing provisions or to any ordinances made in pursuance thereof is hereby declared to be a public nuisance and may be abated and removed as such by directions of the City Council of said City, but nothing herein contained shall be construed to prevent repairs not increasing the risk of fire of any building allowed by it to remain within said fire districts or any of them. Said Council may by ordinance require and regulate the erection of fire escapes upon buildings in said City and prescribe the material and mode of construction thereof.

SECTION 8.11

A. The Controller of the City of Niagara Falls shall collect and there shall be paid to him or her all tax imposed by section five hundred Fifty-three of the State Insurance Law, for the use and benefit of its Fire Department, upon premiums on policies of insurance against loss or damage by fire covering property situated within the fire protection district of the City of Niagara Falls within which confines the paid Fire Department is obligated to render fire protection services.

B. The Controller of the City of Niagara Falls shall also be entitled to receive a share of the tax imposed by section five hundred fifty-four of the State Insurance Law based upon the business written in the territory with respect to which the Controller is entitled to collect and receive the tax under section five hundred fifty-three of the said Insurance Law.

C. The Controller of the City of Niagara Falls, when and as directed by the City Council of the City of Niagara Falls, New York, the fund so accumulated by him or her in such amounts and to such firefighters or groups representing firefighters as the Council may direct and in such a manner as shall not be in conflict with the Insurance Law of the State of New York.

D. The provisions of this enactment are intended to supersede Chapter 435 of the Laws of 1916, entitled "An act to authorize the exempt firefighters's association of the City of Niagara Falls, New York, to collect the tax on foreign fire insurance companies or their agents, in the City of Niagara Falls, and providing for its disposition".

SECTION 8.12

Communications Division. There shall be appointed by the City Administrator a Chief Communications Officer of the Communications Division, who shall under the direction of the Superintendent of the Department of Police, have charge of all radio communications systems in the Police and Fire Departments. The Chief Communications Officer

shall report promptly the condition of the same to the Superintendent of Police, and shall discharge such other duties relating thereto as shall be required by the Superintendent of Police.

**ARTICLE IX
PUBLIC HEALTH**

SECTION 9.1

The City of Niagara Falls, New York does hereby consent to become a member of the Community Health Board now established or to be hereinafter established by the County of Niagara, State of New York, as provided for in Article 8-a of the New York State Mental Health Law.

SECTION 9.2

In the presence of great imminent peril to the public health of the City by reason of impending pestilence, it shall be the duty of the City Council to take such measures for the preservation of the public health as it deems necessary either upon its own volition or the recommendation of the City Administrator of said City.

SECTION 9.3

A. Every keeper of an inn, hotel, boarding or lodging house, who shall receive or have in his or her premises in said City at any time any sick person shall report the fact and the name of the person in writing to the Niagara County Department of Health within six hours after such person shall be so received or shall become ill, and every physician shall report to the said Niagara County Department of Health, the name, residence and disease of every patient whom he or she shall be called to attend and whom he or she shall find sick of any infectious or contagious disease within six hours after he or she shall have been called to visit such patient. Said report shall be in writing signed by the person required to make the report. A violation of the provisions of this section or any part thereof shall be a misdemeanor and punishable as such.

B. The person in charge of any public conveyance or vessel entering said City and containing any person known to such person in charge to be sick of any malignant fever or any infectious or contagious disease shall be guilty of a misdemeanor unless said sick person became sick while in such conveyance or vessel and could not be removed therefrom; in such expected case it shall be the duty of the person in charge of such conveyance or vessel forthwith upon his or her arrival in said City to report in writing to the Niagara County Department of Health the name of such sick person, the full facts in the case, such person's whereabouts and a description of the location of such conveyance or vessel, and he or she shall not permit such sick person to land, or to be put down, removed or to depart from such conveyance or vessel until said Niagara County Department of Health shall give permission therefor. Any violations of the provisions of this section shall be a misdemeanor.

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C. Any person who shall knowingly bring or procure or cause to be brought into the City, any property of any kind tainted or infected with any malignant fever, or contagious or infectious disease, shall be guilty of a misdemeanor.

D. Any person convicted of a misdemeanor under any of the provisions of the last four preceding sections, shall be punished by a fine not exceeding five hundred dollars in amount, or by imprisonment in the County Jail of Niagara County, for a term not exceeding one year or by both such fine and imprisonment.

**ARTICLE X
TAXATION AND ASSESSMENT**

SECTION 10.1

A. The City Assessor, except as otherwise herein provided, shall perform all duties and possess all the powers conferred by law upon assessors of the different towns of the state in and for said City, and shall be subject to all the obligations and perform all the duties specified in this act in reference to the assessment of property within said City for the purpose of levying the taxes imposed or which may be imposed by the Council of said City as well as by the Legislature of the County of Niagara, New York.

As directed by the City Council, the Assessor shall make all local assessments.

B. The Assessor shall make two assessment rolls for each ward of said City, one of which shall be known as the "general tax and assessment roll" and the other shall be known as the "school tax and assessment roll." He or she shall value all real estate in said City on one common and general principle of valuation which shall be applied alike to all real estate assessed within said City.

C. The Assessor shall make himself acquainted with the property assessed, and in all cases where unacquainted with it or where changes have occurred affecting its value, shall personally view it before setting down its valuation upon the assessment rolls. He or she shall assess each lot or parcel of land separately giving the name of the owner, if known or, if not known, the name of the occupant thereof, if occupied; the part of the lot assessed, the number thereof, the street, side of street, number of feet fronting on such street and such other brief description as will enable the land assessed to be definitely known and located. In cases where parcels of land otherwise separate are so built upon, occupied or used as to become premises not practically divisible, that fact shall be stated and a brief, proper description made according to the facts

SECTION 10.2

A. This section is adopted for the purpose of obtaining the benefits and options provided under Article 19, Section 1903 of the Real Property Tax Law of the State of New York for those properties designated as the Homestead Class.

Notwithstanding any other provision of this Chapter the provisions of Article 19, Section 1903 are hereby adopted within the City of Niagara Falls, New York and all properties shall be classified as Homestead and Non-Homestead and base proportions shall be established pursuant to that

law and such other rules and regulations of the State Board of Equalization and Assessment.

B. Notwithstanding any other provision of this Chapter the provisions of Article 19, Section 1903 shall be applicable to taxes levied on all assessment rolls filed hereafter and commencing with the 1983 School Tax Assessment Roll, and all rolls thereafter, until such time as the City Council of the City of Niagara Falls, New York, shall determine, by local law, that the provisions of Article 19 shall not be applied.

C. The City Council shall, by resolution, establish a Homestead Base proportion pursuant to Section 1903(2) of the Real Property Tax Law and the rules of the State Board of Equalization and Assessment.

D. Notwithstanding any other provision of this Chapter or any other law, real property described in subsection 1901(c) (1) (ii) of the Real Property Tax Law and being located in the City of Niagara Falls, New York, shall, on and after the effective date of Local Law #3, 1983, not be classified in the Homestead Class upon the assessment rolls of the City of Niagara Falls.

E. An error in the name of the owner or occupant of any parcel of land assessed shall not invalidate the assessments. If a parcel of land be unoccupied and the name of the owner be unknown, such parcel may be assessed under the designation of "unknown owner".

F. The City Assessor shall see that all assessment rolls are correctly copied and kept corrected and the taxes laid or extended thereon and that the City Assessor's office is kept open from nine o'clock in the forenoon until five o'clock in the afternoon of every day, Sundays and legal holidays excepted. The City Assessor shall, at all times, except as herein provided, have the custody and control of the assessment rolls of said City.

SECTION 10.3

A. The taxable status date for each year shall be the first day of March of that year. On or before the first day of May of that year, the City Assessor shall complete the assessment rolls and shall leave the same in the City Assessor's office for public examination. The City Assessor shall, thereupon, forthwith give notice by publication in the official newspaper of the City for six successive business days which notice shall state that the assessment rolls are completed and left in the office of the City Assessor where they may be seen and examined by any person until the first day of April following said notice; and, that the City Assessor shall attend during said time at least two days in each week, specifying the days, at the City Assessor's office for the purpose of reviewing City assessments in the same manner as assessments for towns.

B. Notwithstanding the foregoing in the year 1993 only, the tentative assessment roll shall be filed on or before March 19, 1993 and any complaint concerning assessments shall be filed with the Board of Assessment Review on or before April 20, 1993.

C. Notwithstanding the foregoing, in the year 1998 only, pursuant to the provisions of Chapter 6, of the Laws of the State of New York for 1998, the City Assessor is authorized to make changes to the tentative assessment roll on or before March 13, 1998 to reflect applications for the STAR exemption received on or before March 2, 1998 and any complaints concerning a denied application for the STAR exemption shall be filed with the Board of Assessment Review on or before April 13, 1998

D. Notwithstanding the foregoing, in the year 1999 only pursuant to the provisions of Chapter 627, of the Laws of the State of New York for 1998, the City Assessor is authorized to make changes to the tentative assessment roll on or before March 12, 1999 to reflect applications for the STAR exemption received on or before March 1, 1999 and any complaints concerning a denied application for the STAR exemption shall be filed with the Board of Assessment Review on or before April 12, 1999.

E. For the purpose of reviewing said assessment rolls and correcting said assessments, said Board of Equalization and Review shall have exclusive power to correct said rolls in respect to taxes imposed under the Charter of said City or the ordinances thereof, in the same manner as the Legislature of a county may correct the town rolls of the county, and shall possess all powers in relation to such assessment rolls that the Legislature have in the case of town assessment rolls and town and county taxes. At the expiration of the time stated in said notice in the preceding section it shall cease to correct and review said rolls and it shall, prior to July first have the general and assessment roll including the assessment of special franchises made by the State Board of Tax Commissioners, completed, subscribed and verified by its members and delivered to said City Clerk to be by him or her filed; and a duplicate of the general tax and assessment roll of each ward shall be made and delivered by said Board of Equalization and Review to the supervisor of the ward for which said assessment was made as shown by said roll, to be by him or her delivered to the Legislature of the County of Niagara. During the time the Board of Equalization and Review is so correcting and revising said assessment rolls it shall have the power to add or insert therein any property liable to taxation and the assessment thereof which may have been omitted therefrom, upon giving at least two days personal notice thereof to the owner or agent of such property. At any time when such Board of Equalization and Review is in session it may request the Council of the City of Niagara Falls, to appoint two qualified persons conversant with realty values to act in an advisory capacity to said board; said two advisors so appointed shall be without the right to vote; upon such request being made to the Council, the Council in its discretion may appoint two duly qualified persons and fix the per diem compensation for each full day of service rendered by each of them.

F. Said Board of Equalization and Review shall within five years from the adoption of Local Law #3 of 1988 cause an equalization of assessments to be made upon all taxable property in the City of Niagara Falls, and thereafter at least once in each ten years shall cause the equalization of assessment of taxes to be made upon all taxable property in said City of Niagara Falls.

G. Whenever said City Assessor shall assess any person not previously assessed for personal property or shall increase any person's assessment for personal property who has been previously assessed, he or she shall notify such person in writing, personally or by mail addressed to the person's address last known to said Assessor, postage prepaid, which notice shall give the amount of such assessment and shall be served on or before the day when the proposed assessment rolls are completed and notice thereof published according to law.

H. Whenever there is a manifest error in copying any assessment rolls or levying or extending any tax or assessment, the City Council may, at any time, within six months after the completion of the said assessment rolls and on ten days' written notice to the party interested correct, cancel, remit or add to the same but shall not alter any valuation made by the Assessor.

I. Said City Assessor shall keep in the City Assessor's office maps and surveys of all the taxable property in the City certified by the City Engineer of said City showing the location and boundaries of each piece of property taxed as nearly as practicable and the name of the owner, person or Corporation assessed. Said Assessor shall have power and it shall be his or her duty to make notations in pencil on said maps and surveys showing changes in ownership, and such notation shall be deemed to be a part of such maps and surveys. Reference shall be made to said maps and surveys in the annual assessment rolls, in all local assessment rolls and in certificates for unpaid taxes and notices and in all conveyances of property sold for unpaid taxes; and said maps and surveys shall be deemed a part of the description in said assessment rolls, certificates, notices and conveyances, reference to said maps and surveys in assessment rolls may be made generally in captions thereto.

SECTION 10.4

Every deed of conveyance of lands, including wills, exemplifications of record and land contracts, relating to lands in said City shall be presented to the City Assessor and stamped by him or her before it shall be recorded in the Clerk's Office of Niagara County, State of New York; the Clerk of said County shall not record said deed, will, exemplification of record or contract unless so stamped, under the penalties prescribed in this section. Nothing herein contained shall affect the record of an unstamped deed, will, exemplification of record or contract. Every map, plot or subdivision map or plot of lands within said City showing a subdivision of said land into blocks or lots, shall before being filed in the office of said clerk of Niagara County, or in

any City office be approved by Engineer and presented to the City Assessor and a copy thereof filed in said Assessor's Office; and a copy thereof shall also be furnished to and retained by said City Engineer and shall be accompanied by a deed from the owner of the streets appearing on said map or plot conveying the fee of the street appearing on said map, and which deed shall be approved by the Corporation Counsel of said City. Said deed thus approved when delivered to the City Assessor shall be by him or her delivered to said City Clerk for record in said County Clerk's Office. The City Assessor shall stamp said original map or plot. If any such map or plot, deed or conveyances of land, will or exemplification of record not so stamped be placed on file by any individual association or corporation such individual, firm, association or corporation shall forfeit to said City the sum of fifty dollars to be recovered by said City in any court of competent jurisdiction.

SECTION 10.5

The City Assessor shall have power, in case of his or her temporary absence or inability to attend to the duties of his or her office, to designate a clerk in the City Assessor's office to do the stamping and conveyancing and the stamping and filing of maps in said office as required by statute or ordinances, which clerk shall perform such duties as directed by said City Assessor.

SECTION 10.6

In case any taxable land has been or shall be omitted from any of the said tax rolls, for any of the three preceding years, the City Assessor may insert or cause to be inserted in the rolls of the current year the proportion of the taxes which it should have borne in such preceding year, or either thereof, stating such additional taxes separately and such addition shall be collected as part of the tax for the current year.

SECTION 10.7

Upon application of any person interested, made before sale as herein provided, the Council may apportion any unpaid tax or assessment and determine the amount thereof chargeable against any separate parcel of the land originally assessed therefor, on such equitable principles as to it may seem applicable in the premises and on payment to the City Treasurer of the sum so determined, together with A pro rata proportion of all interest, fees or expenses which may have accrued thereon, said tax or assessment shall be extinguished as to such separate parcel; and the remainder thereof shall continue a lien on the remainder of the lands originally assessed therefor. This section shall apply to local assessments, general City taxes and school taxes.

SECTION 10.8

The Council shall have power and it shall be its duty to raise by taxes in each year from the taxable inhabitants of said City and the

property therein liable for taxation such sums of money as may be appropriated in the tax budget as herein provided, for the purpose of paying the indebtedness and obligations, including fixed salaries of officers, of the City to grow due in the ensuing fiscal year and such sums as may be determined for the purpose of a sinking fund or sinking funds; for the purpose of public welfare and relief; for the purpose of the public library; for the purpose of paving and macadamizing street intersections, not exceeding, however, two tenths of one per centum of the assessed valuation of the real and personal property of the City as shown on the last tax roll; for the purpose of constructing sewers not exceeding two-tenths of one per centum of said assessed valuation, and for the other purposes of the City as provided in this act, not exceeding one per centum of said assessed valuation.

SECTION 10.9

A. Pursuant to Section 400 of the Real Property Tax Law of the State of New York, the City Council shall have the power to raise additional revenue by the imposition of service charges, special ad valorem levies and special assessments on certain real property for which exemptions have been allowed by the Real Property Tax Law of the State of New York, exclusive of property used exclusively for charitable, hospital, educational or cemetery purposes. Such service charges, special ad valorem levies and special assessments shall be imposed to defray the cost, including operation and maintenance, of special district improvements or services for the following purposes: police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply.

B. Service charges imposed by the City Council shall be determined by the formula provided for in Section 498 of the Real Property Tax Law of the State of New York.

SECTION 10.10

A. This Section shall take effect on the 1st day of April, 1972 and shall apply to all assessments made with reference to a taxable status date which falls on or after such effective date. The Council may, and where required by this act shall in any year raise by general tax such further sum or sums as shall be authorized by any provision of this act. The Council may annually make provisions for the payment of the principal of the bonded indebtedness of said City by adding to the general fund estimates a sum per annum which will be sufficient in the aggregate to pay the indebtedness for the payment of which said sinking fund is created, at maturity of such indebtedness, which shall be held by the City Treasurer of said City as a sinking fund to be used by him or her in the payment of the principal of the bonds and certificates now outstanding or the bonds which may hereafter be issued by said City, when and as the same may become due and for no other purpose.

B. The City Council of said City is hereby authorized to invest and reinvest any sinking fund created by it, as in its judgment may be

expedient, in the bonds or certificates of the City of Niagara Falls, New York or in any bonds, certificates or securities, approved by the unanimous consent of all the members of the City Council. The proceeds of such investments shall be placed to the credit of said sinking fund and shall be used for no other purpose than the payment of the indebtedness for the payment of which said sinking fund was created; provided, however, that should there remain a surplus in such sinking fund after the payment of the said indebtedness for which it was created, such surplus shall forthwith be transferred and paid into the general surplus fund of said City.

SECTION 10.11

A. The sum stated and assessed for general City purposes, including such sums as shall represent the appropriations for public welfare or relief or for the payment of obligations incurred therefor, shall be set opposite the description and valuation of such parcels respectively in a separate column of the general tax and assessment rolls, and any items of unpaid local taxes, or sidewalk repair bills, or other unpaid accounts or taxes, which by virtue of the provisions of this act are lawful charges and liens on and against any of said parcels of land proper to be placed on said tax rolls, shall be set opposite to said parcels or valuations in some other convenient column or columns, with a brief note designating each thereof and the aggregate amount of such general and other taxes, charges and liens shall then be set down in a separate column of said tax roll opposite said parcels of land, and the total amount of such general and other taxes, charges and liens, including the part thereof appropriated for public welfare and relief purposes shall be taken and regarded in all things as the general City tax thereon for that year.

B. The general assessment roll when corrected and completed by the Assessor shall be filed with the City Clerk on or before December 31, and by said Clerk be reported to the Council and upon being approved and confirmed by it shall be a lien on the real estate described therein, and the Assessor shall immediately make a true copy thereof certifying the same and forthwith deliver it to the City Controller with a warrant of the City Council executed by the City Clerk attached thereto, demanding the Controller to receive and collect from the persons, firms, corporations and associations named in said assessment roll the several sums stated opposite their respective names. The Controller shall, on the thirty-first day of December or as soon as possible thereafter, cause notice to be published for twenty consecutive days in a daily newspaper printed and published in said City and cause such further notices to be given as the City Council may direct that the same have been left with the Controller for collection; that during the month of January, after the first publication of said notice, every person, firm, corporation or association may pay all and shall pay one-half of the general City taxes and all of the unpaid taxes, paving taxes, sidewalk repair bills and other unpaid accounts or taxes without any additional charges; that during the month of February, a penalty of two percent shall be collected upon one-half of the general City taxes and upon all of the unpaid local

taxes, paving taxes, sidewalk repair bills and other unpaid accounts or taxes; that during the month of March, a penalty of five percent shall be collected upon one-half of the general City taxes and upon all of the unpaid local taxes, paving taxes, sidewalk repair bills and other unpaid accounts or taxes; that after March 31, the penalty shall remain at five percent of one-half of the general City taxes and upon all of the unpaid local taxes, paving taxes, sidewalk repair bills and other unpaid accounts or taxes, and, interest at the rate of twelve percent per annum on the amount of all such unpaid taxes, bills and accounts, plus all penalties, will be computed from April 1; that during the month of May next following, every person, firm, corporation or association shall pay the remaining one-half of such general City taxes without any additional charges; that during the month of June, a penalty of two percent shall be collected upon the remaining one-half of such general City taxes without any additional charges; that during the month of July, a penalty of five percent shall be collected upon the remaining one-half of such general City taxes without any additional charges; that after July 31, the penalty shall remain at five percent of the remaining one-half of such general City taxes, and, interest at the rate of twelve percent per annum on the amount of such unpaid taxes will be computed from August 1. In the event any general City taxes shall remain uncollected after the thirty-first day of August of the year following the notice for the collection of such taxes the Controller shall give notice to the person, firm, corporation or association against whom said taxes stand charged notices shall all bear even date and shall require said unpaid taxes to be paid to the Controller at his or her office within fifteen days thereafter with the fees and interest thereon; such notices shall be served in the same manner and form as notices in the matter of county and state taxes as herein specified, and the provisions with reference to the notice and persons serving the same as specified in reference to county and state taxes shall to all intents apply to the notices herein specified so far as the same may be applicable.

SECTION 10.12

A. Whenever the last day to pay any taxes without penalty as provided for in Section 10.11 above falls on Saturday, Sunday or a legal holiday, such taxes may be paid without penalty on the next succeeding business day.

B. The provisions of this section shall apply to the collection of all general City taxes and assessments levied for the year 1981 and thereafter, but any taxes in the hands of the City Controller for collection prior to the City taxes of 1981 and unpaid as of the adoption hereof, shall be collected by said City Controller in accordance with section 10.11 of this Charter. Commencing with the collection of the general City taxes as levied for the year 1981, all such taxes and assessments and other charges as delineated in Section 10.11 of this Charter remaining unpaid on the thirty-first day of August following the notice prescribed in Section 10.11 of the Charter for the collection of such taxes shall thereafter bear interest at the rate of twelve per centum per annum in addition to the fees set forth in said Section 10.11.

