

Chapter A280

**CHARTER ORDINANCES**

**CHARTER ORDINANCE NO. 1**

A Charter Ordinance relating to the selection of the City Assessor and Engineer by which the City, pursuant to Sections 62.09(1), 62.09(3)(b) and 66.01, elects not to be governed by those portions of 62.09(3) of the Wisconsin Statutes which relate to the selection and tenure of the Assessor and Engineer, and instead, such officials are to be appointed as provided by 62.09(3)(b)(2) by the Mayor, subject to the confirmation of the Council, the selection to be made as provided by 62.09(3)(b)(5) from an eligible list established pursuant to Section 66.19 of the Statutes.

THE CITY COUNCIL OF THE CITY OF NEW BERLIN DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Sections 62.09(1), 62.09(3)(b) and 66.01 of the Wisconsin Statutes, the City of New Berlin hereby elects not to be governed by those portions of Section 62.09(3) of the Statutes which relate to the selection and tenure of the Assessor and Engineer, and which are in conflict with this ordinance.

SECTION 2. Hereafter, instead of being appointed as provided in Section 62.09(3) (b) (2) of the Statutes, the Assessor and Engineer of the City of New Berlin shall be appointed by the Mayor, subject to confirmation by the Council, the selection to be made as provided by 62.09(3)(b)(5) from an eligible list established pursuant to Section 66.19 of the Wisconsin Statutes.

SECTION 3. Said Assessor shall hold office for an indefinite term, commencing January 1, 1964, subject to removal as provided by law.

SECTION 4. Said Engineer shall hold office for an indefinite term, subject to removal as provided by law.

SECTION 5. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

PASSED this 4th day of June, 1963.

APPROVED this 4th day of June, 1963.

/s/ Earl Rathke

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Mayor

ATTEST:

NEW BERLIN CODE

/s/ Joseph H. Rausch

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City Clerk

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CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE RELATING TO THE ELECTION AND TERMS OF OFFICE OF THE MAYOR AND ALDERMEN FOR THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Section 1.02 of the Municipal Code of the City of New Berlin is amended to read as follows:

1.02 MAYOR AND COMMON COUNCIL. (Rep. & Recr. Ch. Ord. 2) (1) The Mayor shall be elected in odd number years for a term of 2 years commencing on the third Tuesday of April in the year of election.

(2) The aldermen for the 1st, 3rd, 5th and 7th aldermanic districts of the City shall be elected for a term of 3 years commencing at the spring election of 1973 and thereafter shall be elected for a term of 2 years. The term of office of such aldermen shall commence on the third Tuesday of April in the year of election.

(3) The aldermen for the 2nd, 4th and 6th aldermanic districts of the City shall be elected for a term of 2 years commencing at the spring election of 1973 and thereafter shall be elected for a term of 2 years. The term of office of such aldermen shall commence on the third Tuesday of April in the year of election.

SECTION 2. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

Passed this 10th day of October, 1972.

Approved this 10th day of October, 1972.

/s/ Earl Rathke

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Mayor

ATTEST:

/s/ Donald W. DeBruin

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City Clerk

NEW BERLIN CODE

**CHARTER ORDINANCE NO. 3**

A CHARTER ORDINANCE RELATING TO SPRING PRIMARY ELECTIONS IN THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Section 1.09 of the Municipal Code of the City of New Berlin is created to read as follows:

Section 1.09 SPRING PRIMARY ELECTION.

Whenever three or more candidates file nomination papers for a City office, a primary election to nominate candidates for the office shall be held.

SECTION 2. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

Passed this 27th day of March, 1973.

Approved this 27th day of March, 1973.

/s/ Earl Rathke

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Mayor

ATTEST:

/s/ Donald W. DeBruin

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City Clerk

CHARTER ORDINANCES

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE RELATING TO THE ELECTION AND TERMS OF OFFICE OF THE MAYOR AND ALDERMEN FOR THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Section 1.02 of the Municipal Code of the City of New Berlin is amended to read as follows:

Section 1.02 MAYOR AND COMMON COUNCIL.

