

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 1
March 11, 2013

SUBJECT: Approval to adopt resolution establishing an *ad hoc* Charter Review Committee with the task of reviewing the current City Charter (adopted in 1977) and reporting to the City Council any suggested amendments required or advised for updating the Charter and to assist in the drafting of ballot questions for submission to the voters in order to make such amendments.

SUBMITTING DEPARTMENT: City Manager

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The concept of an incorporated city in Michigan dates back to the early 1900s, with the 1908 constitutional amendment relating to "home rule" for cities and the adoption of the Home Rule Cities Act (HRCA) in 1909. The home rule reference is to the authority of a city organized under the statute to draft and adopt a charter for its own government. Within the broad confines of the HRCA and the state constitution, cities are free to devise forms of government and to exercise powers of local self-government under locally-prepared charters adopted by local referendum. Under Michigan law as it stands today, a city incorporated under the HRCA—a municipal corporation—has only those powers authorized to it by the state legislature, either in the act or elsewhere. So, the defining document of any city, the one that sets its character more than any other, is its charter.

The charter is thus best described as the "local constitution" for the City, so the process for changing it is intentionally careful. A charter revision contemplates a fundamental or "wholesale" re-examination of the entire charter document, so that it can be re-enacted or re-created without having to maintain the general form, scheme, and structure of the former charter. An amendment, on the other hand, is a narrower concept that implies that the general plan and scope of the charter and City will be maintained, but with corrections that relate to details, rather than fundamentals.

Charter amendments are relatively common; charter revisions are rare.

Communities use the amendment process to do a variety of things—to modernize or clarify the description of processes that have changed over time and that no longer follow the "letter" of the charter as a matter of necessity or convenience; to change outdated rules; to add new rules for new situations; or to conform the language to state law.

Specific amendments to the charter can be proposed by 3/5 of the members of the legislative body, or by an initiatory petition of the voters. When a final question—i.e., the specific amendment—is submitted to the voters, the time for holding the election may differ depending on who proposed the amendment.

Typically, the process for an amendment by the City Council proceeds as follows:

Step 1. The charter is reviewed and specific language changes are arrived at.

Step 2. A ballot question is created for each discrete or separate amendment to the charter. The ballot language cannot exceed 100 words, and it must be fairly and neutrally stated, without "argument" for or against. (How the question gets drafted, and by whom, is discussed below.)

Step 3. There is no legal or formal limit on the number of ballot questions that can be submitted at any one election—but usually the length of the ballot itself limits the number to no more than 5 or 6 questions (and usually less than that).

Step 4. The language is submitted to the governor's office for review. Practically speaking, the attorney general's office does the review, and determines whether the change is permissible and whether the language is properly descriptive in a fair and neutral way that meets all of the requirements.

Step 5. The governor approves the language for submission to the voters. The governor does not typically weigh in on the wisdom of the amendment, just the appropriateness for submission. (Even if the governor does not approve the language, the Council can still proceed with the vote over that objection.)

Step 6. The City Clerk works with the County Clerk to have the ballot question placed on the appropriate election ballot (typically a general election, not a special election).

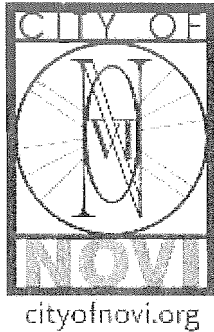
To accomplish Step 1, the attached resolution proposes to establish a "Charter Review Committee" that will review the entire charter and propose specific amendments to it for the consideration of the Council. The committee is proposed to be made up of a cross section of Council members, City staff, and other public members.

RECOMMENDED ACTION: Adoption of resolution creating an *ad hoc* Charter Review Committee with the task of reviewing the current City Charter (adopted in 1977) and reporting to the City Council any suggested amendments required or advised for updating the Charter and to assist in the drafting of ballot questions for submission to the voters in order to make such amendments.