All other provisions of Section 10.11 hereof shall remain in full force and unaffected hereby. It shall be the duty of the City Council to review the rate of interest per annum inuring to unpaid taxes and assessments and other charges annually thereafter; such review to be accomplished no later than July thirty-first of each and every year, and the findings thereof to be filed with the City Clerk and City Controller by such date.

C. The provisions of this section as amended in 1986, shall apply to the collection of all general City taxes and assessments levied for the year 1987 and thereafter, but any taxes in the hands of the City Controller for collection prior to the City taxes of 1987 and unpaid as of the adoption hereof, shall be collected by said City Controller in accordance with section 10.11 of this Charter. Commencing with the collection of the general City taxes as levied for the year 1987, all such taxes and assessments and other charges as delineated in Section 10.11 of this Charter remaining unpaid on the thirty-first day of August following the notice prescribed in Section 10.11 of the Charter for the collection of such taxes shall thereafter bear interest at the rate of twelve per centum per annum in addition to the fees set forth in said Section 10.11 as amended in 1986. All other provisions of Section 10.11 hereof shall remain in full force and unaffected hereby. It shall be the duty of the City Council to review the rate of interest per annum inuring to unpaid taxes and assessments and other charges annually thereafter; such review to be accomplished no later than July thirty-first of each and every year, and the findings thereof to be filed with the City Clerk and City Controller by such date.

D. The provisions of this section as amended in 1993, shall apply to the collection of all general City taxes and assessments levied for the year 1994 and thereafter, but any taxes in the hands of the City Controller for collection prior to the City taxes of 1994 and unpaid as of the adoption hereof, shall be collected by said City Controller in accordance with Section 10.11 of this Charter. Commencing with the collection of the general City taxes as levied for the year 1994, all such taxes and assessments and other charges as delineated in Section 10.11 of this Charter remaining unpaid after the applicable penalty dates set forth therein following the notice prescribed in Section 10.11 of the Charter for the collection of such taxes shall thereafter bear interest at the rate of nine per centum per annum in addition to the fees set forth in said Section 10.11 as amended in 1993. All other provisions of Section 10.11 hereof shall remain in full force and unaffected hereby. It shall be the duty of the City Council to review the rate of interest per annum inuring to unpaid taxes and assessments and other charges annually thereafter; such review to be accomplished no later than July thirty-first of each and every year, and the findings thereof to be filed with the City Clerk and City Controller by such date.

E. The provisions of this section as amended in 1996, shall apply to the collection of all general City taxes and assessments levied for the year 1997 and thereafter, but any taxes in the hands of the City Controller for collection prior to the City taxes of 1997 and unpaid ns

of the adoption hereof, shall be collected by said City Controller in accordance with Section 10.11 of this Charter.

Commencing with the collection of the general City taxes as levied for the year 1997, all such taxes and assessments and other charges as delineated in Section 10.11 of this Charter remaining unpaid after the applicable penalty dates set forth therein following the notice prescribed in Section 10.11 of the Charter for the collection of such taxes shall thereafter bear interest at the rate of twelve percentum per annum in addition to the fees set forth in said Section 10.11. It shall be the duty of the City Council to review the rate of interest per annum inuring to unpaid taxes and assessments and other charges annually thereafter; such review to be accomplished no later than July thirty-first of each and every year, and the findings thereof to be filed with the City Clerk and City Controller by such date.

F. Notwithstanding the provisions of Section 10.11, the City Council may by resolution authorize the City Controller to accept from any taxpayer at any time partial payments for or on account of taxes, special ad valorem levies, or special assessments in such amount and apply such payments on account thereof in such manner as may be prescribed by such resolution; provided, however, that such resolution shall be adopted prior to the preparation and delivery of the tax roll to the Controller. After any partial payment authorized pursuant to this section has been paid, interest and penalties shall be charged against the unpaid balance only. The acceptance of a partial payment by the City Controller pursuant to this section shall not be deemed to affect any liens and powers of the City, but such rights and powers shall remain in full force and effect to enforce collection of the unpaid balance of such tax or tax liens together with interest, penalties and other lawful charges

SECTION 10.13

Pursuant to Section 467 and 467-d of the Real Property Tax Law of the State of New York, real property owned by one or more persons each of whom is sixty-five years of age or over, or real property owned by husband and wife, one of whom is sixty-five years of age or over, shall be exempt from taxation by the City of Niagara Falls, New York to an extent of up to fifty per centum of the assessed valuation thereof, and shall be applicable to Assessment rolls with a taxable status date on or after January 1, 2017 subject to the following conditions:

- a. The exemption shall be based upon the income as described in Section 467 of the Real Property Tax Law of the owner or the combined income of the owners of the property and shall be as follows:

| <u>ANNUAL INCOME</u> | <u>% OF ASSESSED VALUATION EXEMPT FROM TAXATION</u> |
|----------------------|---|
| Less than \$21,000 | 50% |

| | |
|------------------------------|-----|
| From \$21,000 to 21,999.99 | 45% |
| From \$22,000 to \$22,999.99 | 40% |
| From \$23,000 to \$23,999.99 | 35% |
| From \$24,000 to \$24,899.99 | 30% |
| From \$24,900 to \$25,799.99 | 25% |
| From \$25,800 to \$26,699.99 | 20% |
| From \$26,700 to \$27,599.99 | 15% |
| From \$27,600 to \$28,499.99 | 10% |

Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, rental income, salary or earnings, and income from self-employment, but shall not include gifts or inheritances.

(1) No exemption shall be granted unless the title of the property shall have been vested in the owner or all of the owners of the property for at least twenty-four consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue or devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months and provided further that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section; (2) unless the property is used exclusively for residential purposes, and (3) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

The real property tax exemption on real property owned by husband and wife, one of whom is sixty-five years of age or over, once granted, shall not be rescinded by any municipal corporation solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

B. Application for such exemption must be made by the owner, or all of the owners of the property, on forms to be furnished by the City Assessor's Office, and shall furnish the information and be executed in the manner required or prescribed in such forms.

C. Application for such exemption shall be filed in the City Assessor's Office at least ninety (90) days before the day for filing the assessment roll.

D. The City Assessor may require any applicant to furnish such other and further information as may be reasonably necessary for him or her to establish the qualifications for exemption of said applicant. The City Assessor may establish such rules and procedures and take such other steps as may be necessary to implement the provisions of this section 10.13.

E. The applicant or applicants must verify as to the truth of the statements contained in such application. Any conviction of having made any willful false statement in the application for such exemption, shall be punishable by a fine of not more than one hundred dollars and shall disqualify the applicant or applicants from further exemption for a period of five years.

SECTION 10.14 PARTIAL EXEMPTION FOR CERTAIN CAPITAL IMPROVEMENTS TO ONE AND TWO FAMILY RESIDENTIAL BUILDINGS

(1) Real property reconstructed, altered or improved subsequent to the effective date of this section 10.14 for residential purpose shall be exempt from taxation and special ad valorem levies by the City, School District of Niagara Falls and County of Niagara, as provided by Real Property Tax Law Section 421-f and to the extent hereinafter provided.

(2)(a) Such real property shall be exempt for a period of one year to the extent of one hundred percentum of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement and for an additional period of seven years provided, however, that the extent of such exemption shall be decreased by twelve and one-half percentum for each year during such additional period of seven years and such exemption shall be computed with respect to the increase in assessed value as determined in the initial year of such eight year period following the filing of an original application; provided further, that such exemption shall be limited to twenty-five thousand dollars in increased market value of the property attributable to such reconstruction, alteration or improvement and any increase in market value greater than such amount shall not be eligible for the exemption granted herein. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the most recently established state equalization rate, except where the state equalization rate equals or exceeds ninety-five percent, in which case the increase in assessed value

attributable to such reconstruction, alteration or improvement shall equal the market value of such reconstruction, alteration or improvement.

(b) No such exemption shall be granted unless:

(1) such reconstruction, alteration or improvement was commenced subsequent to the effective date of this section 10.14; and

(2) the value of such reconstruction, alteration or improvement exceeds three thousand dollars; and

(3) the greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old; and

(4) such reconstruction, alteration or improvement requires the issuance of a building permit and is completed as may be evidenced by a certificate of occupancy or other appropriate documentation provided by the owner.

(c) For purposes of this section, the terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.

(3) Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the State Board of Equalization and Assessment, the original of which shall be filed with the City Assessor. Such original application shall be filed on or before the taxable status date and within one year from the date of completion of such reconstruction, alteration or improvement. A copy of said application shall also be filed with the State Board of Equalization and Assessment.

(4) If the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the first assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

(5) The provisions of this section shall only apply to one and two family dwellings used exclusively for residential purposes.

(6) In the event that real property granted an exemption pursuant to this section is sold or transferred other than to the heirs or distributees of the owner, the exemption granted hereunder shall cease.

(7) Except as provided by R.P.T.L. Section 421-f, if the School District of Niagara Falls and/or the County of Niagara shall adopt a

resolution denying the exemption granted by this section 10.14, such real property shall not be exempt pursuant to this section 10.14 from taxes levied by the School District or the County adopting such resolution.

SECTION 10.14

A. New construction of a multiple dwelling building, reconstruction, alteration, or improvement of a pre-existing multiple dwelling building or structure which is to be occupied or is occupied as a residence or home and consists of no less than four units, whether such dwelling is rented or owned as a cooperative or condominium, and is located in the City of Niagara Falls, where such construction or renovation is initiated subsequent to March 1, 2007 shall be exempt from City, school and County taxation and special ad valorem levies to the extent provided in this section.

Such building within the City of Niagara Falls shall be exempt for a period of one year to the extent of one hundred percent of the increase in assessed value attributable to such new construction, reconstruction, alteration or improvement and for an additional period of seven years as follows:

| Year | Exemption: Percentage of Increase in Assessed Value |
|------|---|
| 2 | 87.5 |
| 3 | 75 |
| 4 | 62.5 |
| 5 | 50 |
| 6 | 37.5 |
| 7 | 25 |
| 8 | 12.5 |

B. No such exemption shall be granted for construction, reconstruction, alteration or improvements unless:

(1) Such reconstruction, alteration or improvement was commenced subsequent to March 1, 2007; and

(2) The value of such new construction, reconstruction, alteration or improvement exceeds Fifteen Thousand Dollars per unit; and

(3) Such exemption shall be granted only upon application by the owner of such building on a form prescribe by the State Board. The application shall be filed with the Assessor of the City of Niagara Falls on or before the appropriate taxable status date.

C. If satisfied that the applicant is entitled to an exemption pursuant to this section, the Assessor shall approve the application and such building shall thereafter be exempt from City, School and County taxation and special ad valorem levies as provided in this section

commencing with assessment roll prepared on the basis of the taxable status date referred to Subdivision 3 of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

D. In the event that a building granted an exemption pursuant to this section ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

SECTION 10.15

Residential real property constructed on or after the first day of January, 2007 in the City of Niagara Falls may be exempt from City, School and County taxation and special ad valorem levies as provided in this section.

Such real property shall be exempt for a period of one year to the extent of fifty per centum of the increase in assessed value thereof attributable to such construction and for an additional period of nine years and such exemption shall be computed with respect to the "exemption base." The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period following the filing of an original application, except as provided in the following subparagraph.

In any year in which a change in level of assessment of fifteen percent or more is for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the Assessor receives the certification of the change in level of assessment after the completion verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title Three of Article Five of the New York Real Property Tax Law for the correction of clerical errors.

The following table shall illustrate the computation of the Tax Exemption:

| Year of Exemption | Percentage of Exemption |
|-------------------|-------------------------|
| 1 | 50 |
| 2 | 45 |
| 3 | 40 |
| 4 | 35 |
| 5 | 30 |
| 6 | 25 |
| 7 | 20 |
| 8 | 15 |
| 9 | 10 |
| 10 | 5 |

SECTION 10.16 RESIDENTIAL/COMMERCIAL URBAN EXEMPTION PROGRAM

1. Definitions. As used in this section, the following terms shall have the following meanings:

- A. "Municipality" means the City of Niagara Falls.
- B. "Applicant" means any person obligated to pay real property taxes on the property for which an exemption from real property taxes under this section is sought.
- C. "Commercial construction work" means the modernization, rehabilitation, expansion or other improvement of the portion of mixed-use property to be used for commercial purposes.
- D. "Commercial purpose or use" means the buying, selling or otherwise providing of goods or services, including hotel services, or other lawful business or commercial activities permitted in mixed-use property.
- E. "Mixed-use property" means property on which will exist, after completion of residential construction work or a combination of residential construction work and commercial construction work, a building or structure used for both residential and commercial purposes.
- F. "Person" means an individual, corporation, Limited Liability Company, partnership, association, agency, trust, estate, foreign or domestic government or subdivision thereof, or other entity.
- G. "Residential construction work" means the creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than dwelling units in a hotel, in the portion of mixed-use property to be used for residential purposes.

H. The City of Niagara Falls adopts the Residential/commercial urban exemption program authorized by Section 485-a of the New York Real Property Tax Law. The county in which such municipality is located may, by local law, and any school district, all or part of which is located in such municipality, may, by resolution, exempt such property from its taxation in the same manner and to the same extent as such municipality has done.

2. Non-residential real property, upon conversion to mixed-use property, shall be exempt from taxation and special ad valorem levies as provided for in subdivision three of this section.

3. For a period of twelve years from the approval of an application, the increase in assessed value of such property attributable to such conversion shall be exempt as provided in subparagraph (ii) of this paragraph. Such exemption shall be computed with respect to the "exemption base". The exemption base shall be determined for each year in which there is an increase in assessed value so attributable from that of the previous year's assessed value exemption:

(ii) The following table shall illustrate the computation of the tax Year of exemption:

| Year of Exemption | Percentage of Exemption |
|-------------------|-------------------------|
| 1 through 8 | 100% of exemption base |
| 9 | 80% exemption base |
| 10 | 60% of exemption base |
| 11 | 40% of exemption base |
| 12 | 20% of exemption base |

4. No such exemption shall be granted unless:

(I) Such conversion was conversation subsequent to the date on which the municipality's local law took effect; and

(II) The cost of such conversion exceeds the sum of ten thousand dollars or such greater amount as may be specified by law local.

5. For purposes of this section the term conversion shall not include ordinary maintenance and repairs.

6. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number

of years equal to the twelve year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

7. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the state board. Such application shall be filed with the assessor of the municipality or county having the power to assess property for taxation on or before the appropriate taxable status date of such municipality or county.

8. If the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as in this section provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision five of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

SECTION 10.17

Pursuant to Section 459-c of the Real Property Tax Law of the State of New York, real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has such disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by the City of Niagara Falls, New York to an extent of up to 50 per centum of the assessed valuation thereof, subject to the following conditions:

1. The exemption shall be based upon the income as described in Section 459-c of the Real Property Tax Law of the owner or the combined income of the owners of the property and shall be as follows:

| <u>Annual Income</u> | <u>% of Assessed Valuation Exempt from Taxation</u> |
|--|---|
| <u>\$17,500 or less</u> | 50% |
| More than <u>\$17,500</u> but less than <u>\$18,500</u> | 45% |
| More than <u>\$18,500</u> but less than <u>\$19,500</u> | 40% |
| More than <u>\$19,500</u> but less than <u>\$20,500</u> | 35% |

| | |
|--|-----|
| More than <u>\$20,500</u> but less than <u>\$21,400</u> | 30% |
| More than <u>\$21,400</u> but less than <u>\$22,300</u> | 25% |
| More than <u>\$22,300</u> but less than <u>\$23,200</u> | 20% |
| More than <u>\$23,200</u> but less than <u>\$24,100</u> | 15% |
| More than <u>\$24,100</u> but less than <u>\$25,000</u> | 10% |
| More than <u>\$25,000</u> but less than <u>\$25,900</u> | 5% |

SECTION 10.18

Immediately after the expiration of the fifteen-day period mentioned in the fifteen day notices provided to be given in section 10.11 of the City Charter, the City Treasurer shall certify to the City Assessor a list of unpaid taxes, giving the names of the delinquent taxpayers and a description of each parcel assessed to them on which the taxes remain unpaid, the amount of the unpaid tax against. Each parcel, and stating particularly the reason, if any, why said tax was not paid. It shall be the duty of the City Assessor, with the advice and assistance of the Corporation Counsel, to forthwith thoroughly review and consider the unpaid taxes, and in case they shall ascertain and determine by an instrument in writing, to be signed by them and filed with the City Clerk, that any of said unpaid taxes were with the City Clerk, that any of said unpaid taxes were illegally assessed for any reason whatever, it shall be their duty to specify the proper person and the real and personal property which was meant and intended to be assessed and taxed therefor respectively, and the same, with interest thereon at the rate of six per centum per annum from the time the same could have been paid without fees if correctly assessed, shall be placed upon the said rolls of said City for the next following year against the proper person and property, and shall thereupon be in all things taken and regarded as a tax for such following year in addition to any other taxes for said year upon or against the same person or estate, and be collected and proceeded with in all respects in the same manner as the other taxes upon said rolls for said year

SECTION 10.19

All taxes and assessments hereafter levied in said City shall be a lien upon the lands on which they are assessed, for ten years from the first publication of the notice of such tax or assessment by the Treasurer, and said taxes shall have priority in the order of time in which they become liens. All taxes and assessments which are Liens at the time this act takes effect shall continue to be liens as provided in this section and the collection thereof may be enforced as herein provided. The collection of every assessment and of every tax upon real estate, with the interest and additions, may be enforced by a sale of the real estate by the City Treasurer as herein provided. If the proceedings to enforce said liens shall have been stayed by a court or judge, the period of such stay shall not be taken as a part of said ten years. Such liens shall be superior to any mortgage, judgment or other lien of any nature affecting said premises, except state and county taxes and liens in favor of the United States.

SECTION 10.20

A. Where any improvements of paving and macadamizing are made on streets, avenues, highways or alleys, not theretofore paved, the total cost of such improvements, including the cost of gutters, curbs, catch basins and sewer and water connections shall be determined by the City Engineer: and confirmed by the City Council after the completion of said improvements. The City shall be considered a property owner as to any property belonging to the corporation of Niagara Falls, New York, abutting upon such street, avenue, highway or alley, so improved. Upon confirmation of the cost of the improvements as herein provided, said City Council shall deliver to the City Assessor a true statement of the cost and expenses thereof, except in the case where such improvement consists solely in the rounding of street corners as provided in sections the Charter of said City. It shall be the duty of the City Assessor to assess upon the property adjoining said street, avenue, highway or alley in length paved or macadamized or otherwise improved, which property so assessed shall include any city, school, county, state property, or that of any corporation, fronting on said street, avenue, highway or alley, the cost and expense of such improvement pro rata in proportion to the number of feet which each owner of said property has frontage on the portion of the street avenue, highway so paved, macadamized or otherwise improved, except that the cost in relation to the side of any corner lot in a residential district or which is used exclusively for residential purposes, shall be determined as provided herein, and except that the cost in relation to the rear of any lot whose frontage is located on another street or a lot on a street that parallels a river, creek or stream where there is not enough land on the river, creek or stream side of the street that may be filled in and used for residential purposes, and located in a residential district or used exclusively for residential purposes, shall be determined as provided herein, and further except that the cost of all street intersections, including the rounding of corners of streets, avenues and alleys as aforesaid, and any reduction in the charge to the owner of a corner lot in accordance with the

provisions of section two hundred four-a, shall be by the City at large out of the street improvement fund save so much of street intersections as are required to be paid by any street railroad corporation as provided by statute or the ordinances of the City. Whenever any parcel of land assessed for said improvement and on which the same shall have become a lien shall have been sold for the tax thus assessed for said improvement, and said parcel of land sold shall thereafter be used in whole or in part in conjunction with an adjoining parcel of land either for ingress or egress or other purpose, it shall be the duty of any City official having knowledge thereof to forthwith notify the City Assessor who shall forthwith notify the City Council thereof. Said City Council shall at its next meeting give notice of not less than six or more than twenty days, to all parties interested, of a hearing in the premises and the intention of said City Council to assess the cost of said improvement on said parcel of land adjoining said parcel sold as aforesaid. Said notice shall be published in the official City paper at least once and shall be given by mail addressed to the persons notified to the last post office address of such persons known to the City Clerk, at least six days before such hearing. If upon the hearing it shall appear that said sold parcel of land has been used in conjunction with an adjoining parcel of land as aforesaid, and that said use is beneficial to said adjoining parcel of land, the City Council must forthwith direct the City Assessor to forthwith assess all unpaid taxes and assessments for said improvement against said parcel of land adjoining said parcel of land previously sold, and said newly assessed parcel of land shall thereupon become subject to the lien of said assessment and tax as though originally assessed therefor and said tax or assessment shall be payable in installments as though an original assessment. Whenever the owner or owners of one-half in feet frontage, assessed as aforesaid, upon any street, avenue, highway or alley, not theretofore paved or macadamized shall send a petition in writing to the City Administrator asking for the paving or macadamizing of such street, avenue, highway or alley said City Administrator, under the direction of the City Council, may proceed with such paving or macadamizing at the expense of all said property owners thereon to be assessed as provided in this act, and all proceedings therefor shall be as herein provided.