- (a) Commencing at the Spring election of 1981, the Mayor shall be elected for a term of four years. The term of office of the Mayor shall commence on the third Tuesday of April in the year of election.
- (b) Commencing at the Spring election of 1980, the aldermen for the first, third, fifth and seventh aldermanic districts of the City shall be elected for a term of three years. The term of office of such aldermen shall commence on the third Tuesday of April in the year of election.
- (c) Commencing at the Spring election of 1981, the aldermen for the second, fourth, and sixth aldermanic districts of the City shall be elected for a term of three years. The term of office of such aldermen shall commence on the third Tuesday of April in the year of election.

SECTION 2. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

Passed this 24th day of September, 1979

Approved this 24th day of September, 1979

/s/ John J. Malone

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Mayor

ATTEST:

/s/ Donald W. DeBruin

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City Clerk

NEW BERLIN CODE

**CHARTER ORDINANCE NO. 5**

A CHARTER ORDINANCE CREATING A SPECIAL ASSESSMENT REVIEW COMMITTEE FOR THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Section 1.055 of the Municipal Code of the City of New Berlin is hereby created to read as follows:

Section 1.055 SPECIAL ASSESSMENT REVIEW COMMITTEE.

- (1) COMPOSITION. The Special Assessment Review Committee shall consist of five voting members appointed by the Mayor, subject to confirmation of the Common Council, for terms of three years, except that of those first appointed, one shall serve for one year, two for two years, and two for three years. Of such number, at least one shall be a clergyman, one an attorney licensed to practice law in the State of Wisconsin, and one a banker. All members of the Committee shall either reside or be employed in the City of New Berlin.
- (2) AUTHORITY. The Special Assessment Review Committee may recommend to the Common Council that any tax specially assessed against the real estate of any worthy, indigent, qualified person resident within the City be deferred subject to the following. In order to exercise such power, the Special Assessment Review Committee may draft forms which it deems necessary for those who wish to submit applications, review those applications, conduct hearings, conduct investigations, interview applicants and interview witnesses. Applications shall be accepted only for those persons who reside in single-family dwellings within the City of New Berlin. The Special Assessment Review Committee may require any person to whom provisions of this ordinance relate to submit financial, or other relevant data, at any time before or after the Council has directed the deferral of any tax.
- (3) APPROVAL BY COUNCIL. When determined to be a worthy, indigent, qualified person resident in the City, the Common Council may, by resolution, defer any tax, or portion thereof, legally assessed against the real estate of any worthy, indigent, qualified person resident herein.
- (4) LIEN CREATED. INTEREST REQUIRED. A lien created under this section shall have priority over all other liens except tax certificates or prior liens created under this section for the amount deferred with legal interest. Upon transfer of title of the property by any means, or if Council finds a person no longer to be a worthy, indigent, qualified resident under this section, the amount of deferred special assessments previously accrued hereunder, or any portion thereof, and legal interest accrued, may be extended by the Common Council upon the next available tax roll, and when extended upon the tax roll shall be considered a tax upon the property subject to all proceedings in relation to collection, return and sale of property for delinquent real estate taxes. Should a person no longer reside in the real property for which taxes have been deferred hereunder by the City, the amount of taxes

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accrued, or any portion thereof, and legal interest accrued, shall be extended to the next available tax roll and be due and payable at such time.

- (5) DISCHARGE OF LIEN BY OWNER. The owner of such property, his heirs, personal representatives or assigns, may discharge such lien at any time by paying the amount of such lien with accrued interest to the Treasurer of the City of New Berlin.
- (6) DISCHARGE OF OTHER LIENHOLDER. The holder of any subsequent lien may purchase such lien by payment of the amount thereof with accrued interest to the Treasurer of the City of New Berlin.
- (7) EFFECTIVE DATE. The provisions of this ordinance shall be effective respecting all special assessments due on or after the last day of February, 1982.

SECTION 2. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. Pursuant to Section 66.01(2)(b), the City of New Berlin hereby elects not to be governed by Section 66.605 Wis. Stats. which relates to payment of special assessments when use of an improvement is made in connection with property.