	1	2	Y	N
Mayor Gatt				
Council Member Casey				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

MEMORANDUM



TO: CITY MANAGER PEARSON AND COUNCIL MEMBERS
FROM: MAYOR BOB GATT *B. Gatt*
SUBJECT: PROCESS FOR UPDATES TO CITY CHARTER
DATE: MARCH 5, 2013

We have all received the background information from City Attorney Schultz regarding the options and requirements for considering updates to the Novi City Charter. I have had the opportunity to think about the variations of how we might proceed and would like to suggest moving forward now with an *ad hoc* committee. The objective would be to consider and draft somewhere between 3 to 5 separate questions in July that the City Council could consider putting to the electorate, ideally on the next regular ballot, in November 2013. There may be more items that the Council ultimately wants to address with Charter amendments, but that seems like a manageable initial project and a reasonable number of questions to ask the voters to become familiar with for a single ballot.

I am recommending a committee of seven people: Council members Wrobel and Casey, long time Novi resident and former Mayor David Landry, long time Novi resident and local businessman Fil Superfisky, City Manager Pearson, City Clerk Cornelius, and me. I believe that group represents a good mix of expertise, experience, and perspective that can review different options and prioritize them back to us.

I also think we should provide the committee with an initial outline for the topics to be focused upon, and suggest the following broad groups:

1. Streamlining and modernization of financial practices. One of the more frequent and obvious requirements of the current Charter is the warrant system. As a practical matter, such a practice does not keep up with electronic payments and other saving practices which can still be achieved by guaranteeing our oversight responsibilities.
2. Updating of organizational structure. The Charter has language for departments and have changed over time (i.e., Parks, Recreation & Cultural Services) that can be modernized and provide flexibility for priorities and changes in the future.
3. Council compensation. The fixed rates for elected officials from 1969 are not commensurate with the duties and responsibilities today and can be adjusted while still keeping our essentially volunteer community service.

4. The references in the charter about "...publication once in newspaper of a general circulation in the city..." could be removed to pave the way or mention the website, mobile apps etc. as now days there are not that many newspapers that fit the definition of "general circulation".
5. Millage rates have changed so the reference in the Charter could change accordingly for Section 9.1 (b) for specific street and highway improvement purposes – one tenth of one percent (1 mill), (c) for Novi Public Library – one tenth of one percent (1 mill) & (f) for the operation of the City of Novi Police and Fire Departments, including the payment of personnel and purchase of equipment – one and eight-tenths of one percent (1 8/10 mills).
6. Collection fees on delinquent taxes is (4%) after September 1. Section 9.16 could be changed to reflect a different penalty structure for those being delinquent.
7. Restricting the power of Council to lease public property for a period longer than three years is, in my view, outdated and too restrictive. There may be some thresholds that could be established in Section 12.3, but not a blanket restriction on leases.

We have a good Charter that has served the City well for 44 years. In conversations with many of you, the timing seems right for making sure that our local Charter keeps pace with opportunities and needs today. I look forward to formalizing this at our next meeting and proceeding.

c: Maryanne Cornelius
Tom Schultz

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION ESTABLISHING A CHARTER REVIEW COMMITTEE

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on _____, 2013, at 7:00 P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

RECITALS:

WHEREAS, the City Council of the City of Novi finds that a study and review of the existing City Charter should be conducted to determine the advisability of amending and updating aspects of the Charter in accordance with the law.

NOW, THEREFORE, BE IT RESOLVED that:

1. A Charter Review Committee is hereby created, consisting of seven (7) members consisting of Mayor Gatt, Councilmembers Wrobel and Casey, the City Manager, the City Clerk, and two electors of the City to be appointed by the Mayor.
2. The Charter Review Committee shall review and study the existing City Charter and possible amendments thereto and make written recommendations to the City Council as to amendment or revision of City Charter provisions. The Committee's

review shall specifically consider modernization and updating of dated requirements or procedures and shall include:

- a. Streamlining and modernization of financial practices. One of the more frequent and obvious requirements of the current Charter is the warrant system. As a practical matter, such a practice does not keep up with electronic payments and other saving practices which can still be achieved by guaranteeing our oversight responsibilities.
- b. Updating of organizational structure. The Charter has language for departments and have changed over time (i.e., Parks, Recreation & Cultural Services) that can be modernized and provide flexibility for priorities and changes in the future.
- c. Council compensation. The fixed rates for elected officials from 1969 are not commensurate with the duties and responsibilities today and can be adjusted while still keeping our essentially volunteer community service.
- d. The references in the charter about "...publication once in newspaper of a general circulation in the city..." could be removed to pave the way or mention the website, mobile apps etc. as now days there are not that many newspapers that fit the definition of "general circulation".
- e. Millage rates have changed so the reference in the Charter could change accordingly for Section 9.1 (b) for specific street and highway improvement purposes – one tenth of one percent (1 mill), (c) for Novi Public Library – one tenth of one percent (1 mill) & (f) for the operation of the City of Novi Police and Fire Departments, including the payment of personnel and purchase of equipment – one and eight-tenths of one percent (1 8/10 mills).