B. Whenever any street, avenue, highway or alley shall be paved or macadamized, the City Assessor, after determining the cost of said paving or macadamizing in proportion to the number of feet to be charged for said cost upon said street in accordance with the provisions of this article, shall make a separate computation of the charge against the sideage of a corner lot by deducting fifty (50%) per cent from the full rate of assessment on the total sideage to a maximum of not over one hundred thirty-five (135') feet. Any additional sideage in excess of one hundred thirty-five (135') feet shall be assessed at the full rate. For the purpose of this section, a corner lot is a lot located at the junction of and abutting on two or more intersecting streets and the sideage of such corner lot is the horizontal distance between the front and rear lot lines measured along the abutting' street line. This separate computation in relation to the sideage or corner lots shall apply only to vacant lots located in a district zoned for residential use or to

improved lots only if they are used exclusively for residential purposes. The provisions of this section shall not apply to any corner lot which is used to any extent for commercial or industrial purposes.

C. The City Assessor is hereby authorized to determine whether any unusually shaped lot or lot located on a street curve is a corner lot within the meaning of this section and in the event he or she determines that a lot located on a street curve shall be considered as a corner lot, the frontage and sideage of such lot as determined by him or her shall be measured along said curve. As a general rule the sideage of a corner lot located on a curve shall be determined by extending the tangents of the curve as formed by the street lines and bisecting the angle formed by said tangents at their intersection and measuring the sideage from the point where the line bisecting the angle intersects the curve of the lot line.

Any portion of the determined per foot frontage cost of the paving or macadamizing of any street, avenue, highway or alley which is reduced by the City Assessor in accordance with the provisions hereof shall be payable by the City at large out of the street improvement fund.

D. Whenever any street, avenue or highway shall be paved or macadamized, the City Assessor, after determining the cost of said paving or macadamizing in proportion to the number of feet to be charged for said cost upon said street in accordance with the provisions of this article, shall assess all abutting property of lots located on two or more streets for the full cost of the street or avenue that is first paved. Whenever the other streets or avenues are paved the City Assessor shall make a separate computation of the charge against a lot located on two or more streets by deducting fifty percent (50%) from the full rate of assessment for the paving of the other streets or avenues subsequently paved. In the case of a corner lot at the junction of two parallel streets and a cross street the frontage shall be determined by the dwelling located on the lot or by the filing of a re-subdivision map before any improvements to the street or streets-are made. After determining the frontage of the corner lot, the other sides would benefit by computation under this section or section 10.20 B as may apply. Where one street has been paved and the full cost of paving has been assessed, the cost of paving the other street shall benefit under this section regardless of the front or rear of the lot. Whenever one of the streets has been paved, any re-subdivision of property, either by map, will or conveyance, the property so subdivided shall not be entitled to any benefits of this section or 10.20 B, but shall be assessed for the full cost of the frontage under section two hundred four. Whenever any lot fronting on a street whose rear lot line adjoins a river, creek or stream is of insufficient depth or cannot be filled in to a sufficient depth to construct a dwelling thereon, there shall be no assessment for any part of the cost of paving immediately adjoining said lot. This separate computation in relation to lots located on two or more streets or lots fronting on a street that parallels a river, creek or stream shall apply only to vacant lots located in a district zoned for residential use or to improved lots only if they are used exclusively for residential

purposes. The provisions of this section shall not apply to any lot which is used to any extent for commercial or industrial purposes.

The City Assessor is hereby authorized to determine which of the streets have the frontage thereon and also to determine whether lots fronting on a street whose rear lot lines adjoins a river, creek or stream have sufficient size to be used for residential purposes. Any portion of the determined per foot cost of paving or macadamizing of any street, avenue or highway which is reduced by the City Assessor, in accordance with the provisions hereof, shall be payable by the City at large out of the street improvement fund.

E. Whenever any street, avenue or highway shall be paved or macadamized in a district zoned residential to a greater thickness than is required by City specifications for residential streets for the purpose of providing for heavy traffic, the City Engineer shall compute and determine the additional cost by reason of the use of specifications beyond those required for paving in a residential district and the excess cost for such heavy traffic pavement shall be charged to and payable by the City at large out of the street improvement fund or any other available fund. The balance of the cost, representing pavement which would ordinarily be constructed in residential areas shall be charged against the property benefited in accordance with the provisions of this article. The provisions of this section shall apply only to lots in a district zoned residential, and used exclusively for residential purposes and shall not apply to any property, although located in a residential area, which is used to any extent for commercial or industrial or other purposes.

F. Whenever any street railroad track runs upon or along any street ordered to be paved or repaved or macadamized, the company owning such railroad tracks shall pay for the improvement of that part of said street which lies under and between said railroad tracks and two feet outside of the outer rails thereof; and the same shall be made with such material and in such form and manner as the City Council shall elect and determine and at the same time that the other part of said street is improved. Within two days after receipt of such railroad company of written notice of the acceptance of any bid for paving, repaving, macadamizing or remacadamizing such street, it shall elect by writing filed with the City Clerk whether it will construct such improvements by it to be made under direction of the City Engineer or whether said City shall cause such improvements to be made for it upon the basis of said accepted bid. In case it shall so elect or in case it shall fail to elect within the prescribed time, said City Council may cause such improvements to be made and the expense thereof shall be assessed against that part of the tracks of said railroad company so improved. The determination of the cost and expense of the improvements of that part of said street occupied by said railroad tracks and two feet either side thereof shall be determined by said City Engineer and confirmed by said Council and the amount thereof shall be assessed upon such part of the said street railroad tracks and property in the same manner and subject to the same opportunity for hearing and reviewing as the assessment upon other

property for such improvement and in the same roll therewith; that part of said street not encumbered by said railroad tracks shall be paved or macadamized when ordered by the City Council after taking the same preliminary steps herein provided for in other cases, and all the rules prescribed for streets having no railroad thereon shall apply to such street excepting that the City and adjoining owners shall not be charged with the cost and expense of that part of said street lying under and between said railroad tracks and two feet each side thereof. The provisions of this section in reference to the material and to the assessment against the track and property of the street railroad company shall apply to any paving, repaving, macadamizing or remacadamizing, contracts for which have already been awarded in said City, and an assessment therefor against the property and tracks of such street railroad company may be made as herein provided.

G. The Council shall have power to extend the time for the payment of the assessment made on account of such improvements and to make the same payable in twenty equal annual installments. The first installment shall be payable immediately after the delivery of the first warrant for the collection thereof to the treasurer, the remaining installments shall be payable each successive year thereafter on warrants issued for the collection thereof, with interest on the whole amount of such assessment unpaid at the rate of three and one-half percentum per annum from the twentieth day after the first warrant is delivered to the City Treasurer, payable with each of said installments. The first warrant shall command the collection of the first installment only and each successive warrant shall command the treasurer to collect the installment then due, together with interest as above provided, all of which shall be with the privilege on the part of the person assessed to pay the entire assessment on the first warrant, or to pay all unpaid assessments, together with interest thereon, to the date of payment on any warrant thereafter issued. The payment of interest on assessments heretofore made shall be collected in the same manner as is provided by this section.

For purposes of the duration of tax and assessment liens under Sections 10.19 and 10.22 of this Charter, each annual installment of such assessment made under this Section shall be deemed to be a separate assessment and levy for each year in which said installment is payable.

SECTION 10.21

A. Whenever pursuant to Chapter 911, or any other provision of the Codified Ordinances of the City of Niagara Falls, charges are fixed, assessed or incurred for collection of garbage, rubbish and/or refuse of any type and said charges have not been paid, the City of Niagara Falls, New York, acting through its Controller or other appropriate City officer may proceed as follows:

A. Mail to the property owner as shown on the Assessor's records at the address shown on said records, a written notice of unpaid refuse collection charges outstanding for refuse collection from the owners assessment parcel. The Notice shall advise said owner of all said

collection charges unpaid for at least sixty (60) days from the time they accrued, and further advising said owner that, unless said unpaid charges are paid or otherwise discharged within forty-five (45) days of the notice, said charges, together with a transfer and collection charge equal to the greater of \$25.00 or ten percent (10%) of the unpaid charges, would be placed and assessed upon the next succeeding tax and assessment roll of the City of Niagara Falls and collected in the same manner and on the same terms as taxes assessed on said roll.

B. If the charges referred to in the aforesaid notice are not duly paid or otherwise discharged within forty-five (45) days after mailing of the notice, the unpaid charges referred to in the notice, together with a transfer and collection charge equal to the greater of \$25.00 or ten percent (10%) of the unpaid charges, shall be transferred to and assessed upon the next succeeding tax and assessment roll against the property of the owner or owners aforesaid. The charges so assessed shall be subject to such further penalties, interest or other charges and shall be collected and enforced in the same manner and upon the same terms and conditions as taxes assessed on the same roll.

SECTION 10.22

Every tax and assessment imposed under any of the provisions of this act shall be a lien upon all real estate against which the same shall be assessed from the time of the assessment and levy thereof by the Council and for ten years thereafter unless sooner paid, with interest and additions.

SECTION 10.23

The Council, upon the confirmation of any report of commissioners in condemnation proceedings, shall direct the just compensation of the owner or owners, or any person or corporation interested in the property as ascertained by the report, together with the costs and expenses of the assessment, to be assessed upon the land benefited by the taking of the property and the assessment shall be made and collected as in other cases.

SECTION 10.24

Whenever, under the provisions of this act, the expense or any portion of the expense of any improvement, including paving or opening of any street, avenue, highway or alley, is required to be assessed upon the property specifically benefited or upon property abutting on any street, avenue, highway or alley, which property shall include that of said City, a county, a state or any corporation so abutting, the assessment shall be made by the City Assessor of said City, or if the City Assessor shall be interested in said improvement, the said assessment shall be made by the City Council for that purpose; and upon the completion of said assessment said City Assessor shall cause to be published daily for three successive days in the official paper of said City a notice subscribed by him or her as said Assessor, stating in

substance that said assessment, naming it, has been completed and that the roll thereof will remain in the City Assessor's hands at his or her office for inspection by all persons interested therein for five business days next following the day of the first publication thereof. Upon the day of the first publication of said notice said City Assessor shall deposit in the post-office in said City, postage prepaid, a printed copy of said notice directed to each of the persons whose names shall be entered upon such roll and residing in said City and in case of any registered owner or agent of any unoccupied lot, as herein provided a copy of said notice shall, in like manner, be mailed to such registered owner or agent. At the expiration of said five days said City Assessor shall report such assessment to the City Council and before any further action is had on said improvement, except as herein otherwise provided, the assessment shall be approved by the City Council, or, if disapproved, a like assessment shall be ordered and like proceedings had thereon as in the first assessment. When any such assessment shall be reported by the City Assessor to the City Council, the City Clerk shall enter that fact in the minutes of its proceedings, specifying the assessment, and stating in substance that at a designated meeting of said Council, to be held not less than three days after the publication of said notice, the City Council will consider and act upon such assessment and that any and all persons interested herein will be heard by the City Council as to its approval of the same; and the publication of such entry in the official paper of said City in and as part of the proceedings of said Council shall be sufficient notice of the facts therein stated to all parties therein assessed or interested. At least one week shall intervene between the time of reporting any such assessment to the City Council and any action thereon. Any person interested may file with the City Clerk, before the City Council shall consider and act upon such assessment, written allegations in favor of the approval or disapproval thereof, at the meeting wherein the said Council shall consider and act upon the same. Said Council may postpone action thereon but not more than once and for a period not exceeding one week, and in such case, a like notice and hearing or opportunity to be heard shall be given to all interested persons. The expense of postage and publication of notices, so far as the same can be estimated and ascertained, shall be included in the expense of making the improvement and in the assessment therefor, and the City Assessor shall include the same in said assessment. Whenever any assessment for any local improvement, authorized by the City Council, is declared by any court of competent jurisdiction to be invalid or uncollectible, in whole or part, because of irregularity in procedure as to said assessment, the City Assessor shall forthwith correct and reassess said assessment against the property assessable therefor, and the procedure in such reassessment, and the collection of the same, shall be the same as required to properly ordinarily assess and collect the same. In case any such assessment, in whole or part, is declared by such court, to be invalid or uncollectible, on the ground that the property assessed is not legally assessable, such part or all of any warrants issued for such local improvement as may be uncollectible and unpaid because of said judgment of said court, shall be paid out of the street improvement fund or the general fund of said City.

SECTION 10.25

Immediately after the confirmation of the assessment by the Council, the City Clerk shall attach a warrant thereto for and in behalf of the Council and deliver the same to the City Treasurer, who shall immediately give notice by advertisement for five business days in the official paper of the receipt of the roll of such local assessment, and requiring the person addressed therein to pay the sums due thereon from them respectively to the City Treasurer at his or her office within twenty days from the day of the first publication of such notice, and that the City Treasurer will receive said amounts as follows, namely; for the twenty days after the first publication of said notice, without fees; for the next twenty days thereafter, two per centum will be added and collected and that all such taxes remaining unpaid after forty days will bear interest at the rate of twelve per centum per annum from the date of the confirmation of such assessment until the same are paid or reassessed as herein provided, and also immediately and on the day of the first publication of such notice as aforesaid, give written or printed notice to each person assessed on said roll if a resident of said City, or if a non-resident to the non-resident or the non-resident's registered agents, specifying the amount of the assessment, or the installment thereof due from him or her, and requiring payment thereof, in the same time, and on the same terms as to fees above specified. Such notices shall all bear even date, and shall be served by depositing the same in the post-office in said City, in postpaid, sealed and addressed envelopes to such persons at their last known place of residence, and no personal call or demand shall be necessary in the premises; but no notice need be served on any unknown owner. The foregoing interest and fees are hereby established as and by way of penalty for the non-payment of such local taxes within the first twenty days after notice as above prescribed, and it shall be the duty of the City Treasurer to enforce and collect the same for the use and benefit of the City; but in case of assessments made payable in installments, the like notice except publication shall be given as to each installment immediately upon the same becoming due, and the provisions as to the fees and interest above shall apply to each items of installment in case of non-payment thereof within the first twenty days next after such notice is given. Such fees and interest shall be computed on the sum or amount of the principal and interest of the installment, at the time the same becomes due. At the expiration of sixty days after the first publication of the Treasurer's notice, as aforesaid, if any of said taxes shall remain unpaid the Treasurer shall notify the Assessor who made the assessment thereof, in case said Assessors be then in office and competent to act in the premises, and if such Assessor be not in office, or for any reason be incompetent or unable to act, the Treasurer shall notify the Council of such unpaid taxes, and it shall, thereupon by resolution, designate some proper and competent Assessor, or other person in place of said original Assessor and it shall be the duty of said original Assessor or person designated, with the advice and assistance of the Corporation Counsel, to thoroughly review and consider such return taxes and assessments, and in case he, she or they shall ascertain and determine by an instrument in writing signed by him, her or them, and filed with the City Clerk,

that any of said taxes and assessments which were illegally assessed in any particular whatever, he, she or they shall forthwith reassess the several said taxes and assessments which were illegally assessed in any particular whatsoever to the proper persons respectively, and to and against the proper several parcels of land originally chargeable therewith, and report such reassessment to the Council, and file the same with the City Clerk, and such notice thereof shall be given as is required when an assessment for local improvement is made; and the same proceedings shall be taken to collect such taxes as assessments so reassessed as in the cases of original assessments for local improvements. After the review of such unpaid local taxes and assessments by the said Assessor, and before the completion of the next general City tax roll, the Treasurer shall make a statement of such items thereof as are not found to be illegally assessed as aforesaid under his or her hand, and file the same with the Assessor who shall place and assess such unpaid items, with the interest and fees thereon, computed as hereinbefore prescribed, in a separate column headed "local assessments", on said general tax roll, against the respective lots or parcels of land upon which said unpaid local taxes were originally assessed, and with some proper note or memorandum designating the local assessments from which said items were derived, and the same shall be added to the annual City tax, and such other items of taxes as may be assessed on said general City tax roll, on or against the respective lots or parcels of land upon which such unpaid items were assessed, and be placed together therewith as one sum in the last total column on said general City tax roll; and thereafter the said aggregate amount in each case shall be regarded and described in all proceedings as "General City" tax, and shall be collected in the same manner, with the same interest, percentages and effect as other General City taxes. In all cases of reassessment of any tax for local improvement upon the General City tax roll, as herein provided, the Council may in its discretion, immediately transfer from the general fund to the proper local improvement fund a sum equal to the amount so reassessed as the same appears on with general City tax roll. Where land belonging to the City of Niagara Falls lies upon the lines of a proposed local improvement, the Council may authorize the Mayor or City Clerk to sign the petition therefor, with the same effect as that which follows the signature of an individual owner thereon, and may pay its just proportion of the whole assessment and raise the money necessary to pay the same in the general tax levy next succeeding the confirmation of such local assessment. No error or mistake in the name of any owner or occupant of any lot or parcel of land assessed for a local improvement, or the fact that the name appearing in the assessment-roll for a local improvement as the owner or occupant of any lot or parcel of land therein described is not the name of the owner or occupant of such lot or parcel of land shall invalidate said assessment roll for such local improvement, but the amount appearing thereon as being assessed upon such lot or parcel of land shall nevertheless continue and be a lien on the land designated from the time of the confirmation of such local assessment-roll. The Council may renew any warrant for a local assessment once for a term not exceeding thirty days.

SECTION 10.26

The Corporation Counsel may order such tax and title searches of each parcel of land involved in any action brought hereunder, to which the City is a party, as he or she deems best in the City's interest. Whenever the City is the owner and holder of tax liens against premises in any such action to be sold, the City Administrator may attend such sale and bid thereat such an amount as the City Administrator deems best in the interest of the City, not exceeding, however, the aggregate amount due upon the liens held by the City, plus the amount of all prior liens and the legal costs and expenses of the action and sale, and not exceeding the assessed valuation of the premises sold, unless a bid in a higher amount is authorized by the City Council.

SECTION 10.27

When it shall be discovered that the proceedings in ordering or in levying any tax, or in ordering or in making any assessment, have been so irregular as to render them illegal and void, the City Council may annul them, or may annul any of them subsequent to and including the irregularity, and may begin the proceeding anew, or from the point where the irregularity occurred. When any lands are imperfectly described in any tax or assessment roll, the Council may direct the correction of the description.

SECTION 10.28

[Intentionally Omitted; see Real Property Tax Law]

SECTION 10.29 FILING LIST OF DELINQUENT TAXES

[Intentionally Omitted; see Real Property Tax Law]

SECTION 10.30 HOTEL ROOM AND OCCUPANCY TAX

A. Short Title. This section 10.30 law shall be known as the City of Niagara Falls Hotel Room Occupancy Tax Law.

B. Definitions. When used in this section 10.30, the following terms shall mean:

(1) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(2) Operator. Any person operating a hotel in the City of Niagara Falls, including but not limited to the owner or proprietor of

such premises, lessee, sub lessee, mortgage in possession, license or any other person otherwise operating such hotel.

(3) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guest. The term "hotel" includes a motel, motor court, motor lodge or inn, or similar hotel or motel type of accommodations by whatever name designated.

(4) Occupancy. The use or possession, or the right to use or possession of any room in a hotel.

(5) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(6) Permanent Resident. A person occupying any room or rooms in a hotel for at least thirty consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(7) Rent or Charge. The consideration received for occupancy valued in money, whether received in money or otherwise.

(8) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(9) Return. Any return filed or required to be filed as herein provided.

(10) City Controller. The Controller of the City of Niagara falls, New York.

C. Imposition of Tax. On and after the 1st day of January, nineteen hundred ninety-two and ending on August 31, 2006, there is imposed and there shall be paid a tax of four percentum (4%) per day upon the rent for every occupancy of a room or rooms in a hotel in this City except that the tax shall not be imposed upon a permanent resident of a hotel or exempt organizations as hereinafter set forth.

On and after the 1st day of September, two thousand six, there is imposed and there shall be paid a tax of five percentum (5%) per day upon the rent for every occupancy of a room or rooms in a hotel in this City Except that that the tax shall not be imposed upon a permanent resident of hotel or exempt organizations as hereinafter set forth.

D. Transitional Provisions. Any tax imposed on persons occupying hotel rooms under the provisions of Local Law No. 3 for the year 1973, as amended, which has accrued up to the date on which the tax imposed by this section 10.30 takes effect shall continue to be collected and paid by the owner of the hotel room occupied or by the person entitled to be paid the rent or charge for the hotel room occupied, and such

owner or person entitled to. be paid the rent or charge shall report the amount of tax so collected on the return filed for the period ending on the thirty-first day of December, nineteen hundred ninety-one, or, in the case of such tax collected during a subsequent period, on the return filed for such subsequent period, and shall pay the tax imposed by said Local Law No. 3 for the year 1973, as amended, at the time of the filing of the return.

E. The provisions of this section 10.30 respecting records, returns, penalties and interest, the assessment, payment and refund of tax, and all other provisions of such law respecting the administration, collection,, enforcement, recovery of tax, disposition of revenues and all other powers of the City Controller shall apply to all taxes imposed under the provisions of Niagara Falls Local Law No. 3 for 1973, as amended, which have accrued up to the date on which the tax imposed by this section 10.30 takes effect.

F. Exempt Organizations.

(a) Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this section 10.30:

(1) The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada) improvement district or political subdivision of the state;

(2) The United States of America, insofar as it is immune from taxation;

(3) The United Nations or other world-wide international organization of which the United States is a member; and

(4) Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

G. Territorial Limitations. The tax imposed by this section 10.30 shall apply only within the territorial limits of the City of Niagara Falls.