Passed this 14th day of July, 1981.

Approved this 14th day of July, 1981.

/s/ John J. Malone

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Mayor

ATTEST:

/s/ Donald W. DeBruin

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City Clerk

Drafted TMS 7/8/81

NEW BERLIN CODE

**CHARTER ORDINANCE NO. 6**

A CHARTER ORDINANCE CREATING THE POSITION  
OF TREASURER - COMPTROLLER FOR THE CITY  
OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Section 1.03(2) of the Municipal Code of the City of New Berlin is hereby repealed.

SECTION 2. Section 1.035 of the Municipal Code of the City of New Berlin is hereby created to read as follows:

CITY TREASURER - COMPTROLLER

- (1) Such position shall be filled by the Civil Service Commission pursuant to Chapter 4 of this Municipal Code. Under its home rule powers, the City of New Berlin chooses not to be controlled by the provisions of sec. 62.09(10), Stats. but rather, that each month a public accountant employed by the Council, licensed under Chapter [sic] 442 of the Wisconsin Statutes [sic], shall examine the Treasurer-Comptroller's accounts as reported and kept, and report thereon to the Council as to their correctness and as to any violation by the Treasurer - Comptroller of his duty in the manner of keeping accounts and disbursing moneys.
- (2) All references in the Municipal Code to the position of Treasurer or City Treasurer are hereafter considered to be references to the City Treasurer - Comptroller.

SECTION 3. Section 3.08(1) of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

TREASURER - COMPTROLLER TO APPROVE. Payment of financial claims against the Municipal Treasury shall be made from the City Treasury after the Treasurer - Comptroller shall have audited and approved each claim as a proper charge against the Treasury, and shall have endorsed his approval thereon after having determined that the following conditions have been complied with. The Treasurer - Comptroller may require the submission of proof and evidence to support the following as he deems necessary:

- (a) The funds are available therefor pursuant to the budget approved by the Council.
- (b) That the item of service covered by such claim has been authorized by the proper official, department head, board or commission.
- (c) That the item or service has been actually supplied or rendered in conformity with such authorization.
- (d) That the claim is just and valid pursuant to law.



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SECTION 4. All ordinances or parts of ordinances contravening or inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication as required by law.

Passed this 10th day of April, 1984.

Approved this 10th day of April, 1984.

/s/ John J. Malone

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Mayor

ATTEST:

/s/ Florence Greve

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Deputy City Clerk

Drafted TMS 3/5/84

NEW BERLIN CODE

**CHARTER ORDINANCE NO. 7**

CHARTER ORDINANCE REPEALING THE SPECIAL ASSESSMENT REVIEW  
COMMITTEE OF THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN DO ORDAIN AS FOLLOWS:

SECTION 1. Charter Ordinance No. 5, which is known as Section 6-14 of the Municipal Code of the City of New Berlin, is hereby repealed.

SECTION 2. This enactment is a charter ordinance and shall take effect sixty (60) days after its passage and publication unless within such 60 days a referendum petition is filed as provided pursuant to Wisconsin Statute Section 66.0101, in which event this ordinance shall not take effect until it is submitted to a referendum and approved by a majority of the electors voting thereon.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed and adopted by the Common Council this 23rd day of January 2007.

APPROVED:

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Jack F. Chiovatero, Mayor

Countersigned/Certified:

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Marilyn Gauger, City Clerk

## CHARTER ORDINANCES

### CHARTER ORDINANCE NO. 8

#### CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 6 REGARDING THE POSITION OF TREASURER — COMPTROLLER AND ESTABLISHING THE POSITION OF DIRECTOR OF FINANCE

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN, WAUKESHA COUNTY, DO  
ORDAIN AS FOLLOWS:

SECTION I. Charter Ordinance No. 6 of the Municipal Code of the City of New Berlin is hereby repealed.