H. Registration. Within ten days after the effective date of this section 10.30, or in the case of operators commencing business after

such effective date, within three days after such commencement or opening, every operator shall file with the City Controller a certificate of registration in a form prescribed by the City Controller. The City Controller shall, within five days after such registration, issue without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the City Controller upon the cessation of business at the hotel named or upon its sale or transfer.

I. Administration and Collection.

(1) The tax imposed by this section 10.30 shall be administered and collected by the City Controller.

(2) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this section 10.30, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that the operator may have in the event of non-payment of rent by the occupant; provided, however, that the City Controller shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(3) Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this section 10.30, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the City Controller, and it shall be the duty of the occupant to file a return thereof with the City Controller and to pay the tax imposed thereon to the City Controller within fifteen days after such tax was due.

(4) The City Controller may, wherever he or she deems it necessary for the proper enforcement of this section 10.30, provide by regulation that the occupant shall file returns and pay directly to the

City Controller the tax herein imposed, at such times as return are required to be filed and payment over made by the operator.

(5) The tax imposed by this section 10.30 shall be paid upon any occupancy on and after January first, nineteen hundred ninety-two, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after January first, nineteen hundred ninety-two. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the City Controller may by regulation provide for credit and/or refund of the amount of such tax application therefor as provided in section thirteen of this section 10.30.

J. For the purpose of the proper administration of this section 10.30 and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant. Where an occupant claims exemptions from the tax under the provisions of section five hereof, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a certificate issued by the City Controller certifying that the corporation or association therein named is exempt from the tax under section five hereof, together with a certificate duly executed by the corporation or association named in the certificate of the City Controller certifying that the occupant is its agent, representative or employee and that such occupancy is paid or to be paid by, and is necessary or required in the course of or in connection with the affairs of said corporation or association.

K. Records to be kept. Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the City Controller may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the City Controller or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the City Controller may consent to their destruction within that period or may require that they be kept longer.

L. Returns.

(1) Every operator shall file with the City Controller a return of occupancy and of all rent paid, and of the taxes payable thereon for the periods ending March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year, on and after April first, nineteen hundred ninety-two. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The City Controller may permit or require returns to be made by other periods and upon such dates as he or she may specify. If the City

Controller deems it necessary in order to insure the payment of the tax imposed by this section 10.30, he or she may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he or she may specify.

(2) The forms of returns shall be prescribed by the City Controller and shall contain such information as he or she may deem necessary for the proper administration of this section 10.30. The City Controller may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

(3) If a return required by this section 10.30 is not filed, or if a return when filed is incorrect or insufficient on its face, the City Controller shall take the necessary steps to enforce the filing of such a return or of a corrected return.

M. Payment of tax. At the time of filing a return of occupancy and of rents each operator shall pay to the City Controller the taxes imposed by this section 10.30 upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions in this local law. Even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the City Controller on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon. Where the City Controller in his or her discretion deems it necessary to protect revenues to be obtained under this section 10.30 may require any operator required to collect the tax imposed by this section 10.30 to file with a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the City Controller may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the City Controller determines that an operator is to file such bond he or she shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless within such five days the operator shall request in writing a hearing before the City Controller at which the necessity, propriety and amount of the bond shall be determined by the City Controller. Such determination shall be final and shall be complied with within fifteen days after the giving of notices thereof. In lieu of such bond, securities approved by the City Controller or cash in such amount as he or she may prescribe, may be deposited which shall be kept in the custody of the City Controller who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him or her at public or private sale without notice to the depositor thereof.

N. Determination of tax. If a return required by this section 10.30 is not filed, or if a return when filed is incorrect or insufficient

the amount of tax due shall be determined by the City Controller from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days after giving of notice of such determination, shall apply to the City Controller for a hearing, or unless the City Controller of his or her own motion shall redetermine the same. After such hearing, the City Controller shall give notice of his or her determination to the person against whom the tax is assessed. The determination of the City Controller shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the Civil Practice Law and Rules, provided however, that such proceeding is instituted in the Supreme Court within thirty days after the giving of the notice of such determination. A proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless (a) the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding or (b) at the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, penalties and interest as a condition precedent to the application.

O. Refunds.

(1) In the manner provided in this section the City Controller shall refund or credit without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the City Controller for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the City Controller, he or she shall state the reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application when made by an operator who has collected and paid over such tax to the City Controller, provided that the application is made within one year of the payment by the occupant to the operator, shall be acted upon and refunded any moneys, due, only after such operator shall first establish to the satisfaction of the City Controller, under such regulations as the City Controller may prescribe, that he or she has repaid or will simultaneously repay to the occupant the amount for which the application for refund is made.

The City Controller may, in lieu of any refund required to be made, allow credit therefor on payments due from the petitioner.

(2) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the City Controller, and such City Controller shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking be filed with the City Controller in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(3) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of this Charter where he or she has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself or herself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the City Controller made pursuant to section thirteen of this section 10.30 unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the City Controller after a hearing or of his or her own motion or in a proceeding under article seventy-eight of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

P. Disposition of Revenues. All revenues resulting from the imposition of the tax under this section 10.30 shall be paid into the treasury of the City of Niagara Falls and shall be credited to and deposited in the General Fund account of the City of Niagara Falls. Eighty percent (80%) of the revenue from the tax shall be used for the promotion of convention activities in the City of Niagara Falls, for which the City may contract with the Niagara Falls Convention and Visitors Bureau for periods of not more than three (3) years. Fifteen percent (15%) of said revenue shall be divided equally between and used for the promotion of tourism and for maintenance and repairs of convention facilities; retained by the City of Niagara Falls for any City purpose; and the remaining five percent (5%) of said revenue shall be retained by the City of Niagara Falls for administration and collection costs. The terms "convention facilities" and "tourism" may be defined by resolution of the City Council.

All revenues resulting from the imposition of the tax under this section 10.30 shall be paid into the treasury of the City of Niagara Falls and shall be credited to and deposited in the General Fund account of the City of Niagara Falls and shall be used as follows:

(a) From the first four percentum (4), eighty percent of such revenue from this tax shall be allocated and paid to a not-for-profit corporation under contract with the county for the promotion of tourism in the county; fifteen percent of such revenue shall be retained by the City of Niagara Falls for any City purpose; and the remaining five percent of said first four percentum (4%) of revenue shall be retained by the City of Niagara Falls for administration and collection costs.

(b) The additional one percentum (1%) of such revenue from this tax shall be dedicated to the continuation of a trolley service for the purpose of transporting guests of hotels and motels to area tourism attractions.

The terms "convention facilities" and "tourism" may be defined by resolution of this City Council.

Q. Reserves. In cases where the occupant or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to the application for refund, the City Controller shall set up appropriate reserves to meet any decision adverse to the City.

R. Remedies Exclusive. The remedies provided by subsections N and O of this section 10.30 shall be exclusive remedies available to any person for the review of tax liability imposed by this section 10.30; and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he or she institutes suit within thirty days after a deficiency assessment is made and pays the amount of the deficiency assessment to the City Controller prior to the institution of such suit and posts a bond for costs as provided in section N of this section 10.30.

S. Proceedings to recover tax. (1) Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this section 10.30 as therein provided, the Corporation Counsel shall, upon the request of the City Controller bring or cause to be brought an action to enforce the payment of the same on behalf of the City of Niagara Falls in any court of the State of New York or of any other state or of United States. If, however, the City Controller in his or her discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he or she may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

(2) As an additional or alternate remedy, the City Controller may issue a warrant, directed to the sheriff commanding him or her to levy upon and sell the real and personal property of the operator or officer of a corporate operator or of the occupant or other person liable for the tax, which may be found within the City for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the City Controller and to pay to him or her the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall within five days after the receipt of the warrant file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon any interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he or she shall be entitled to the same fees, which he or she may collect in the same manner. In the discretion of the City Controller a warrant of like terms, force and effect may be issued and directed to any officer or employee of the City Controller and in the execution thereof such officer or employee shall have all the powers conferred by law upon Sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the City Controller may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the City has recovered judgment therefor and execution thereon has been returned unsatisfied.

(3) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of a hotel or a lease, license of other agreement or right to possess or operate such hotel, apartment hotel, or of the equipment, furnishings, fixtures, supplies or stock of merchandise, of the said premises or lease, license or other agreement or right to possess or operate such hotel, apartment hotel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefor, notify the City Controller by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this section 10.30, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the City Controller as required by the preceding paragraph or whenever the City Controller shall inform the purchaser,

transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the county, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the City's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of section 6-101 through 6-111 of the Uniform Commercial Code, shall be personally liable for the payment to the City of any such taxes theretofore or thereafter determined to be due to the City from the seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this section 10.30.

T. General powers of the City Controller. In addition to the powers granted to the City Controller in this section 10.30, he or she is hereby authorized and empowered:

(A) To make, adopt and amend rules and regulations appropriate to the carrying out of this section 10.30 and the purposes thereof;

(B) To extend for cause shown, the time of filing any return for a period not exceeding thirty days; and for cause shown, to waive penalties but not interest computed at the rate of six percentum per annum; and to compromise disputed claims in connection with the taxes hereby imposed;

(C) To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, any other provision of this section 10.30 to the contrary notwithstanding;

(D) To delegate functions hereunder to a Deputy City Controller or any employee or employees of the office of City Controller;

(E) To prescribe methods for determining the rents for occupancy and to determine the taxable and non-taxable rents;

(F) To require any operator within the City to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this section 10.30, and to furnish such information upon request to the City Controller.

(G) To assess, determine, revise and readjust the taxes imposed under this section 10.30.

U. Administration of oaths and compelling testimony.

(a) The City Controller or his or her employees or agents duly designated and authorized by him or her shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this section 10.30. The City Controller shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of the duties hereunder and of the enforcement of this section 10.30 and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or her or excused from attendance.

(b) Justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the City Controller under this section 10.30.

(c) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the City Controller under this section 10.30 shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

(d) The officers who serve the summons or subpoena of the City Controller and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and duly appointed deputies or any officers or employees of the City Controller, designated to serve such process.

V. Reference to tax. Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of hotel rooms", except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the words "occupancy tax" will suffice.

W. Penalties and Interest.

A. Any person failing to file a return or to pay or pay over any tax to the City Controller within the time required by this section 10.30 shall be subject to a penalty of five percentum of the amount of tax due; plus interest at the rate of one per centum of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the City Controller, if satisfied that

the delay was excusable, may waive all or any part of such penalty, but not interest at the rate of six per cent per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this section 10.30. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this section 10.30.

B. Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this section 10.30, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information testimony or statement required or authorized by this section 10.30, which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to subsection N of this section 10.30, or failing to file a registration certificate and such data in connection therewith as the City Controller may be regulation or otherwise require or to display or surrender the certificate of authority as required by this section 10.30 or assigning or transferring such certificate or authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill of statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this section 10.30, and any operator failing to keep the records required by subsection K of this section 10.30, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this section 10.30, and subject to the penalties herein above imposed.

C. The certificate of the City Controller to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this section 10.30, shall be presumptive evidence thereof.

X. Returns to be Secret.

a. Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the City Controller or any officer or employee of the office of City Controller to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this section 10.30. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City Controller in an action or proceeding under the provisions of

this section 10.30, or on behalf of any party to any action or proceeding under the provisions of this section 10.30 when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or the taxpayer's duly authorized representative of a certified copy of any return filed in connection with such tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Corporation Counsel or other legal representatives of the City or by the District Attorney of Niagara County, of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty.

Returns shall be preserved for three years and thereafter until the City Controller permits them to be destroyed.

b. Any violation of subdivision (a) of this section shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the City he or she shall be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

Y. Notices and Limitations of Time.

(a) Any notice authorized or required under the provisions of this section 10.30 may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him or her pursuant to the provisions of this section 10.30, or in any application made by him or her, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this section 10.30 by the giving of notice shall commence to run from the date of mailing of such notice.

(b) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this section 10.30. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(c) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

Z. Separability. If any provision of this section 10.30, or the application thereof to any person or circumstance shall be held invalid, the remainder of this section 10.30, and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 10.31 CLAIMS AGAINST FIRE INSURANCE PROCEEDS MAY BE MADE BY THE CITY AS HEREIN PROVIDED.

A. As used in this section, the following terms shall have the following meanings:

(1) "Enforcing officer" means the Controller of the City of Niagara Falls.

(2) "Real property" means property upon which there is erected any residential, commercial or industrial building or structure except a one or two family residential structure.

(3) "Lien" means an unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the City of Niagara Falls which is an encumbrance on real property, whether or not evidenced by a written instrument, and provided that one such tax, levy, assessment or other charge has remained unpaid for a period of one year or more.

(4) "Special lien" means a lien upon fire insurance proceeds as described in and authorized by this section and by Section 22 of the General Municipal Law of the State of New York.

B. Enforcement.

(1) The Enforcing Officer is hereby authorized and directed to serve upon the New York State Superintendent of Insurance a Notice of Intent to Claim against the proceeds of a policy of fire insurance as described in and to be indexed in accordance with Section 22 of the General Municipal Law and Section 33-a of the Insurance Law.

(2) Upon filing of the Notice of Intent to Claim as provided in Subsection 2 above the City shall have a claim against the proceeds of any fire insurance policy insuring the interest of an owner and issued on real property located within the City of Niagara Falls, New York. The intent of said claim shall be all charges of the City for any unpaid tax, special ad valorem levy, special assessment or other charges imposed

upon the real property by or on behalf of the City to the full extent allowed by Section 22 of the General Municipal Law.

(3) Prior to the payment of any proceeds of a policy of insurance for damage caused by fire to real property located in the City of Niagara Falls, each insurer shall notify the Enforcing Officer of the City that a loss has been sustained and demand in writing by registered or certified mail that said Enforcing Officer provide a certificate indicating all Liens of the City against the property, including interest and penalties to the date of the certificate. The certificate must be served upon the insurer at an address specified by the insurer, in person or, by registered or certified mail, such service to be within twenty days from the date of receipt of the demand herein described. That upon service of the certificate of the Enforcing Officer as herein provided the City shall have a special lien upon the proceeds of the insurance policy until the amounts stated in the certificate are paid.

(4) Notwithstanding any other provision hereof the Enforcing Officer shall release or return to the insured any amounts to which the City's special lien applies provided the insured agrees in writing with the City to restore the affected premises to the same or an improved condition to that which it was in prior, to the time that the lien of the City, as herein provided, arose, and provided said agreement contains such assurances of performance by the insured as may be reasonably required by the enforcing officer, including, but not limited to, deposit of such proceeds in an escrow account with draws at appropriate stages of repair or reconstruction, or the insured obtaining a performance bond.

(5) The Enforcing Officer may adopt such rules and regulations as he or she may deem necessary to carry out the provisions of this law and Section 22 of the General Municipal Law.

C. The provisions of this section shall not be deemed or construed to impair the right of a tax district to acquire or enforce any lien against real property but shall be in addition to any other power provided by law to acquire or enforce such right.

SECTION 10.32

The Council shall have power to collect by civil action any tax imposed pursuant to the provisions of this act, against any person from whom it cannot be collected by notice or warrant in the manner hereinbefore provided; but such action shall be commenced within one year after the tax roll is filed with the Clerk; and if for any cause any part of the tax authorized by this act cannot be collected the Council may add the amount thereof to the moneys authorized by the provisions of this act to be raised in the succeeding year.

SECTION 10.33

When a tax imposed pursuant to the provisions of this act against a person, firm, estate or corporation, resident in the County of Niagara,

remains unpaid for a period of six months, the City Treasurer may apply on affidavit to the County Judge of said county and obtain an order requiring such person, firm, estate or corporation to appear before such County's Judge, or before a referee named in such order, and answer concerning his, her, their or its property. The same proceedings may in all respects be had as in cases supplementary to execution, and the same costs and disbursements may be allowed against the person, firm, estate or corporation examined concerning his or her, their, or its property, but none shall be allowed in his, her, their or its favor. The tax, if collected, shall be paid over to the treasurer and the costs collected shall belong to the party instituting the proceedings and shall be applied by such party to the payment of the expenses of the proceeding.

SECTION 10.34

A. No assessment that shall have been or may hereafter be levied shall be void or shall be vacated by any court because of a failure on the part of the contractor to comply in the execution of the work with all the requirements of law or the contract in respect thereto; provided that if any taxpayer or any owner of property liable to be assessed therefor shall make an affidavit during the progress of any work to the effect that such work is not done or not being done according to law or the contract, specifying in what respect it does not comply therewith, and shall file such affidavit with the City Council and deliver a copy thereof to the contractor, the contractor's agent or either of the sureties on the contractor's bond, and shall within twenty days after the confirmation of the assessment, take the proceedings mentioned in the next section, the court may stay the payment to the contractor of any money under the contract, and if it shall appear on the hearing in such proceedings that the defects stated in such affidavit exist, the court shall order that the amount assessed shall not be paid to the contractor and shall not be enforced by the City until such work shall be done in accordance with the law and the contract therefor, and no interest shall be charged upon the assessment during the time that the payment thereof shall be stayed, provided that the court shall finally decide that the defects charged existed and were of a substantial nature. Whenever it shall in any way appear to the court that manifest injustice or damage has been done to the City or any person or property assessed by reason of a failure to comply with the contract relating to any work, the court may, if it be before sale and before the contractor shall have been paid the sum provided by the contract to be paid to him or her, reduce the amount of the assessment or allowance in such amount as will enable the owner or the City, as the case may be, to have the work done in accordance with the contract; and if after sale or after the contractor shall have been paid the court shall grant judgment for the damages against the contractor and the sureties as herein provided, the contractor and the sureties on the contractor's bond and their legal representatives or such of them as can be served with process or notice, shall be made parties to any proceeding for that purpose, and shall be therein adjudged to be liable to the party injured or the City, as the case may be, for the amount in which any assessment or allowance shall be reduced if it appear that the contractor was in fault in the premises.

If the City was in fault it shall be adjudged to be liable to the party injured for such amount.

B. If, in the proceedings relative to any assessment or assessments for local improvements in the City, or in the proceedings to collect the same, any fraud or defect in the work or substantial error, shall be alleged to exist or have been committed, the party aggrieved thereby may, within twenty days after the completion of the assessment, apply to have the assessment vacated or reduced, to a Judge of the Supreme Court, at Special Term or at chambers, or to the County Judge, who shall thereupon, upon due notice to the Corporation Counsel, and to the contractor and the contractor's sureties, or any other person, if they or either of them be proper parties, proceed forthwith to hear the proofs and allegations of the parties.

C. If after such hearing it shall be finally decided that the alleged fraud or defect in the work, or substantial error exists or has been committed, the assessment shall be vacated except as herein otherwise provided, and the lien created thereby or by any subsequent proceeding shall, except as herein otherwise provided, cease; and no suit or action in the nature of a bill in equity or otherwise shall be commenced to vacate any assessment in the City or to remove a cloud upon title arising from any assessment hereinafter made. In case the assessment shall not be vacated, the assessment may be reduced or judgment may be given as herein provided. Owners of property shall, in proceedings to reduce or vacate or stay payment of assessments, be confined to the form of proceeding in this article mentioned. The court may, in a proper case in proceedings under this article, direct that any issue or issues of fact be tried before a jury.

D. It is further provided that no assessment that may hereafter made shall be void or shall be vacated; nor the sale of property therefor be declared illegal, or the deed or certificate of conveyance therefor be adjudged invalid or illegal, or any moneys paid on account of or because of such assessment be recovered back or refunded because of any error, illegality, irregularity in any of the proceedings in relation to the work or improvement for which such assessment was made prior to the commencement of the work, including the letting of the contract for the work, unless the party objecting thereto shall have filed objection or objections with the City Council within ten days after the letting of the contract for said work, stating the error, illegality or irregularity complained of together with the party's address; the Council shall thereupon give the person or persons filing such objection or objections, together with the contractor to whom the contract to do the work was let, a hearing, and the decision of the Council shall be final and conclusive, unless within ten days after such decision the party or parties filing such objection or the contractor or the City shall commence proceedings to review the same, and in the event that the proceedings, or any of them, including the letting of the contract, be adjudged illegal, the contract for doing the work shall be and become null and void, and in no respect binding upon the City.

E. When proceedings are taken because the work has not been done according to law, or the assessment is reduced because the work has not been done according to law or contract, and obligations to finance such work or any part thereof shall have been issued, or payments or such work or any part thereof shall have been made, and no objection shall have been filed prior to the issuing of such obligations or payment, the court shall not reduce the assessment below the amount of the obligations issued or payments made and the interest due thereon. Whenever an assessment for any public work or improvement hereafter made shall be vacated or set aside under the provisions of this article, the City Assessor shall forthwith proceed to make a new apportionment and assessment for the same, with interest thereon, or for such amount as the court shall be its judgment direct.

F. Either party may appeal from the final decision of the court, or a judge thereof, upon any proceedings taken under this article, the same as from an order in a civil action. Such appeal must be taken within ten days after the service upon such party of notice of such final decision.

G. Two or more persons may unite in commencing and prosecuting proceedings under this article; and when two or more persons have commenced separate proceedings under this article to vacate or reduce assessments for the same public work or improvement, the court or the judge before whom the same are commenced or pending or where some are commenced before the County Judge, and some in the Supreme Court, a Judge of the Supreme Court at Special Term or chambers may consolidate such separate proceedings into one proceeding.

SECTION 10.35 DECLARATION OF LEGISLATIVE INTENT

By section twenty-b of the General City Law, as added by chapter three hundred twenty-one of the laws of nineteen hundred thirty-seven, cities were authorized to enact local laws imposing a tax such as is imposed by section one hundred eighty-six-a of the Tax Law. Pursuant to such authority this City enacted local law number eleven for the year nineteen hundred thirty-seven modeled upon said section one hundred eighty-six-a. Said section was enacted upon the recommendation of the governor of the State of New York as an emergency measure to aid in financing the extraordinary cost of relief. It was intended thereby and likewise by the local law enacted in this City pursuant to the above mentioned authority, to impose a tax on utility services whether rendered by utilities in the strict sense or not, and whether such services were in the main or incidental part of their business and regardless of whether the public streets were used in any manner. Accordingly, such a utility was defined for the purpose of the tax, as including every person subject to the supervision of the department of public service and every other person furnishing utility services. It was intended to include persons and corporations which were directly in competition with ordinary utilities, such as landlords and submotorors, who buy their services from other utilities and, in turn, resell such services. For that reason the tax was imposed on the receipts from sales to ultimate consumers.

Receipts from the sale of such utility services to submotorers were not taxed, but receipts of submotorers from their own customers were intended to be taxed. Any other construction would have resulted in a complete exemption from taxation of utility services sold or furnished by this particular method. Furthermore, those submotorers or landlords, prior to a decision of the appellate courts construing section one hundred eighty-six-a of the Tax Law, which decided that submotorers were not subject to tax, considered themselves subject to tax and took into consideration in computing their operating cost the additional burden of the tax.

In view of the fact that those landlords or submotorers have considered themselves as subject to tax, have based their charges to their customers in consideration of the tax and are in competition with ordinary utilities, this section 10.35, making it clear that they are required to include in gross operating income receipts from sales or services similar to those rendered by ordinary utilities, is made retroactive to the original enactment of this tax.

Furthermore, it is believed that submotorers have common characteristics that distinguish them from other businesses and justify the conclusion that the method, character and nature of their business, in this aspect, is substantially similar to the business of an ordinary utility and requires similar treatment for purposes of the tax. This conclusion is strongly fortified by the fact that such landlords and submotorers are in direct competition with ordinary utilities, and hence should bear similar tax burdens in order to avoid inequality of treatment.

SECTION 10.36

A. Tax on the furnishing of utility services. Pursuant to the authority granted by section twenty-b of the General City Law of the State of New York, a tax equal to one per centum of its gross income from and after July first, nineteen hundred and thirty-seven is hereby imposed upon every utility doing business in the City of Niagara Falls which is subject to the supervision of the State Department of Public Service, which has a gross income for the twelve months ending May thirty-first in excess of five hundred dollars, except motor carriers or brokers subject to such supervision under article three-b of the Public Service Law and a tax equal to one per centum of its gross operating income is hereby imposed from and after July first, nineteen hundred and thirty-seven upon every other utility doing business in the City of Niagara Falls which has a gross operating income for the twelve months ending May thirty-first in excess of five hundred dollars, which taxes shall have application only within the territorial limits of the City of Niagara Falls, New York, and shall be in addition to any and all other taxes and fees imposed by any other provision of the law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the City of Niagara Falls, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

B. As used in this section, (a) the word "utility" includes every person subject to the supervision of either division of the State Department of Public Service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person who sells gas, electricity, steam, water, refrigeration, telephone or telegraphy, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service, by means of mains, pipes or wires; regardless of whether such activities are the main business of such person or are only incidental thereto, or whether use is made of the public streets; (b) the word "person" means persons, corporations, companies, associations, joint-stock associations, co-partnerships, estates, assignee of rents, any person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivision of the state or municipality, and public districts; (c) the words "gross income" mean and include receipts received in or by reason of any sale, conditional or otherwise, made or service rendered for ultimate consumption or use by the purchaser in the City of Niagara Falls, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid, or any other expense whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profits from the sale of personal property; also receipts from interest, dividends, and royalties, derived from sources within the City of Niagara Falls, other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction within the City of Niagara Falls, whatsoever; and (d) the words "gross operating income" mean and include receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water refrigeration, telephone or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the City of Niagara Falls, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever.

C. Every utility subject to tax under this section shall keep such records of its business and in such form as the City Controller of the City of Niagara Falls may require, and such records shall be preserved for a period of three years, except that the City Controller may consent to their destruction within that period or may require that they be kept longer.

D. Every utility subject to tax hereunder shall file, on or before September twenty-fifth, December twenty-fifth, March twenty-fifth and June twenty-fifth, a return for the three calendar months preceding each such return date including any period for which the tax hereby imposed or by any amendment hereof is effective, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the City Controller on a form to be furnished by him or her for such purpose and shall contain such other data, information or matter as the City Controller may require to be included herein. Notwithstanding the foregoing provisions of this section any utility whose average gross income or average gross operating income, as the case may be, for the aforesaid three months' period is less than fifteen hundred dollars, may file a return annually on June twenty-fifth for the twelve preceding calendar months and the City Controller may require any utility doing business in the City of Niagara. Falls to file an annual return, which shall contain any data specified by the City Controller, regardless of whether the utility is subject to tax under this section. The City Controller in order to insure payment of the tax imposed, may require at any time a further or supplemental return which shall contain any data that may be specified by the City Controller. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

E. At the time of filing a return as required by this section, each utility shall pay to the City Controller the tax imposed by this section for the period covered by such return. Such tax shall be due and payable at the time of filing the return, or, if a return is not filed when due, on the last day on which the return is required to be filed.

F. In case any return filed pursuant to this section shall be insufficient or unsatisfactory to the City Controller, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from the City Controller, or if no return is made for any period, the City Controller shall determine the amount of tax due from such information as he or she is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The City Controller shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the City Controller for a hearing, or unless the City Controller, of his or her own motion shall reduce the same. After such hearing the City Controller shall give notice of his or her decision to the person liable for the tax. The decision of the City Controller may be reviewed by a proceeding under article seventy-eight of the Civil Practice Act of the State of New York, if application therefor is made within thirty days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be

reviewed with interest and penalties thereof, if any, shall be first deposited with the City Controller and an under-taking filed with him or her, in such amount and with such sureties as a justice of the Supreme Court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest, and penalties as a condition precedent to the granting of such order.

G. Any notice authorized or required under the provisions of this section may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him or her in the last return filed by him or her under this section, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this section by the giving of notice, shall commence to run from the date of mailing of such notice.

H. Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this section shall be subject to a penalty of five per centum of the amount of tax due, plus one per centum of such tax for each month of delay or fraction thereof, excepting the , first month, after such return was required to be filed or such tax became due; but the City Controller, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

I. If, within one year from the payment of any tax or penalty, the payor thereof shall make application for a refund thereof and the City Controller or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the City Controller shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the City Controller. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the City Controller as hereinbefore provided unless the City Controller, after a hearing as hereinbefore provided, or of his or her own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under article seventy-eight of the Civil Practice Act of the State of New York that such determination was erroneous and illegal. All refunds shall be made out of moneys collected under this section. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the City Controller may receive additional evidence with respect thereto. After making this determination, the City Controller shall give notice thereof to the person interested, and who shall be entitled to an order to review such determination under said article seventy-eight, subject to the provisions hereinbefore contained relating to the granting of such order.

J. The tax imposed by this section shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

K. Whenever any person shall fail to pay any tax or penalty imposed by this section, the Corporation Counsel shall, upon the request of the City Controller, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the City Controller. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by section one hundred eighty-six-a of the Tax Law is made a lien.

L. In the administration of this section the City Controller shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his or her powers and the performance of his or her duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his or her official duty under this section, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

M. Except in accordance with the proper judicial order or as otherwise provided by law, it shall be unlawful for the City Controller, or any agent, clerk or employee of the City of Niagara Falls to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this section. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City of Niagara Falls, in an action or proceeding under the provisions of this section, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this section when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said return or of the facts shown thereby, as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his or her duly authorized representative, of a copy of any returns filed by him or her, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this section, together with any relevant information which in the opinion of the City Controller may assist in the collection of such delinquent taxes; or the inspection by the Corporation Counsel or other legal

representatives of the City of Niagara Falls, of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this section.

Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or both, and, if the offender be an officer, agent, clerk or employee of the City of Niagara Falls shall be dismissed from office, and shall be incapable of holding any office or employment in the City of Niagara Falls, for a period of five years thereafter.

Notwithstanding any provisions of this section the City Controller may exchange with the chief fiscal officer of any other City in the State of New York information contained in returns filed under this section, provided such other City grants similar privileges to the City of Niagara Falls, and provided such information is to be used for tax purposes only, and the City Controller shall, upon request, furnish the state tax commission with any information contained in such returns.

N. All taxes and penalties received by the City Controller for taxes heretofore or hereafter imposed under this section shall be credited and deposited by him or her in the general fund of the City.

ARTICLE XI
DEPARTMENT OF LAW

SECTION 11.1

There shall be an office of the Corporation Counsel which shall be headed by the Corporation Counsel. It shall be the duty of the Corporation Counsel to act as sole legal advisor to the City Council and the several officers, boards, bureaus and departments of said City unless otherwise specially directed by the City Council. The Corporation Counsel shall, without additional compensation, under direction of the City Council, take charge of the interests of and appear for said City in all actions and proceedings in all courts and governmental departments and before all committees and hearings in which the City is interested; and shall institute or prosecute such suits and other proceedings in court as the City Council shall require. All moneys recovered by him or her in any suits or proceedings shall be forthwith accounted for and paid over by him or her to the Controller. He or she shall keep an accurate register and record of all suits and proceedings and an accurate account of all moneys received or paid out by him or her. He or she shall report to the City Council as to the condition of his or her department with such recommendations as he or she sees fit, whenever required to do so by the City Council. No suit or proceedings shall be discontinued or compromised by him or her except by approval of the City Council. All fees recovered by him or her in any suit or proceeding shall belong to the City and be paid over by him or her to the Controller, any provision of the statutes of the State of New York to the contrary notwithstanding. He or she shall discharge such other duties requiring legal knowledge and ability as may be required from time to time by direction or resolution passed by the City Council.

SECTION 11.2

It shall be the duty of the Deputy Corporation Counsel to discharge the duties of the Corporation Counsel in the absence of that officer, or in case of the Corporation Counsel's inability to act, and to perform such other duties as may be required by the Corporation Counsel, or City ordinances appertaining to such office.

SECTION 11.3

The Corporation Counsel, upon the approval of the City Council, may enter into a written agreement or stipulation to compromise and settle any claim against the City for injury to person or property due to the negligence of the City unless otherwise specially provided by statute or ordinances of said City, which agreement, when approved by the City Council, shall be and constitute a valid obligation against said City. The amount therein provided to be paid shall, with interest thereon at the rate of six per centum per annum from its date, be included in the next City tax budget and when raised by tax to be paid to the claimant. If, however, before the adoption of the City tax budget there

shall be received by the City Treasurer from any source any moneys not otherwise appropriated, the amount of said agreement to be paid shall be paid out of such moneys so received so far as they will satisfy the same.

SECTION 11.4

The Corporation Counsel, with the consent of the Council, may employ counsel at such compensation as may be agreed upon by the Council to assist in the argument and conduct of important cases or proceedings in which the City is interested or a party.

SECTION 11.5

The amount of any judgment recovered against the City, and payable by it remaining unpaid, with interest due thereon, in case no appeal is intended to be taken, or in case such judgment is finally affirmed on an appeal taken, shall be reported by the Corporation Counsel immediately after the same have become payable to the Council; and such amount shall be raised in the next levy of taxes for the expenses of the City, unless execution upon such judgment shall be stayed. Such judgments shall be paid out of the first moneys paid into the City treasury on account of such levy in the order of their recovery. Until the money so raised shall be paid into the treasury and payment of judgments refused, no execution shall issue against the City unless the amounts of such judgments shall not have been included in the tax levy; provided, nevertheless, if there be any moneys in the treasury to the credit of a fund derived from the revenue of the City other than taxation not otherwise appropriated sufficient to satisfy such judgments, the Council shall direct the payment therefrom of such judgments in the order of their recovery.

SECTION 11.6

Upon taking office, the Corporation Counsel shall be deemed to be substituted as attorney of record in all actions or proceedings in which the City or any of its departments is a party, and it shall not be necessary to enter any order to that effect.

SECTION 11.7

It shall be the duty of the Corporation Counsel to cause all claims for personal injuries or damages to property to be thoroughly investigated, and shall advise the proper committees of the City Council in respect thereto. The Corporation Counsel shall have power to issue a subpoena to compel the attendance of all persons making such claims or reported to have knowledge of the facts relating to such claims to appear and testify before the City Council or some member thereof in respect to such claims pending before the City Council or referred to a committee, and he or she shall have power to issue a subpoena to compel the attendance of all persons having knowledge of the facts relating to intended claims against said City, notice of intention to make which against said City or to bring suit thereon against said City has been

filed with the Corporation Counsel of said City, and to examine such persons before the City Council or some member thereof in respect thereto, or in respect to the names and addresses of persons having such knowledge. Such subpoena may be served at any place within the State of New York in the same manner in which subpoenas issued out of the Supreme Court are served. Any person who shall neglect or refuse to attend or testify in obedience to any such subpoena or to be sworn or affirmed or to answer any proper or material question may be arrested by virtue of an order of attachment, of such neglect or refusal or upon written proof of the service of such subpoena, and of such neglect or refusal and in the absence of a satisfactory excuse therefor may be punished by the City judge in the same manner and to the same extent as a witness neglecting or refusing to attend in obedience to a subpoena duly issued and served out of the Supreme Court.

ARTICLE XII
PUBLIC LIBRARY

SECTION 12.1

Not less than Five (5) members nor more than Nine (9) members of the Board of Library Trustees, appointed as hereinbefore provided, shall hereafter constitute the Board of Library Trustees. Subject to the provisions of this act, said Board shall have power and it shall be their duty to maintain a free public library, to provide rooms for their use, to employ librarians and other employees and to have the care and supervision of the library building and rooms and the books and other publications belonging thereto and to superintend the letting out and return thereof and to exercise the same discretion as to disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts, and to elect from its members a president, clerk and such other officers as it may by resolution determine. The records of the proceedings of said Board or a transcript thereof, certified by its president and clerk, shall be received in all courts and places as prima facie evidence of the facts therein stated.

SECTION 12.2

On or before the first day of April of each year, the Board of Library Trustees shall prepare a certificate of such sums of moneys as it deems necessary for the year commencing August first thereafter for each of the following purposes, namely: (1) For the purchase, maintenance and care of the free public library, library buildings and grounds; (2) for the purchase of fuel and lights and to pay the contingent expenses of the district, including the salaries of librarians, janitors and other employees and incidental expenses.

SECTION 12.3

Such certificate shall, within the time hereinbefore specified, be presented to the City Council of said City for its approval. Upon receipt of such certificate the City Council shall proceed to consider the same and may adopt such certificate or may diminish, increase or reject any item therein contained. Such certificate as approved by the Council shall be filed with the City Clerk, and the Council of said City shall include the amount so certified in the annual City tax and assessment roll for that year, and such amount shall be collected by the City Treasurer and credited to the various funds so designated in such certificate.

ARTICLE XIII
DEPARTMENT OF PARKS

SECTION 13.1

There is hereby created a Department of Parks and the position of Director of Parks, who shall be appointed by the City Administrator. The salary of the Director of Parks shall be fixed by the Mayor with City Council approval. The Department of Parks shall be responsible for the maintenance of all park and recreation areas and facilities and equipment, all municipal buildings, and such other maintenance activities as may be assigned by the City Administrator.

SECTION 13.2

Under the general direction of the City Administrator, the Director of Parks shall exercise those powers and duties necessary to the general supervision of the Department of Parks. The Director shall plan, organize, direct and review administrative methods and procedures necessary to the operation of the Department of Parks. The Director shall have control over and supervise the various divisions of the Department of Parks, including: forestry, Hyde Park, and all municipal buildings and grounds. The Director shall prepare rules and regulations governing practices, procedures and general operations of the Department of Parks, and divisions thereof, and submit the same to the Mayor, through the City Administrator, for approval. The Director shall further supervise and review the work of departmental subordinates and report periodically to the City Administrator concerning the operation and progress of the Department.

SECTION 13.3 PARKS AND RECREATION ADVISORY BOARD

A. The City Administrator shall appoint a seven member Parks and Recreation Advisory Board, one member's term shall expire December 31, 1968 and the other members shall be appointed so that their terms will expire on December 31st of each of the following six years. Upon expiration of these terms, successor to the members whose terms shall expire shall be appointed for a term of five years each.

B. The Parks and Recreation Advisory Board shall elect from its membership a chairman and vice-chairman, and shall adopt such rules as are necessary to arrange for the time of its meetings and the conduct of its business. In addition, the president of the Board of Education and two city officials appointed by the City Administrator shall be ex-officio members of said Board.

C. Duties of the Parks and Recreation Advisory Board. It shall be the duty of the Parks and Recreation Advisory Board to advise the City Administrator and the City Council upon any and all matters relating to planning, programming, and use of park and recreation facilities. The

Board shall concern itself with policy matters concerning parks or recreation, and may make such recommendations to the City Administrator as in the opinion of the Board, will improve the effectiveness of the parks and recreation programs or facilities.

SECTION 13.4

Title and Control of Public Parks. The City Council may accept gifts of land property for public use and recreation purposes, and the title to such lands acquired by gift, purchase, or other means shall be in the name of the City of Niagara Falls. The City Council, through the City Administrator, shall be responsible for control and care of all public parks, playgrounds, squares and gardens belonging to said City, and for all buildings and improvements existing thereon. Such lands shall be held and occupied for the public use for which the same have been acquired.

**ARTICLE XIV
MISCELLANEOUS**

SECTION 14.1

No person shall have power to make any purchase on the part of the City, unless especially authorized by the provisions of this act.

SECTION 14.2

No officer or employee of the City shall be eligible to or hold office of inspector of election, poll clerk or ballot clerk, but the fact that the person is a commissioner of deeds shall not disqualify him or her from holding such office.

SECTION 14.3

Upon the trial of any issue, or upon the taking of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, to which issue, inquest or investigation the City is a party, or in which the City may in any way be interested, no person shall be deemed an incompetent judge, referee, commissioner, witness or juror by reason of being an inhabitant, free-holder or taxpayer of the City.

SECTION 14.4

A. TORT CLAIMS. Notice of each claim for damages for wrong or injury to person or property or for the death of a person founded upon tort shall be given within ninety days after the claim arises by service thereof in compliance with the provisions of section fifty-e of the general municipal law.

B. CONDITIONS PRECEDENT TO ACTION.

(1) No action or proceeding to recover or enforce any unliquidated account or claim against the City shall be brought until such claim shall have been filed with the City Clerk or, in the case of a claim founded upon tort, shall not be brought until notice of claim is served as required by the provisions of section fifty-e of the general municipal law.

(2) No civil action shall be maintained against the City for damage or injuries to person or property sustained in consequence of any street, part or portion of any street including the curb thereof and any encumbrances thereon or attachments thereto, tree, bridge, viaduct, underpass, culvert, parkway or park approach, sidewalk or crosswalk, pedestrian walk or path being defective, out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of accumulation of snow or ice upon any street, bridge, viaduct, underpass, culvert, parkway or park approach, sidewalk or crosswalk, pedestrian walk or path, unless

previous to the occurrence resulting in such damage or injuries written notice of such alleged condition relating to the particular place and location was actually given to the Director of Public Works and there was a failure or neglect within a reasonable time thereafter to remedy or correct the alleged condition complained of.

SECTION 14.5

No person or corporation shall open or conduct within the City an opera house, theater or concert hall of any kind, or shall cause, permit or allow music of any kind to be rendered or furnished or any show, theatrical performance or exhibition to be given in any saloon or place where liquor is sold, for public amusement or entertainment, without first obtaining a license from the City Administrator and paying to the City Clerk the license fee fixed by the Council therefor. The City Administrator may grant or refuse any such license in his or her discretion. Any person violating the provisions of this section shall be deemed a disorderly person under the provisions of this act, and on conviction thereof shall be punished accordingly. Any corporation violating the provisions of this section shall be liable to pay to the City a penalty in the sum of fifty dollars to be sued for and recovered by the City in a civil action.

SECTION 14.6

A. The City Council of said City may submit for the approval of the electors of said City the question of the adoption by said Council of any resolution or ordinance affecting the interests of said City or the inhabitants thereof for the purpose of ascertaining the sentiment of the qualified elector of said City, and the decision of said electors at such election shall be advisory only. Such election shall be upon notice the same as required for tax elections in said City.

B. Voting at such election shall be by ballot, the form of which at each such election shall be determined by special resolution of said City Council.

C. At such election the polling places in each election district of said City shall be in charge of the regular Board of Election inspectors consisting of the four election inspectors regularly appointed in such district pursuant to statute. The organization of the inspectors of elections, the opening and closing of the polls, and the general conduct of the election thereat when not otherwise herein specifically provided for shall be governed by the provisions of the Election Law of the State of New York, except when said election is not held at the time of the general election said Election Board shall delegate two of their members to act as ballot clerks, one to deliver and the other to receive ballots and one of the remaining members of said Board shall properly keep the list of voters at such election and the other remaining member shall check the names of the voters voting against the registration list in possession of said board, excepting that upon the ballots being counted by the inspectors of election they

shall return the ballots with their report to the City Clerk of said City forthwith and it shall be the duty of the City Clerk to see the designation of the proper place for holding the election in each election district of said City and the furnishing of the necessary supplies therefor, and the duties of the commissioner of election of Niagara County, State of New York, so far as the designation of the equipment and providing for polling places in said City at general elections shall apply to and govern said City Clerk at such special elections so far as the same shall be affected. The City Clerk shall see that each Board of Election inspectors in each district is furnished with a duly certified copy of the regularly enrolled electors of such district at the opening of the polls, together with books for the registration of electors voting at such polling places in such form as shall be prepared and prescribed by said City Clerk.