SECTION II. Section 51-7 of the Municipal Code of the City of New Berlin is hereby repealed and recreated to read as follows:

#### DIRECTOR OF FINANCE

1. The Director of Finance shall perform the duties statutorily required of the City Treasurer-Comptroller except as expressly provided for hereunder.
2. The position of Director of Finance shall be filled by Mayoral appointment subject to confirmation by the Common Council. In making this appointment the Mayor shall receive the recommendation from a selection committee comprised of the Human Resource Director, a citizen member who has background or experience in accounting financial investment or management, two City of New Berlin Department Heads who would work frequently and interact with the Finance Department, the Finance Director, Treasurer or Comptroller of another City of similar size to the City of New Berlin, and a representative from the City's Financial Consultant or Auditor. Said Committee shall make a recommendation of the final candidates for the position of Director and Finance to the Mayor.
3. Under its home rule powers the City of New Berlin chooses not to be controlled by the provisions of Wisconsin Statue Section 62.09(10). The references in the municipal code to the position of Treasurer or City Treasurer are hereby considered to be references to the Director of Finance.

SECTION III. The Director of Finance shall review and where it is determined to be an appropriate disbursement from the City Treasury shall approve claims in accordance with the procedures set forth in New Berlin Municipal Code Section 33-7.

SECTION IV. This enactment is a Charter Ordinance and shall take effect 60 days after its publication according to law, unless within such 60 days a referendum petition is filed as provided pursuant to Wisconsin Statutes Section 66.0001, in which event this ordinance shall not take effect until it is submitted to a referendum and approved by a majority of the electors voting thereon.

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Passed and adopted by the Common Council of the City of New Berlin, this 26th day of January 2010.

APPROVED:

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Jack F. Chiovatero, Mayor

Countersigned and Certified:

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Christine Stefanich, Acting City Clerk

CHARTER ORDINANCES

CHARTER ORDINANCE NO. 9

CHARTER ORDINANCE REGARDING THE METHOD OF APPOINTMENT OF THE  
CITY CLERK

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN, WAUKESHA COUNTY, DO  
ORDAIN AS FOLLOWS:

SECTION I. Section 51-12 of the Municipal Code of the Code of the City of New Berlin  
is hereby created to read as follows:

CITY CLERK

1. The City Clerk shall perform the duties-pursuant to the Wisconsin Statutes as well  
as those in this code.
2. The position of City Clerk shall be filled by Mayoral appointment subject to  
confirmation by the Common Council.
3. In making this appointment, the Mayor shall receive the recommendation from a  
selection committee comprised of the Human Resource Director; a citizen member  
who has background or experience in Municipal Government, if available; two  
City of New Berlin Department Heads who would work frequently and interact  
with the City Clerk's Office; the City Clerk of another City or Village of similar  
size to the City of New Berlin or a consultant who deals regularly with the City  
Clerk's Office.

SECTION II. This enactment is a Charter Ordinance and shall take effect 60 days after its  
publication according to law, unless within such 60 days a referendum petition is filed as  
provided pursuant to Wisconsin Statute Section 66.0001, in which event this ordinance  
shall not take effect until it is submitted to a referendum and approved by a majority of  
the electors voting therein.

Passed and adopted by the Common Council of the City of New Berlin, this 26th day of  
January 2010.

APPROVED:

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Jack F. Chiovatero, Mayor

Countersigned and Certified:

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Christine Stefanich, Deputy City Clerk

NEW BERLIN CODE

**CHARTER ORDINANCE NO. 10**

CHARTER ORDINANCE TO CLARIFY THE STATUS OF APPOINTEES TO CITY OF NEW BERLIN BOARDS, COMMISSIONS AND AGENCIES AFTER THE COMPLETION OF THEIR TERMS BUT BEFORE A SUCCESSOR IS APPOINTED AND DULY QUALIFIED

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN, WAUKESHA COUNTY, DO ORDAIN AS FOLLOWS:

SECTION I. Section 6-20 of the Municipal Code of the City of New Berlin is hereby created to read as follows:

HOLDING OVER FOR APPOINTED POSITIONS PROHIBITED. Appointees to City of New Berlin Boards, Commissions and Agencies shall conclude their service to the City at the end of the term to which they were appointed. Appointees to City New Berlin Boards, Commissions and Agencies may not hold over following the completion of their terms despite the fact that a successor has not yet been appointed or duly qualified, this provision shall not apply to appointees to elected positions.