D. Whenever such special election is held at the same time as the general election and the question to be voted upon is not placed upon a voting machine, the Board of Election inspectors in each election district may appoint two clerks, unless such clerks have been previously designated by said City Council hereby required to make such designation, or in case of such designation by such City Council a designated clerk shall fail to appear or be unable to act, one from each political party represented upon said Board, and shall designate one of said clerks to have charge of said ballots and the voting list furnished for said special election, and the other clerks shall be designated to receive the ballots and deposit the same in the ballot box provided for the reception of the same and shall deliver the same to the election inspectors at the close of the polls for counting and return of the same, as herein provided. Such clerks shall be entitled to the compensation provided by the statute for clerks of the Board of Election inspectors at general elections.

E. Electors entitled to vote at any said election shall be those duly enrolled upon the registration list of voters filed with the said commissioner of elections of Niagara County.

F. The certificate of the result of such election in each election district, which shall be made out and signed by the inspectors of election in each district shall be in such form as shall be prescribed by the City Clerk. The City Clerk shall receive the sealed ballot boxes containing the ballots cast at said election from each election district properly sealed and shall safely keep the same until further order of the City Council. The City Clerk shall, upon receiving the certificates of the result of the election from the various Boards of Election inspectors in said City showing the result of the election in each respective district, forthwith tabulate and certify the total result of such election in the various election districts in said City, and certify the same to said City Council at its next regular meeting, and said City Council shall thereupon declare by resolution the result of such election in said City, unless a recount shall be demanded at said meeting of said City Council, in which case, said City Council shall order a recount of the ballots in any election district where a recount is demanded; and

said recount shall be held on the day following said meeting of said City Council before said City Council sitting as a Committee of the Whole. The said Committee of the Whole, upon completion of said recount, shall certify the result of the same to said City Council at its next regular meeting and said Council shall, at said meeting, or in case of proceedings in a court of competent jurisdiction at such time as shall be fixed by order of said court, confirm the result of said election, as aforesaid.

G. Organizations of electors of said City in favor of or opposed to any questions submitted to a referendum, as herein provided, may be represented at each polling place in said City, during the time of holding thereat and during the time of counting the ballots, by two watchers to be appointed by the Mayor from lists submitted by such organization, and such watchers shall have all the powers and duties of watchers at regular elections provided by statute, but shall in no manner interfere with the conduct of general elections when the same shall be held at the same time and place as such special election. In case of a recount, as herein provided, proponents or opponents of any questions shall be entitled to five watchers to be appointed by the Mayor as aforesaid from a list submitted by said proponents or opponents of the question or questions.

H. Special elections herein provided for, shall be held not less than 10 days nor more than 30 days after the adoption of a resolution by said City Council providing, for the same, and the City Council shall cause to be published in the official paper at least once before such election a notice setting forth the question to be voted upon and the time and place of holding such election in each election district in said City.

I. In case said special election is held at the same time as the general election at which voting machines are used, unless otherwise directed by said City Council the question submitted shall be placed upon the voting machines in the respective election districts of said City, and in that case ballot clerks hereinbefore provided for shall not act. The City Clerk shall prepare an abstract of such question to be submitted concisely stating the purpose and effect thereof and forthwith transmit it in the form in which it is to be submitted to the election officer charged with the duty of publishing notices of election. The placing of such question upon such voting machines shall be governed by the statutes relating to the placing thereon of question submitted by act of the state legislature. Returns of the result of such election as to said submitted question shall be made to the City Clerk as hereinbefore provided.

J. All questions submitted as herein provided at any election shall be consecutively numbered.

K. The expense of such election shall be defrayed by said City from funds provided by said City Council for that purpose. Any details or questions relating to conducting such election, not herein specifically

provided for or not sufficiently governed by the statute of said state, shall be provided for and determined from time to time by special resolution of said City Council.

ARTICLE XV
DEPARTMENT OF TRAFFIC ENGINEERING

SECTION 15.1

A. Traffic Advisory Commission: The City Council shall appoint five members of the Traffic Advisory Commission, one of whose terms shall expire December 31, 1957 and the other members shall be appointed so that their terms will expire one each on December 31st of each of the following four years. Upon the expiration of these terms, successors to the members whose terms shall expire shall be appointed for a term of five years each.

B. Duties of Traffic Advisory Commission: It shall be the duty of the Traffic Advisory Commission to advise the City Council, the City Administrator, the Superintendent of Police upon any and all matters in relation to traffic which may be submitted to such Commission.

C. The Traffic Advisory Commission shall interest itself in the traffic problems of the City and may make such recommendations to the Superintendent of Police, City Administrator or City Council, as in the opinion of the Commission will facilitate the movement of traffic and promote safety upon the City streets. The Traffic Advisory Commission shall elect from its members a chairman, vice chairman and secretary and shall adopt such rules as are necessary in order to arrange for the term of its meeting and the conduct of its business.

**ARTICLE XVI
BOARD OF APPEALS,
JURISDICTION AS TO CERTAIN ZONING MATTERS
AND THE OFFICIAL CITY MAP**

SECTION 16.1

Board of Appeals, appointment of: There shall be appointed by the City Council seven members of a Board of Appeals, who shall serve without compensation. The present six members of the Board of Appeals shall continue to serve for the respective terms for which they were appointed, and their successors shall continue to be appointed for a term to expire December 31, 1991 and a successor shall thereafter be appointed for a term of three years. The Board of Appeals shall annually select a chairman from its own members and shall appoint a secretary whose compensation, if any, shall be fixed by the City Council. The Board shall hold meetings on regular dates to be fixed by the Board or at the call of its chairman.

SECTION 16.2

Board of Appeals, Powers and Duties: Said Board shall have all the powers and duties prescribed by law for Boards of Appeals and by this Charter and by the zoning ordinance, and generally shall have the following powers:

A. With Respect to Zoning.

(1) Interpretation: On appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of the zoning ordinance.

(2) Special Permits: Subject to the provisions of the zoning ordinance, to issue special permits for any uses for which the zoning ordinance required the obtaining of such permits from the Board of Appeals. In the granting of special permits for hotels, motels, travel lodges, motor inns, and similar designations, the Board of Appeals shall first refer said application to the Planning and Urban Renewal Board for a report and recommendation thereon. Notwithstanding the foregoing, the City Council may grant an application for a special permit to alter or enlarge a prior non-conforming use in the event of denial by the Board of Appeals of such applications only upon unanimous vote of all members of the Council, and shall by ordinance, prescribe the time, manner and conditions under which such application may be granted.

(3) Adjustments: On appeal from a decision by an administrative official to vary or adjust the strict application of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or

unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.

B. With Respect to the Official Map.

On appeal from a decision of the Director of Code Enforcement, to grant a permit for a building any part of which would be located on privately owned land in the bed of a mapped street shown on the official map, if the granting of such permit is necessary in order to enable the owner to enjoy the reasonable use thereof, provided, however, that the granting of such permit will as little as practicable increase the cost of opening such street or tend to cause a change in the official map. The Board of Appeals, in granting any such permit, may impose any reasonable requirement as a condition of granting such permit, which requirements shall inure to the benefit of the City.

C. With respect to access.

On appeal from a decision of the Director of Code Enforcement, to grant a permit for a building situated on a parcel of land that does not abut on a street shown on the official map, if the granting of such permits is necessary to enable the owner to enjoy the reasonable use of said land. The Board of Appeals shall obtain the approval of the Planning Board in each case as a condition of the granting of any such permit.

ARTICLE XVII
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

SECTION 17.1

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT. There is hereby created a "Department of Planning and Economic Development", which shall consist of the Planning Board, appointed as hereinafter provided, and a Director of Planning and Economic Development.

SECTION 17.2

DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT. The City Administrator shall appoint the Director of Planning and Economic Development. The Director of Planning and Economic Development shall be the administrative head of the Department of Planning and Economic Development, and the Director of the technical staff of the department under the direction of the City Administrator.

SECTION 17.3

ECONOMIC DEVELOPMENT. The Department of Planning and Economic development under the direction of the Director of Planning and Economic Development shall also furnish and perform all services and activities pertaining to economic development within the City of Niagara Falls, including any urban renewal project areas if so requested or agreed to by the Niagara Falls Urban Renewal Agency. Such economic development activities and services may be either industrial or commercial and shall include, but not be limited to, establishing developer contacts; negotiations with developers; structuring development proposals; coordination of financing programs to implement development; preparation and structuring of economic development programs and applications for submission to federal, state or local agencies; implementation of funding programs with banking and lending institutions; coordination with other organizations or agencies as may be required; and such other functions necessary to stimulate and encourage economic development; and any related activity as may be directed by the City Administrator

SECTION 17.4

PLANNING BOARD, APPOINTMENT OF. There shall be appointed by the City Council nine (9) members of a Planning Board, who shall serve without compensation. Of the members of the Planning Board appointed under the provisions hereof, the appointment of as nearly as possible of one-third of the members of the Board shall be for a term of one year, one-third for a term of two years and one-third for a term of three years. At the expiration of such terms, the terms of office of their successors shall be three years, so that the term of office of one-third of such members of such Board, as nearly as possible, shall

expire each year. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term.

Said Board shall annually elect a chairman, and vice chairman. The Board shall hold meetings as provided in its rules or at the call of its chairman and shall keep full and complete minutes of the meetings and all hearings and proceedings of the Board. The Director of Planning and Economic Development, or such staff member as such Director shall delegate, shall serve as the Secretary of the Planning Board.

B. POWERS AND DUTIES OF PLANNING BOARD

(1) To prepare, adopt, and from time to time revise a comprehensive master plan containing recommendations for the orderly physical development of the City, including the rehabilitation or redevelopment of blighted or deteriorated areas therein. Such plan shall include a generalized plan of land use and population density and a plan of major facilities for traffic and transportation of all kinds, with routes and terminals therefor, and may include any other subject relating to the physical development of the City. The subjects of the master plan may be presented in the form of maps, charts, diagrams, statements of standards, or reports, as may be appropriate.

(2) To advise the City Council or any other body, department, official or agency having jurisdiction, with respect to any subject of the master plan or to any policy or procedure relating thereto, to the end that the master plan shall serve as a guide for public policies, procedures, and actions relating to the subjects thereon.

(3) To study and consider all proposed amendments to the zoning ordinance of the City, including all proposed changes in the boundaries of districts established thereby, and to submit to the City Council a definite recommendation thereon, previous to the adoption of any amendment by the City Council.

(4) To pass on the plats of all proposed subdivisions. Every map or plat showing a subdivision of land within the City into lots, plots, or blocks, hereinafter referred to as a plat, shall, before being filed in the Office of the Clerk of Niagara County, State of New York, be submitted to and approved by the Planning Board by the City Engineer and shall be submitted to and stamped by the City Assessor. A copy of every such plat shall be filed in each of the respective offices of the Planning Board, City Engineer, and City Assessor. Said Clerk shall not record any such plat unless it has been approved and stamped as herein provided.

The Planning Board shall approve, subject to modification, or disapprove the plat of any subdivision within forty-five days from and after the time of submission of the same to it; otherwise such plat shall be deemed to have been approved, and a certificate as to the date of the submission of the plat and the failure of the Planning Board to take action thereon within forty-five days thereafter, shall be issued by the

Secretary of the Planning Board on demand and shall be sufficient in lieu of the written endorsement or other evidence of approval by the Planning Board.

Before acting on any plat, the Planning Board shall hold a public hearing thereon, notice of which shall be given by publication in the official newspaper of the City. Such hearing may be held on either the plat in final form or on a preliminary plat or on both. The grounds for disapproval of any plat shall be fully stated in the records of the Planning Board and a copy of such statement shall be furnished to the sub divider. The approval by the Planning Board, of a plat, or the certificate as to the date of the submission of such plat, and the failure of said Board to take action thereon within forty-five days, shall expire six months from the date of such approval or of such certificate unless the plat shall have been recorded in the meantime. Upon recording a plat, the streets shown thereon shall become a part of the official map of the City. After holding a public hearing, notice of which shall be given by publication in the official newspaper of the City, and after approval by the City Council, the Planning Board shall adopt regulations covering the design and layout of subdivisions and the improvements to be required therein, together with procedure governing the preparation and filing of preliminary and final plats and action thereon and the installation of improvements, including the requirement that a performance bond shall be filed to cover any improvements that have not been completed by the time of approval of the final plat. All subdivisions, the plate thereof, action on such plats, and the installation of improvements in subdivisions shall conform to such regulations.

Every plat submitted to the City Engineer shall be accompanied by a deed from the owner of the land within the streets appearing on said plat, conveying to the City the fee of such land, and which deed shall be approved by the Corporation Counsel of the City. Said deed thus approved when delivered to the City Assessor shall be by him or her delivered to the City Clerk for record in said County Clerk's Office.

Every deed of conveyance of land, including wills, exemplifications of record, and land contracts, relating to land in the City, shall be presented to the City Assessor and stamped by him or her before it shall be recorded in said County Clerk's Office, and said Clerk shall not record any such deed, will, exemplification of record, or contract unless so stamped, under the penalties prescribed in this section. Nothing herein shall affect the record of an unstamped deed, exemplification of record, or contract.

If any subdivision plat not approved by the Planning Board and the City Engineer or not stamped by the City Assessor, or if any deed of conveyance of land, will, exemplification of record, or land contract not stamped by the City Assessor be placed on file by any individual, firm, association, or corporation, such individual, firm, association or corporation shall forfeit to the City the sum of fifty dollars for each lot, plot, or parcel shown on such plat, deed, will, exemplification

of record, or contract, to be recovered by the City in any court of competent jurisdiction.

(5) To advise the City Council with respect to the proposed acquisition of alienation of land. The City Council shall not acquire any land for any purpose by any means, except by tax foreclosure, and shall not alienate any land by any means until such proposed acquisition or alienation shall first have been referred to the Planning Board for a report thereon, provided that failure of the Planning Board to report within forty-five days after reference to it of such proposed acquisition, or alienation shall be deemed to be approval thereon; provided further, that if the City Council shall find, by unanimous vote, that the immediate acquisition of a specified parcel of land would be in the public interest, it need not refer the proposed acquisition thereof to the Planning Board.

(6) To advise the City Council with respect to any proposed change in the official map of the City as hereinbefore provided.

(7) To advise the Board of Appeals with respect to the granting of special permits as provided in the Zoning Ordinance. The Planning Board shall investigate, review and advise the Board of Appeals with respect to any application for a hotel, motel, travel lodge, motor inn or similar designation referred to it by the Board of Appeals.

(8) To advise the Board of Appeals with respect to appeals pertaining to access in relation to the official map.

(9) To act on any matter on which the Planning Board is required or authorized to act by the provisions of this Charter or of any ordinance of the City or of General Law or by any action of the City Council.

ARTICLE XVIII
DEPARTMENT OF CODE ENFORCEMENT

SECTION 18.1 DEPARTMENT OF CODE ENFORCEMENT

There is hereby created a Department of Code Enforcement under the control and supervision of the Director of Code Enforcement, who shall be appointed by the City Administrator.

SECTION 18.2 DIRECTOR

The Director of Code Enforcement shall be the Building Commissioner of the City of Niagara Falls, and shall have all the power, rights, privileges and authority previously held or exercised by the Director of Building, Housing and Rehabilitation and the Director of Code Enforcement shall be deemed the Director of Building, Housing and Rehabilitation whenever reference shall be made to the Director of Building, Housing and Rehabilitation.

SECTION 18.2 POWERS OF DIRECTOR OF INSPECTIONS

The Director of Code Enforcement, shall have all the powers and duties which state law, City ordinances or other sections of the City charter specify as the powers and duties of the Building Commissioner. In addition thereto, the Director shall be the administrative head of the department and shall carry out his or her duties under the direction of the City Administrator. The Director shall be responsible for the enforcement of all minimum housing standards. It shall be the Director's duty to enforce the laws of the state and the ordinances of said City relating to the construction, alteration or removal of all buildings or structures erected onto be erected within said City of Niagara Falls, and in so doing the Director may revoke any building permit issued by him or her therefor. Application for permission to construct, alter or remove buildings or structures within said City of Niagara Falls shall be made to the said Director upon forms to be provided by said City, and shall be accompanied by plans and specifications therefor. The Director shall investigate such application and examine such plans and specifications and report the same to the City Administrator with recommendation thereon when required, and without unnecessary delay shall complete said investigation and examination and thereupon forthwith grant or refuse said permit. It shall be the duty of the Director of Inspections to exercise administrative control over plumbing inspections so as to coordinate plumbing inspection with the total building inspection program.

SECTION 18.4 ELECTRICAL AND PLUMBING INSPECTIONS

A. Within said Department there shall be a Chief Electrical Inspector. The Chief Electrical Inspector shall be appointed by the City Administrator and it shall be his or her duty, under the direction of

the Director of Inspections, to grant and refuse permits relating to electrical wiring construction and the use thereof in said City except the electrical power stations and facilities operated by electrical power utilities and under the jurisdiction of the Public Service Commission of the State of New York. He or she shall inspect the electrical wiring of all buildings subject to his or her jurisdiction and if the work performed and materials furnished shall not be in accordance with the statutes of said state and ordinances and rules of said City, shall cause the same to be done in accordance therewith. He or she shall enforce all ordinances of said City and statutes of said state relating to matters within his or her jurisdiction. All permits issued by said Chief Electrical Inspector shall be countersigned by the Director of Inspections. Electricity shall not be turned on in any building within the said City of Niagara Falls, subject to the jurisdiction and visitation of the Chief Electrical Inspector, without written permission of said Chief Electrical Inspector and the City shall furnish blanks for that purpose. Anyone aggrieved by the refusal of said Chief Electrical Inspector to grant such permit or permission may appeal by written notice to the City Administrator who shall forthwith investigate and confirm such refusal, or reverse the same and direct the granting of the permit or permission.

B. Within said Department there shall also be a Plumbing Inspection section which shall be composed of the Plumbing Inspectors of the City of Niagara Falls who shall, in addition to discharging the duties prescribed for them by the General City Law and the laws of the State of New York, before any plumbing, sewers or drains are constructed or altered in any premises in said City, approve the plans and specifications therefor, and shall issue to the owner or party applying therefor a written permit to be countersigned by the Director of Inspections when such plans and specifications are approved by him or her, and the construction or alteration of any plumbing, drains or sewers by any owner or person on any premises within said City without first obtaining such written permit of said Plumbing Inspectors, shall be unlawful and is hereby declared to be a misdemeanor and the unauthorized plumbing, sewerage or drains shall be deemed a nuisance and shall be reconstructed or altered as directed and permitted by said Plumbing Inspectors. Said Plumbing Inspectors shall discharge such other duties in addition to those herein imposed upon them or imposed upon them by the laws of the State of New York or the Director of Inspections.

C. The Examining Board of Plumbers of the City of Niagara Falls is continued and is hereby designated to carry out the provisions of sections forty-five-b and forty-seven of the General City Law of the State of New York and the said Examining Board of Plumbers shall possess the power, duties and authority set forth in said sections conferred upon said Examining Board of Plumbers, such Board being duly designated by local law.

Every master plumber, journeyman plumber and apprentice plumber shall register with the Examining Board of Plumbers under such rules as the said Board shall pass upon.

ARTICLE XIX
CONDUCT OF CERTAIN GAMES OF CHANCE
BY CERTAIN ORGANIZATIONS

SECTION 19.1 DEFINITIONS

As used in this article, unless the context requires otherwise, the following terms shall have the following meanings:

(1) "Control Commission" shall mean the State Lottery Control Commission.

(2) "Bingo" or "Game" shall mean and include a specific game of chance, commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

(3) "Authorized Organization" shall mean and include only bona fide religious, charitable or non-profit organizations of veterans, volunteer firefighters and similar non-profit organizations.

(4) "License" shall mean a license issued pursuant to the provisions of the article.

SECTION 19.2 AUTHORIZATION

It shall be lawful for any organization, upon obtaining a license therefor as hereinafter provided, to conduct the game of bingo within the territorial limits of the City of Niagara Falls, subject to the provisions of this article, the provisions of Article 14-G of the General Municipal Law and the provisions of the State Lottery Control Law.

SECTION 19.3 APPLICATION FOR LICENSE

A. Each applicant shall file with the City Clerk of the City of Niagara Falls a written application in the form prescribed in the rules and regulations of the control commission duly executed and verified.

B. In each application there shall be designated an active member or members of the applicant organization under whom the game or games of chance described in the application are to be held, operated and conducted, and there shall be appended to the application a statement executed and verified by the applicant and by the member or members so designated that he, she or they will be responsible for the holding, operation and conduct of such games of chance in accordance with the provisions of Article 14-G, General Municipal Law of the State of New York, with the terms of the license and the provisions of the rules and regulations governing the holding, operation and conduct of such games of chance, if such license is granted.

C. In the event that any premises upon which any such game of chance is to be held, operated or conducted, or which is to be used for any other purpose in connection with the holding, operation or conduct thereof is to be leased or rented from any person, persons or corporations the application shall be accompanied by a written statement signed and verified under oath by such person or persons or on behalf of such corporation, stating his, her, their or its address, the amount of rent to be paid for such premises and stating that such lessor, lessors or if a corporation all of its officers and each of its stockholders who hold more than ten percent or more of its stock issued and outstanding, are of good moral character and have not been convicted of a crime.

SECTION 19.4 GENERAL RESTRICTIONS

Any game or games licensed hereunder shall be subjected to the following restrictions in addition to such other restrictions as may be provided herein or contained in the rules and regulations of the Control Commission.

(1) No person, firm, association, corporation or organization, other than an authorized organization licensed under the provision of this article, shall be permitted to conduct such games.

(1a) No bingo game shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

(2) The entire net proceeds of any game or games shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

(3) No single prize shall exceed the sum or value of two hundred fifty dollars.

(4) No series of prizes on any one occasion shall aggregate more than one thousand dollars.

(5) No person except a bona-fide member of such organization shall participate in the management or operation of such game.

(6) No person shall receive any remunerations for participating in the management or operation of any such game.

(7) The unauthorized conduct of a bingo game and any willful violation of any provision of this article shall constitute and be punishable as a misdemeanor.

SECTION 19.5 ISSUANCE AND DURATION OF LICENSE

A. The City Clerk of the City of Niagara Falls, New York shall cause to be investigated the qualifications of each applicant and the merits of each application with due expedition after the filing of the application. The City Clerk shall deliver to the City Administrator the application together with the supporting documents therefor and a detailed report of the results of the City Clerk's investigation, including the due qualification of the applicant to be licensed, the relationship of the members under whom such games are to be conducted with the applicant, whether such persons are of good moral character or have ever been convicted of a crime, whether the conduct of such games will comply with all the provisions of law and rules and regulations applicable thereto, whether a commission, salary, compensation, reward or recompense of any nature will be paid to any person conducting or assisting in conducting such games of chance, whether a prize will be offered or given in excess of the sum or value of two hundred fifty dollars in any single game or an aggregate of all prizes given in a series of games on a given occasion will exceed the sum or value of one thousand dollars, and such other questions or inquiries as the City Administrator may direct.

B. If the City Administrator shall determine that the requisite conditions have been met by the applicant, the City Administrator shall issue a license to the applicant for the holding, operation and conduct of the specific kinds of games of chance applied for upon payment of a license fee or fees of ten dollars for each occasion upon which any games of chance are to be conducted under such license, which fees are to be paid to the cashier of the City of Niagara Falls.

C. On or before the thirtieth day of each month the Treasurer of the City of Niagara Falls shall transmit to the State Comptroller a sum equal to fifty percent of all license fees collected by the City of Niagara Falls pursuant to this section during the preceding calendar month.

D. No license shall be issued under this article which shall be effective for a period of more than one year.

E. HEARING; AMENDMENT OF LICENSE.

(A) No application for a license hereunder shall be denied by the City Administrator until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

(B) Any license issued under this article may be amended upon application to the City Administrator, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license, and upon the payment of such additional license fee, if any, as would have been payable if it had been so included.

F. Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the Control Commission.

SECTION 19.6

The City Administrator shall have and exercise control and supervision over all games of chance held, operated or conducted under such license, and shall have the power and authority to suspend any such license, and, after notice and hearing, to revoke the same for violation of any provision of such license, this article, sections 475 to 499 of the General Municipal Law or the rules and regulations of the Control Commission. The City Administrator or any officer designated by him or her shall have the right of entry at all times into any premises where any such game of chance is being held, operated or conducted, or where it is intended that any such game of chance shall be held, operated or conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

SECTION 19.7

Such games may be held on any day provided for in such license, including Sunday providing that no games may be conducted on Sunday until after 2 o'clock in the afternoon.

SECTION 19.8

No person under the age of eighteen years shall be permitted to participate in any game or games of chance held, operated or conducted pursuant to any license issued under this article unless accompanied by an adult. No person under the age of eighteen years shall be permitted to conduct or assist in the conduct of any game of chance held, operated or conducted pursuant to any license issued under this article.

SECTION 19.9

No game or games of chance shall be held, operated or conducted under any license issued under this article oftener than on six days in any one calendar month, or in any room or outdoor area where alcoholic beverages are sold, or served during the progress of the game or games.

SECTION 19.10 PERSONS OPERATING AND CONDUCTING GAMES; EQUIPEMNT; EXPENSES; COMPENSATION

No person shall hold, operate or conduct any game or games of chance under any license issued under this article except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game or games of chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or a member of an organization or association which is affiliated with the licensee by being, with it,

auxiliary to another organization or association and except bookkeepers or accountants as hereinafter provided and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee, and no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance held, operated or conducted pursuant to any license issued under this article, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof under any circumstances whatever; no rental shall be paid for the use of any premises for holding, operating or conducting thereof under any circumstances whatever; no rental shall be paid for the use of any premises for holding, operating or conducting any such game of chance thereon or for any other purpose in connection with the holding, operating or conducting thereof unless the amount of such rental is stated in a statement annexed to the application for the license as provided in section 19.3 of this article or which is in excess of the sum stated as the rental to be charged therefor in such statement; and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting, or assisting in the holding, operation or conduct of any game of chance so held, operated or conducted, except that reasonable compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of compensation prescribed by the rules of the Control Commission.

SECTION 19.11 CHARGE FOR ADMISSION AND PARTICIPATION; AMOUNT OF PRIZES; AWARD OF PRIZES

Not more than one dollar shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be held, operated and conducted under any license issued under this article, which admission fee, upon payment thereof, shall entitle the person paying the same to a card entitled him or her to participate without additional charge in all regular games of chance to be played under such license on such occasion, and no charge in excess of one dollar shall be made for a single opportunity to participate in all special games to be played under such license on such occasion. No prize greater in amount or value than two hundred fifty dollars shall be offered or given in any single game conducted under any such license and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed one thousand dollars, and all winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any such game.

SECTION 19.12 ADVERTISING GAMES

No game of chance to be conducted under any license issued under this article shall be advertised as to its location, the time when it

is to be or has been played, or the prizes awarded or to be awarded, by means of newspapers, radio, television or sound tracks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one sign not exceeding sixty square feet in area may be displayed on or adjacent to the premises where the game will be played and an additional sign may be displayed on or adjacent to the premises where the prize or prizes are displayed and additional signs may be displayed upon any firefighting equipment belonging to any licensee, which is a volunteer fire company, or upon any first-aid or rescue squad equipment belonging to any licensee, which is a first-aid or rescue squad, in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

SECTION 19.13 STATEMENT OF RECEIPTS, EXPENSES, ETC.

Within fifteen days after the conclusion of the holding, operating and conducting of any such game of chance, the authorized organization which held, operated or conducted the same, and its members who were in charge thereof, shall furnish to the City Clerk a duly verified statement showing the amount of the gross receipts derived from each game of chance, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate therein, each item of expense incurred; or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net profit derived from each such game of chance, and the use to which such net profit has been or is to be applied, and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of such licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

SECTION 19.14 EXAMINATION OF BOOKS AND RECORDS; EXAMINATION OF MANAGERS, ETC.; DISCLOSURE OF INFORMATION

The City Administrator and the Control Commission shall have power to examine or cause to be examined the books and records of any authorized organization to which any such license is issued so far as they may relate to any transactions connected with the holding, operating and conducting of any game of chance thereunder and to examine any manager, officer, director, agent member or employee thereof under oath in relation to the conduct of any such game of chance under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

SECTION 19.15 APPEALS TO CONTROL COMMISSION

Any applicant for, or holder of, any license issued or to be issued under this article aggrieved by any action of the City, its officers or

agents, concerning an application which has been made or a license which has been issued, may appeal to the Control Commission from the determination of the City, its officers or agents, by filing with the City Administrator a written notice of appeal within thirty (30) days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before the City Administrator, and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the Control Commission upon said appeal shall be binding upon the City and all parties to said appeal.

SECTION 19.16 IMMUNITY FROM PROSECUTION; EXEMPTION

No person or corporation lawfully conducting, or participating in the conduct of, possessing, selling or in any manner disposing of, any shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him, her, or it of any game of chance conducted or to be conducted under any license lawfully issued pursuant to this article, shall be liable to prosecution or conviction for violation of any provision of article one hundred thirty of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of chance under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him, her, or it of any game of chance conducted under any license known to him, her, or it to have been obtained by any such false pretense or statement.

SECTION 19.17 OFFENSES; FORFEITURE OF LICENSE; INELIGIBILITY TO APPLY FOR LICENSE.

Any person, association or corporation who or which shall make any false statement in any application for any such license or in any statement annexed thereto or shall pay any rental for the use of any premises for holding, operating or conducting any game of chance under this article or for any other purpose in connection with the holding, operating or conducting thereof, unless the amount of such rental is stated in a statement annexed to the application for the license as provided in section 19.3 of this article, or shall pay or receive any sum for such rental in excess of the sum stated as the rental to be charged therefor in such statement executed by him, her, or on its behalf, or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating and conducting of games of chance under any such license or shall falsify or make any false entry in any book or record so far as they relate to any transaction connected with the holding, operating or conducting of any game of chance under any such license or shall violate any of the provisions of this article or of any term of such license shall be guilty of a misdemeanor and shall forfeit any license issued to it under this

article and be ineligible to apply for a license under this article for one year thereafter.

SECTION 19.18 AMENDMENT AND REPEAL

This article may be amended, from time to time, or repealed by the City Council, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the date of enactment of the local law or ordinance affecting such amendment or repeal, as the case may be; and the approval of a majority of the electors shall not be a condition prerequisite to the taking effect of such local law or ordinance.

SECTION 19.19 SEVERABILITY

If any provision or application of this article or a provision or application of Chapter 854 of the Laws of 1957 to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article of the application or of Chapter 854 of the Laws of 1957 to other municipalities; persons and circumstances shall not be affected thereby, and the Council hereby declares that it would have enacted this article without the invalid provisions or application, as the case may be, had such invalidity been apparent.

ARTICLE XX
CITY CONTROLLER

SECTION 20.1 CITY CONTROLLER

A. The Controller shall be the Chief Fiscal Officer of the City. It shall be the duty of the Controller to develop and recommend policies and objectives relating to financial services; review the adherence thereto, and insure correction of deviation from policy. In addition, it shall be the duty of the Controller to perform all duties imposed by law as well as to provide fiscal information to elected City officials, the Administrator and other Departments as required; to issue guidelines to the various departments; monitor financial systems and reorganize as needed; supervise and monitor job development and training of personnel under the Controller's Office; assist in determining capital projects; direct the auditing function; assist in the preparation of the annual budget; review and monitor departmental budgets and actual expenditures and investigate variances thereof; monitor and review contract and lease administration; supervise City and departmental purchasing and monitor public works contracting; supervise the function of electronic data processing and development of systems relative thereto; supervise the auditing of all bills, accounts, and vouchers of the City; supervise the preparation of all necessary and required reports and statements; supervise the collection of taxes and other revenue and investment of City funds; execute checks and warrants; conduct the treasury operations for the City; maintain and be responsible for all debt service administration; maintain and supervise the accounts and the establishment of related accounting procedures and processes of the City and of each of its funds, departments and agencies; and all other duties that the Administrator or the City Council may from time to time assign; and supervise all personnel under his or her control.

B. All claims and demands of every name and nature against said City or any department thereof, except claims for damages arising from an alleged tortious act or omission and except claims against the Board of Library Trustees and claims payable from library money, and except as provided in section 14.4 of this Charter, shall be made in form and manner to be prescribed by the Controller. All such claims and demands shall be made out by items and in detail showing fully the quantity and prices charged and by whom each item shall have been ordered. All such claims and demands shall be filed with the Controller who shall forthwith refer the same to the officer with whom, or department or bureau in which the claim originated for examination. Before any further action shall be had upon any such claim, the officer, bureau or department to which the same shall be referred shall examine such claim and approve or disapprove the same in whole or in part and shall promptly return such claim to the City Administrator with such written memoranda of the reason for such disposition thereof as may be proper. The Administrator shall upon examination forthwith return the same to the Controller with such recommendation as the Administrator deems proper. Upon the return of such claims to the Controller the Controller shall

examine further as to the correctness of said account or demand, the computation thereof, the condition of the fund from which the account or demand is made payable, and such other matters in respect thereto as may be material. Within ten days after the return of any such claim or demand from the officer, bureau or department in which it originated or to which it was referred, the Controller shall report said claim, when approved by him or her, to the Council, recommending the payment thereof, and shall also, from time to time, report to the Council all payments necessary for the principal and interest of any bonded debt or temporary loan, recommending the payment thereof. The Controller shall also, within like period, report to the City Council all claims which have been presented and disapproved, either by himself or herself or the officer, bureau or department to which the same were referred by him or her, or by the City Administrator, with the reason for such disapproval. He or she shall cause to be mailed to each member of the Council at least twenty-four hours before any action on any such claim by said Council an abstract of his or her said report showing the name of the claimant and the amount and nature of the claim to be presented to the Council for action, and whether and by whom such claim is approved or disapproved. After receipt of such report the Council may order the payment of any claim or item included therein and may order that warrants be drawn directing the Controller to pay the same. The Council shall finally act upon any such claims so presented to it within two weeks after presentation of the report of the Controller. No action or proceeding shall be taken in any court to enforce any claim until forty days have elapsed after the filing thereof with the Controller. Any person presenting for payment a claim against the City or any board thereof shall use his or her own name or the name of the firm of which he or she is a member. If any person shall use a name other than his or her own or that of the firm of which he or she is a member, such person shall be guilty of a misdemeanor and any member of any board or any officer of the City who shall knowingly approve, audit or pay any such claim shall be guilty of a like offense.

C. The Controller shall keep a correct account of all moneys received by the City and of all expenditures of the City and of all warrants and orders drawn upon the Controller and such accounts shall be kept in such book or books and in such manner as the City Council shall direct. He or she shall credit all receipts to the proper funds created by this act and such other funds as may be hereafter lawfully created. He or she shall recommend to the Council the making of all transfers of moneys, but the Council shall not order nor shall the Controller make any transfer to any fund in any fiscal year in excess of the amount the Council is herein authorized to expend in such year from such fund, except as otherwise provided in the City Charter. Notwithstanding the above provision, however, any unexpended balance remaining in any fund created by or under this, or any other act relating to the City after the purpose for which such money was raised or appropriated has been completed or accomplished and fully paid for, may, except as otherwise provided by section 165.00 of the Local Finance Law, upon recommendation of the Controller and by direction of the Council, be transferred to any other fund, or appropriated for

any City purpose authorized or contemplated by the City Charter, except that any moneys raised or appropriated for library purposes shall only be used for such purposes. The Controller shall report to the City Council at least once each month, the aggregate amount of the orders, warrants and drafts drawn on each fund and the amount of money appropriated and expenditures authorized from each fund which remain unpaid and outstanding during the current fiscal year, except as to the local improvement fund, and he or she shall report as to such local improvement fund and the orders, warrants and drafts drawn thereon when directed by the City Council so to do. Such reports shall show the condition of the several funds, as the same appear on the date thereof, and shall be verified by the affidavits of the Controller. Each report shall be published in the official paper of said City as part of the proceedings of the meeting of the City Council at which the report was presented. The Controller shall on or before the first day of March in each year submit to the City Council a detailed financial report for the preceding fiscal year which shall cover all of the items required to be published by the said Council as provided in section eighty-seven of the City Charter.

D. The Controller shall before entering upon the duties of his or her office, enter into a bond in a penal sum to be fixed by the City Council, not less than one hundred thousand dollars, which bond upon approval, shall be immediately filed in the Office of the Clerk of Niagara County, New York, who shall place the same on record as required in the case of bonds of town collectors. Said bond except where the surety thereon is a fidelity or surety company duly authorized to transact business and act as such surety within this state, shall thereupon be a lien upon the real estate of said Controller and the Controller's sureties, in the County of Niagara, and shall continue so until the conditions together with all costs and charges accruing from the prosecution thereof shall be satisfied and fully discharged. Said bond shall be approved as hereinbefore provided, as to conditions and sufficiency, and by the Corporation Counsel as to form.

E. Warrants for the collection taxes shall be issued by the Legislature of the County of Niagara and shall be delivered to the Controller upon his or her having executed and filed a bond as provided by subsection D above, which bond shall also be executed to the County of Niagara and approved by the Chairman of the Legislature. Upon the giving of such bond, the Controller shall be empowered to collect the county taxes in said City, and deposit the same as in the case of City taxes, or as the Legislature of said county may direct, and shall pay the same as provided by law. The Controller shall receive and have the care and custody of all moneys of the City and shall pay them out as herein provided. He or she shall demand, collect and receive all claims and money due the City from every source. All moneys of the City received by him or her shall be deposited daily in such banks or trust companies as shall be designated by the City Council. The interest on such deposits shall belong to the said City of Niagara Falls. All money drawn from the City Treasury, excepting library moneys shall be

by checks upon the City depositories signed by the Controller but no such checks shall be issued or drawn except upon the authority of warrants ordered drawn by the City Council, except as otherwise provided in the Charter or ordinances of said City, which warrants shall be signed by the City Clerk and shall specify from what fund and for what purpose the amount therein maintained shall be paid. Such warrants shall be numbered consecutively. Notwithstanding the above provisions checks upon the payroll and salary fund accounts deposited in the City depositories may be issued bearing the signature alone of the Controller affixed thereto as above provided.

F. All moneys deposited by the Controller in any bank or trust company shall be deposited by him or her to the credit of the City. The Controller shall keep bank books correctly showing the amount of deposits and the moneys drawn from such bonds and trust companies at all times. He or she shall file with the Controller on the first day of each month a report showing the balance to the credit of the City on that day in the several banks and trust companies in which deposits are made. Every bank and trust company having deposits to the credit of the City shall file with the Controller under oath, on the first day of each month, a statement of the balance to the credit of the City with such bank or trust company on that date.

G. The Controller shall, at a meeting of the Council in January, April, July and October in each year, submit a written or printed report giving a summary of the receipts and expenditures of the City during the preceding quarter year. And he or she shall on or before the first day of March in each year, submit to the Council a summary of the four quarterly statements showing the receipts and expenditures of the City for the preceding year, as well as the moneys in the treasury.

H. The Controller shall have, under the direction of the City Council, the custody and management of any sinking fund provided for the payment and redemption of City debts.

I. Upon request of any person therefor, the Controller shall cause a search to be made of the City records for any unpaid taxes, pending or levied assessments; unpaid water and sewer assessments; or unpaid charges of any nature against any parcel of land in the City and to make an abstract thereof, which shall show the amounts of such unpaid taxes, assessments or other charges, the year levied or incurred, and all applicable penalties and interest which have accrued thereon to the date of the search. He or she shall certify to the correctness of said search as the agent of the City. The City Council shall set fees for furnishing such searches, which shall be paid to the Controller by the person requesting the search for each separate parcel of land against which such a search is made; and for furnishing a certified copy of a paid tax or assessment bill which is in addition to the normal receipt given in payment.

J. The Controller shall pay into the treasury of the City all fees, percentages or interest moneys which he or she may receive for the use of moneys in the Controller's hands or otherwise.

K. Whenever by this Charter, or any other provision of law, reference is, or shall be made to the Director of Finance, City Auditor, City Treasurer or Controller of the City of Niagara Falls, such reference shall be deemed a reference to the City Controller, and the City Controller shall be deemed to hold such office.

SECTION 20.2 EXPENSES OF OFFICIALS AND EMPLOYEES

A. The City Administrator is hereby empowered to recompense City employees and officials for the use of their cars in the carrying on of City business or for transportation by such City personnel in connection with their jobs under the direction of the City Administrator or authorization by the City Council in one of the following methods, or any combination thereof, which the City Administrator shall in his or her discretion deem most appropriate:

(1) a flat rate allowance determined by the City Administrator;

(2) a permit to draw a specified amount of gasoline from the City's fuel supply yard;

(3) a mileage allowance while said car is so used, the rate for which shall be established by ordinance of the City Council from time to time. The head of each department of the City whose employees are affected by this provision shall keep accurate records of the reimbursable mileage traveled by each employee in said department and such mileage shall be paid upon verified vouchers approved by the department head, the City Administrator and Controller, in accordance with directions contained in this Article.

B. The City Administrator shall in determining a fair compensation take into account to greatest extent possible, the cost of operation to the employee's car,, including, but not limited to, insurance, maintenance, depreciation, and the size of the subject car, etc. The City Administrator shall advise the City Council in writing as soon after the grant of any such authorization of the name of the employee, the nature of the job, the reason a City vehicle is not used, the method of compensation, and the date granted. In addition, the City Administrator shall file an annual report with the City Council no later than January 30th of each year reflecting all employees in such status as of that date setting forth all of the foregoing information.

C. The Controller is hereby authorized to advance such sums as the City Administrator may determine to be reasonably necessary to employees or officers to finance official travel expenses by such employee or officer. The amount of any such advance shall not exceed \$200.00 unless specifically authorized by the City Council. Each employee or officer seeking such an advance shall apply to the City Administrator for such

advance on such forms as may be required by him or her, and shall account to the City Administrator for the expenses of such travel and repay any unexpended funds to the City within five (5) days after returning from such travel, but in no event later than thirty (30) days after receipt of such advance. The Controller is hereby authorized to make payment of any such advance, after the same has been approved by the City Administrator.