SECTION II. All Ordinances or parts of Ordinances that contravene or are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION III. The enactment is a Charter Ordinance and shall take effect Sixty (60) days after its passage and publication, unless within such Sixty (60) days a referendum petition is filed as provided pursuant to Wisconsin Statutes Section 66.0101, in which event this ordinance shall not take effect until it is submitted to a referendum and approved by a majority of the electors voting thereon.

Passed and adopted by the Common Council of the City of New Berlin, this 10th day of August 2010.

APPROVED:

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Jack Chiovatero, Mayor

Countersigned and Certified:

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Kari Morgan, City Clerk

## CHARTER ORDINANCES

### CHARTER ORDINANCE NO. 11<sup>1</sup>

#### REGARDING THE POSITION OF TREASURER-COMPTROLLER FOR THE CITY OF NEW BERLIN

THE COMMON COUNCIL OF THE CITY OF NEW BERLIN, WAUKESHA COUNTY,  
WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I. Charter Ordinance No. 11 of the Charter of the City of New Berlin concerning the position of the Treasurer-Comptroller is hereby repealed and recreated as provided for hereunder:

Section 2. City Treasurer-Comptroller. The Director of Finance shall perform the functions of Treasurer-Comptroller as otherwise referred to under these Ordinances. This includes, but is not limited to, the audit consideration and approval of claims as provided for in the City Code. All references in the Municipal Code to the position of City Treasurer-Comptroller are hereafter considered to be references to Director of Finance.

The Director of Finance shall consider all claims for payment, all financial claims against the Municipal Treasury. The Director of Finance shall audit and may approve for payment the claim as a proper charge against the Municipal Treasury if the Director of Finance shall have determined that the following conditions have been complied with:

- (a) the funds are available therefore pursuant to the budget approved by the Common Council;
- (b) that the item of service covered by such claim has been authorized by the proper official, Department Head, Board or Commission;
- (c) that the item or service has been actually supplied or rendered in conformity with such authorization;
- (d) that the claim is just and valid pursuant to law.

The Director of Finance may require the submission of proof and evidence to support the review as provided for hereunder.

The City has determined, under its Home Rule Powers, not to be governed pursuant to Wisconsin Statute § 62.12(8) and instead to approve claims pursuant to Wisconsin Statute § 66.0609 with a review of claims against the Municipal Treasury being made by the Director of Finance and not the City Clerk.

The Director of Finance shall be required to submit a bi-weekly list of claims to the City Council prior to each meeting, identifying the claims made; the date paid; the name of the claimant; the purpose; and the amount. An annual audit of claims shall be performed by an independent auditing firm of all financial transactions of the City. The Director of Finance shall be required to file a fidelity or surety bond.

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<sup>1</sup> Editor's Note: Ord. No. 2596, adopted 9-26-2017, corrected a scrivener's error in this Charter Ordinance, which was inadvertently numbered as Charter Ord. No. 6.

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The City of New Berlin further elects, pursuant to its Home Rule Powers, to allow for the payment of vouchers pursuant to Wisconsin Statute § 66.0607 to be made by the Director of Finance upon the Director of Financing having made the certification for each such charge as provided for in this Ordinance.

SECTION II. This enactment is a Charter Ordinance and shall take effect sixty (60) days after its publication according to law unless within such sixty (60) days a referendum petition is filed as provided pursuant to Wisconsin Statute § 66.0101, in which event this Ordinance shall not effect until it is submitted to a referendum and approved by majority of the electors voting thereon.

SECTION III. All Ordinances or parts of Ordinances in conflict herewith, to the extent of that conflict, are hereby repealed. Any Charter Ordinance or any previously enacted Ordinance or Charter Ordinance that is inconsistent or in conflict hereby are, to that extent, repealed.

SECTION IV. The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

Passed and adopted by the Common Council this 24th day of January, 2017.

APPROVED:

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David Ament, Mayor

Countersigned:

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Daniel Green, City Clerk