SECTION 20.3 PAYROLLS

A. The Controller shall prepare payrolls for all City officers and employees except those of the public library. The head of each department or bureau shall maintain a record of the hours worked by the subordinate officers or employees of such department or bureau which he or she shall submit to the Controller as a basis for preparation of payrolls for said officers or employees. Payrolls prepared, as aforesaid, shall be approved in writing by the City Administrator. Upon approval of any such payroll in writing, as above directed, the Controller shall issue a warrant on the Controller and countersigned by the City Administrator directing the Controller to pay the person named in such payrolls the amount set opposite their respective names.

B. The Clerk of the Board of Library Trustees shall prepare payrolls for all the employees in the public library and present the same to the board for approval, and upon approval by said board said clerk shall attach thereto a warrant on the Controller, signed by the Clerk and President of said Board directing him or her to pay the persons named in the payroll and amount set opposite their respective names. Upon delivery of any such payrolls to the Controller, he or she shall proceed to pay the persons named therein by checks, or in cash, the amount set opposite their respective names and when any person named therein is paid in cash they shall be required to receipt therefor by signing his or her name upon such payroll opposite the amount so received.

SECTION 20.4 TAXES

A. The Legislature of the County of Niagara shall cause a corrected state and county tax and assessment roll of the City of Niagara Falls to be delivered to the Controller on or before the first day of January in each year, or as soon thereafter as said corrected assessment roll can be delivered with their warrant in due form of law attached thereto, demanding the said Controller to receive and collect from the several persons, firms, corporations and associations named in such tax and assessment roll the several sums mentioned in the last column of said roll opposite their respective names, and to pay over the same in the manner directed in said warrant. Said warrant shall direct said Controller to deposit all such state and county tax moneys collected by him or her, except the fees herein provided daily in the name of and to the credit of the account of the County Treasurer in a depository, located in the City of Niagara Falls, officially designated as provided by law as a depository for state and county taxes by the County Treasurer of the County of Niagara.

B. Upon receiving such tax assessment roll and warrant, he or she shall cause notices to be published for twenty consecutive days in the official

paper of the City and cause such other notices to be given as may be required of the receipt by him or her of the same, and that all persons, firms, corporations and associations named therein are required to pay their taxes at the office on or before the first day of May next ensuing; also that for thirty days following the date of the first publication of such notice, any person, firm, corporation or association may pay his, her or its county or state taxes without any percentage or fees thereon; that for the next succeeding thirty days two per centum fees shall be collected and that after the expiration of sixty days following the date of the first publication of such notice five per centum shall be added to and collected by said Controller upon all such taxes received or collected by him or her. All of the fees herein provided shall belong to the City of Niagara Falls.

C. In the event any such tax shall remain unpaid at the end of the two per centum period aforesaid, he or she shall as soon as possible thereafter cause a written or printed notice to be given to every person, firm, corporation or association from whom such tax may be due, specifying the amount of the tax together with the fees thereon and requiring the same to be paid on or before the first day of May of the same year at his or her office. Such notice may be served personally or by leaving the same at the residence or place of business of the person, firm, corporation or association notified, or by depositing in the post office in the City properly folded and directed and the postage thereon prepaid, at least five days before the first day of May. Such notice so served shall be deemed a full compliance with the statute authorizing a collector of taxes to call at least once on a person taxed, or at his or her usual place of residence, and demand payment of the taxes charged him or her. But nothing herein contained shall be deemed to require such notice to be given unknown owners or non-residents of the City, whose residence or reputed place of residence is not known, and who have no registered agent residing in the City. In case any of the said taxes remain unpaid on the first day of May after the delivery of the tax and assessment roll and warrant to the Controller, he or she shall deliver to the County Treasurer an account of the taxes so remaining due, with a description of the property liable for the same as described in the tax and assessment roll, and upon making oath before the County Treasurer that the sums mentioned in the account remain unpaid and uncollected, and that he or she had not been able to collect the same, the said Controller shall be discharged from all liability for the amount thereof, and shall be credited therewith by the County Treasurer.

SECTION 20.5 EXPENSES AND APPROPRIATIONS

A. The several officers, boards, bureaus and departments of said City shall be governed by the estimate and appropriation aforesaid and shall not incur any debts, expenditures or liabilities in excess or independent of the several sums respectively allotted to them, except as otherwise provided in section 29.00 of the Local Finance Law. It shall not be lawful for the City or any officer, bureau, board or department thereof to expend or contract to be expended, or to incur any liability for the current fiscal year in a sum greater than is so estimated for such office, board, bureau or department and so provided for by the City

Council in the tax levy of such year as aforesaid, but this shall not be held to prohibit the health officer of the City, under the direction of the City Administrator, from expending, from funds provided pursuant to section one hundred seven of this chapter or section 29.00 of the Local Finance Law, such sum beyond the amount estimated and provided for the bureau of health of said City as may be actually necessary to prevent the spread of or to suppress any contagious or infectious disease or epidemic in said City. No officer, board, bureau or department of said City shall incur any expense or liability, which after taking into account the expenditures and liabilities made or incurred shall be in excess of said estimate allowed therefor by the City Council as aforesaid, except for the making of public improvements for which bonds or capital notes are authorized to be issued to provide for the payment thereof. Any contract, verbal or written, made in violation of this provision shall be null and void as to the City. Any officer of the City making or voting for any contract, appropriation or expenditure, or auditing any account or claim prohibited by this section shall be guilty of a misdemeanor and on conviction punished by a fine or imprisonment or both in the discretion of the court before which conviction shall be made.

B. Any money or revenue received by the City from any source over and above the estimates adopted by the City Council for any fiscal year may be credited to any City fund and used for any lawful purpose by the City Council.

C. Any member of the City Council willfully voting to authorize any expenditure or appropriation or contract any debt prohibited by the provisions of this act shall be personally liable to each and every person entitled to payment and the City of Niagara Falls, New York, shall not be liable to pay the same.

D. Nothing herein contained shall prohibit the raising of any sum for local improvements authorized by this act when the same shall be rated and assessed ratably according to the provisions of this act.

SECTION 20.6 BIDS AND CONTRACTS FOR PUBIC IMPROVEMENTS

A. Every bid upon any contract for work for said City, shall be accompanied by a certified check of the bidder on a solvent banking corporation, payable to the order of the City Administrator, in such amount as the City Council shall specify. On acceptance of any such bid the checks of the unaccepted bidders shall be returned to them forthwith, and upon the execution of the contract the check of the accepted bidder shall be returned to him or her. All persons entering into contracts with the City where the same shall involve expenditures in excess of two hundred and fifty dollars, shall make such deposit or furnish such bond as security for the faithful performance of their contract as shall be required by the City Council, which bond shall be approved by the Corporation Counsel as to form and by the City Administrator as to sufficiency. The City Administrator, under direction of the City Council, may in all cases reject any and all bids if the lowest bid shall be deemed by the City Council or City Administrator excessive or otherwise objectionable. Public notice calling for bids must describe the work or

material to be done or furnished and for which contracts will be let, the time and place of the meeting at which such bids will be received. Specifications for any public improvement must be prepared and set forth in such detail as will adequately inform all persons proposing to bid of the nature of the work to be done, material to be supplied and the same shall be printed and copies delivered to all the applicants therefor. When an improvement shall be contracted for the expense of which is to be assessed either in whole or in part upon the property benefiting thereby, except in case of paving, the City Council shall first approve the same and such approval shall be certified by the City Clerk to the City Assessor who shall thereupon proceed to apportion the cost of such improvement and to make up an assessment roll therefor as provided by this act.

B. Every contract for public improvement within the City shall be based upon estimates of the whole cost of such improvement furnished by the proper officer, board, bureau or department having charge of the improvement, approved by the City Administrator. No such contract shall be let except after the receipt of bids and no bids shall be received at any other time than at the meeting at which it was advertised bids will be received, and unless they conform to the provisions of this act, the resolutions and ordinances of the City Council and the requirements of the statutes of the state. All bids must be in addition endorsed with the title of the work to which they relate, the name of the bidder, his or her residence and post office address.

C. After bids have been presented at the time stated in the public notice for holding the meeting, all bids shall be opened by the City Administrator in the presence of the bidders who may elect to be present and in the presence of the head of the department or bureau interested in the matter covered by the said bid, and an abstract of all bids received with the prices and security offered shall be immediately copied in a book kept for that purpose without any change, corrections or additions whatsoever. All meetings at which bids are received shall be public. The bids shall thereupon be reported by the City Administrator to the City Council with a recommendation for further action unless the City Administrator shall be previously authorized in his or her discretion to reject all bids in which case the City Administrator may reject all bids and report his or her action to the Council. The Council, upon receiving the report of the City Administrator, may reject the bid or direct the same to be accepted, and in case of rejection may direct new bids to be advertised for. No bid shall be accepted from nor contract awarded to any person who is in default to the City upon any debt, contract or obligation. Neither the principal nor sureties upon any bid or bond shall have the right to withdraw or cancel the same until the contract for which such bid is made or relating to which said bid is given shall have been let and such contract duly completed.

D. If at any time there shall not be sufficient money in the street improvement fund to pay the cost of intersection on streets proposed to be paved, there may be placed in such fund by the City Treasurer the

proceeds of serial bonds or capital notes issued for the financing of such improvements.

ARTICLE XXI
ENVIRONMENTAL QUALITY REVIEW

SECTION 21.1 ENVIRONMENTAL QUALITY REVIEW

A. Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this article shall have the same meaning as those defined in Section 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.

B. "City" shall mean the City of Niagara Falls, New York.

C. No decision to carry out or approve an action other than an action listed in section 3(b) hereof or section 617.12 of 6 NYCRR as Type II action, shall be made by the City Council or any department, board, commission, officer or employee of the City until there has been full compliance with all requirements of this article and Part 617 of Title 6 NYCRR, provided however, that nothing herein shall be construed as prohibiting.

(1) The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the City to approve, commence or engage in such action, or

(2) the granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all-requirements of this article and Part 617 of Title 6 NYCRR have been fulfilled.

D. Consistent with Part 617 of Title 6 NYCRR and the Criteria therein, the following actions, in addition to those listed in section 617.12 of Title 6 NYCRR as Type I actions, are likely to have a significant effect on the environment:

E. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in section 617.12 of Title 6 NYCRR as Type II actions, are deemed not to have a significant effect on the environment: NONE

F. For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the Planning Department setting forth the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not

have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the City Council, and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the Planning Department.

(1) The Planning Department shall render a written determination on such application within 15 days following receipt of a complete application and statement, provided however, that such period may be extended by mutual agreement of the applicant and the Planning Department. The determination shall state whether such proposed action may or will not have a significant effect on the environment. The Planning Department may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.

(2) The time limitations provided in this article shall be coordinated with, to the extent practicable, other time limitations provided by Statute or Local Law, Ordinance or Regulation of the City.

(3) Every application for determination under this article shall be accompanied by a reasonable fee set forth in this section to defray the expenses incurred in rendering such determination. The fees shall be as follows: One Hundred Dollars (\$100.00).

(4) If the Planning Department determines that the proposed action is not an exempt action, not an action listed in section 3(b) hereof or section 617.12 of Title 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the Planning Department shall prepare, file and circulate such determination as provided in section 617.7(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this article. If the Planning Department determines that the proposed action may have significant effect on the environment, the Planning Department shall prepare, file and circulate such determination as provided in 617.7(b) of Title 6 NYCRR and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this article and Part 617 of Title 6 NYCRR.

(5) Following a determination that a proposed action may have a significant effect on the environment, the Planning Department shall, in accordance with the provisions of Part 617 of Title 6 NYCRR:

A. In the case of an action involving an applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement;

B. In the case of an action not involving an applicant, shall prepare a draft environmental impact statement.

If the applicant decides not to submit an environmental impact report, the Planning Department shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion notify the applicant that the processing of the application will cease and that no approval will be issued. The Planning Department may require a fee from applicant to defray the expense of such draft to the extent allowed by law.

(6) Where more than one agency is involved in an action, the procedures of sections 617.4 and 617.8 of Part 617 of Title 6 NYCRR shall be followed.

G. Actions undertaken or approved prior to the dates specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this article and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR, provided however, that if, after such dates the Planning Department modifies an action undertaken or approved prior to that date and the Planning Department determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this article and Part 617 of Title 6 NYCRR.

ARTICLE XXII
DEPARTMENT OF COMMUNITY DEVELOPMENT

SECTION 22.1 DEPARTMENT OF COMMUNITY DEVELOPMENT

There is hereby created a Department Community Development headed by a Director of Community Development. The Director shall, subject to the provision of this Charter and other applicable laws, rules and regulations, have direction, control and management of the operation and implementation of the City's Community Development Block Grant Program and/or similar or successor programs as may be assigned to the Department by the City Council or the City's Chief Executive Officer.

ARTICLE XXIII
DEPARTMENT OF ECONOMIC DEVELOPMENT

SECTION 23.1 DEPARTMENT OF ECONOMIC DEVELOPMENT.

There is hereby created a Department of Economic Development which shall consist of a Director of Economic Development and such other staff as may be authorized by the City Council, from time to time, and appointed by the City Administrator. The Department of Economic Development shall furnish and perform all services and activities pertaining to economic development within the City of Niagara Falls, including any urban renewal project areas if so requested or agreed to by the Niagara Falls Urban Renewal Agency. Such economic development activities and services may be either industrial or commercial and shall include, but not be limited to, establishing developer contacts; negotiations with developers; structuring development proposals; coordination of financing programs to implement development; preparation and structuring of economic development programs and applications for submission to Federal, State or Local agencies; implementation of funding programs with banking and lending institutions; coordination with other organizations or agencies as may be required; and such other functions necessary to stimulate and encourage economic development; and any related activity as may be directed by the City Administrator.

SECTION 23.2 DIRECTOR OF ECONOMIC DEVELOPMENT

There is hereby created the position of "Director of Economic Development". It shall be the duty of the said Director to perform the activities and services delineated above, and to direct and coordinate the work and functions of all staff assigned to the Department. The Director shall be appointed by the City Administrator and the salary for such position shall be established by the City Council.

SECTION 23.3 OTHER AGENCIES

It is hereby recognized that the economic development role has in the past been a function of several coordinated agencies, such as the Chamber of Commerce; the New York State Urban Development Corporation; the Niagara Falls Urban Renewal Agency; the Society for the Promotion, Unification, Redevelopment of Niagara, Inc.; the Rainbow Center Development Corporation; and the City itself. It is further recognized that the City has and will enter into various agreements with one or more of the aforesaid entities or allied agencies for the purpose of fostering economic development wherein the participating parties are required to contribute to the budget of the resulting organization or development effort. Therefore, the City Administrator is hereby authorized upon the approval of City Council to make the services of the Director and staff personnel available as a contribution of in-kind-services in lieu of actual funds as the City's contribution to any such budget requirements which may rise out of any such type of agreement;

or any combination of services and/or funds as the City Administrator and City Council may deem appropriate.

ARTICLE XXIV
DEPARTMENT OF ENGINEERING SERVICES

SECTION 24.1 DEPARTMENT OF ENGINEERING, CITY ENGINEER, DUTIES

There is hereby created a Department of Engineering under the control and supervision of the City Engineer, who shall be a licensed Professional Engineer in the State of New York. The Department shall be responsible for and perform the following functions:

(1) The construction, reconstruction, repair and maintenance (other than ordinary repair and maintenance) of all City buildings, structures, facilities, streets, sidewalks, right-of-way, water and sewer lines, and related engineering functions.

(2) The preparation of design criteria, specifications, plans, investigations, inspections, cost estimates, contract bid tabulations, contract payments and related work in connection with all public works;

(3) The conducting of field surveys, compilation of engineering data, and the investigation and review of structural, street, sanitary, hydraulic and other engineering designs;

(4) The provision of technical engineering services to all other City departments; and

(5) The supervision and direction of retained consultants, engineers and contractors on public works.

The Department shall not, however, be responsible for or perform any of the foregoing functions and duties in connection with the Department of Water Facilities or Department of Wastewater Facilities and works related thereto.

ARTICLE XXV
NIAGARA FALLS CABLE TELEVISION COMMISSION

SECTION 25.1 APPOINTMENT OF COMMISSION

A. There is hereby created a Cable Television Commission which shall consist of three members, to be appointed by the City Council.

B. Each member of the Commission shall be appointed by a majority vote of the City Council for a term of three years, provided, however, that of the members first appointed, one shall be appointed for three years, one for four years, and one for five years from January first next succeeding their appointment provided however, that the term of the first appointed Commissioners shall also include the period from the date of appointment to the next succeeding January 1. Their successors shall be appointed for terms of three years each. Members shall continue in office until their successors have been appointed and qualified.

C. The Commission shall annually elect one of its members to serve as chairman of the Commission and in such position shall act as the Chief Executive Officer of the Commission.

D. Vacancies on the Commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

E. The compensation of the Commissioners shall be as provided for in the City budget.

F. Commission members shall be residents of the City of Niagara Falls, New York and shall represent a cross section of interests in the community and shall have such additional individual qualifications as may be prescribed by the City Council.

SECTION 25.2 DUTIES OF THE COMMISSION

The Commission shall exercise authority and responsibility relative to television cable services and systems within the City of Niagara Falls as follows:

A. So far as may be permissible by law to act as a hearing board to hear complaints relative to the operation of the cable television system within the City of Niagara Falls including but not limited to questions of charges and fees, extensions, access, and reception. If the Commission finds probable cause to believe the complaint has merit it shall attempt, if practicable, to adjust the matter by consultation with the cable television operator or service provider, and if the Commission does not or feel it can reach agreement for a satisfactory adjustment, with the operator or service provider it shall advise or recommend to the City Council, the State Commission on Cable Television or other

appropriate person or body as to the status of the complaint and their recommendations for action.

B. Establish an information source or library and provide a place accessible to persons having questions about cable television.

C. To the extent as may be permissible by law, recommend guide lines for programming on the public access channels.

D. Become acquainted with the State Commission on Cable Television and the law and regulations of the State with respect to control of cable television and develop a liaison with the State Commission with a view to achieving compliance with Federal, State, and Local Laws, rules, and regulations as they apply to the local system.

E. To review the operations of the local cable television franchise or other cable television service providers and to advise the Council of the condition and status of such operations and make recommendations to the City Council for action relative to cable television services.

F. To consider request for rate and service fee adjustments and make recommendations to the City Council relative to any rate adjustments.

G. Make additional recommendations to the City Council relative to how public channels may be improved and recommend guide lines for public access to public channels in conjunction with the cable operator or operators.

H. Provide the City Council with an annual report on activities of the Commission and the programming of the cable operator or operators.

SECTION 25.3 AUTHORITY

A. The Commission may establish such rules and regulations for the operation and conduct of the Commission as may assist it in discharging its authority and responsibility herein provided.

B. The Commission shall have authority to review the operation of cable television systems and operations and to advise the operator or operators and the City Council as to compliance by the operator or operators with the requirements of any franchise, rule, or regulation affecting cable operations and recommend action where violations or defects are found.

C. The Commission shall keep a record of all its meeting and file minutes of each meeting with the City Clerk and the City Administrator within ten (10) days after each meeting.

D. If any provision of this article or the application of such provision to any circumstance is held invalid for any reason whatsoever,

the remainder of this article or the application of the provision to other circumstances shall not be affected thereby.

ARTICLE XXVI
DEPARTMENT OF MANAGEMENT INFORMATION SERVICES

SECTION 26.1 DEPARTMENT OF MANAGEMENT INFORMATION SERVICES DIRECTOR,
DUTIES

There is hereby created a Department of Management Information Services headed by the Director of Management Information Services. It shall be the duty of the Director, subject to the provisions of this Charter and other applicable laws, to direct, control and manage the operation and maintenance of electronic data processing systems and programs; to develop such systems or programs and modifications as the need arises; to render advice to the City Administrator relative to these functions; to assist in all audits; to supervise all personnel assigned to the Department of Management Information Services; to monitor and assist in negotiating contracts for the provisions of any related services or purchase of related equipment; to coordinate and address the needs of all City Departments; and to perform related work and all other duties as may be assigned by the City Administrator.

ARTICLE XXVII
DEPARTMENT OF HUMAN RESOURCES AND SERVICES

SECTION 27.1.

Department of Human Resources and Services. There is hereby created a Department of Human Resources and Services under the control and supervision of a Director of Human Resources and Services, who shall be appointed by the City Administrator. The Department shall be responsible for and/or shall:

- A. perform the functions which may be assigned to it by the City Administrator with the approval of the City Council; and
- B. be responsible for conducting, coordinating and enforcing all programs of the City government relating to human rights and human relations. The Human Rights Commission shall serve in an advisory capacity to the Department in those matters relating to human rights and human relations.

SECTION 27.2

There shall be appointed a Deputy Director of Human Resources and Services who shall perform such duties and functions as directed by the Director of Human Resources and Services, and who shall generally possess the powers and perform the duties of the Director of Human Resources and Services during the absence or inability to act of said Director, or during a vacancy in the said Director's office. Such Deputy Director shall receive such compensation as shall be fixed by the City Council.

SECTION 27.3

There shall be a Deputy Director of Human Resources and Services/Personnel who shall, under general direction of the Director, supervise the City's personnel functions and personnel services. Such Deputy Director shall receive such compensation as shall be fixed by the City Council.