- f. Collection fees on delinquent taxes is (4%) after September 1. Section 9.16 could be changed to reflect a different penalty structure for those being delinquent.
- g. Restricting the power of Council to lease public property for a period longer than three years is, in my view, outdated and too restrictive. There may be some thresholds that could be established in Section 12.3, but not a blanket restriction on leases.

3. The written findings and recommendations of the Charter Review Committee shall be submitted to the City Council by June 21, 2013.

4. The City Council, upon receipt of the findings and recommendations of the Charter Review Committee, shall review same and determine whether the existing Charter should be amended and, if so, shall proceed in accordance with state law for such amendment(s).

5. The City Council may from time-to-time authorize expenditures for the Charter Review Committee in the performance of its duties as provided in this Resolution.

6. Upon appointment of members to the Charter Review Committee, the City Council shall establish a time, date, and place for the first meeting of the Committee. At the initial meeting, the Mayor shall chair the meeting with the first order of business to be the selection of a Vice Chairperson, who shall not be a City employee.

7. The Committee may request the services of the City Attorney to assist in considering, formulating and making findings and recommendations.

8. The meetings of the Committee shall be open to the public, and shall be noticed and held in accordance with the Open Meetings Act, MCL 15.261 *et. seq.*

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi at a regular meeting held this _____ day of _____, 2013.

Maryanne Cornelius, City Clerk
City of Novi

PART I
CHARTER*

	Preamble
Ch. 1.	Name and Boundaries, § 1.1
Ch. 2.	Municipal Powers, §§ 2.1—2.6
Ch. 3.	Nominations and Elections, §§ 3.1—3.30
Ch. 4.	Organization of Government, §§ 4.1—4.16
Ch. 5.	General Provisions Regarding Officers and Personnel of the City, §§ 5.1—5.12
Ch. 6.	Council Procedures, §§ 6.1—6.7
Ch. 7.	City Legislation, §§ 7.1—7.9
Ch. 8.	General Finance, §§ 8.1—8.11
Ch. 9.	Taxation, §§ 9.1—9.20
Ch. 10.	Borrowing Power, §§ 10.1—10.6
Ch. 11.	Special Assessments, §§ 11.1—11.4
Ch. 12.	Purchases, Sales, Contracts and Leases, §§ 12.1—12.3
Ch. 13.	Municipality-owned Utilities, §§ 13.1—13.6
Ch. 14.	Public Utility Franchises, §§ 14.1—14.5
Ch. 15.	Miscellaneous, §§ 15.1—15.12
Ch. 16.	City Library, §§ 16.1—16.3
Ch. 17.	Schedule, §§ 17.1—17.3

***Editor's note**—Printed herein is the Charter of the City of Novi, Michigan, adopted on November 8, 1977 and made effective on January 1, 1978. Amendments are indicated by a history note in parentheses following the amended section. Additions made for clarity are enclosed by brackets [].

State law references—Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.; power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.

PREAMBLE

We the people of the City of Novi, asking the blessing of Almighty God, and by virtue of authority granted by the Constitution and by Public Act 279 of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, and by laws pertaining to Home Rule Cities of the State of Michigan, do hereby ordain and establish this home rule Charter for the City of Novi, Michigan.

CHAPTER 1. NAME AND BOUNDARIES

Section 1.1. Name and boundaries.

The following described territory, together with all territories that may hereafter be annexed thereto, shall continue and remain a body corporate under the official name and title of "City of Novi" and shall be subject to the municipal control of said City, to wit:

Beginning at the northeast corner of Section 1, T. 1 N., R. 8 E., Novi Township, Oakland County, Michigan, thence southerly along the east line of Section 1-12-13-24-25 and 36 to the southeast corner of Section 36, thence westerly along the south line as altered by excepted parcel noted hereinafter of Sections 36, 35, 34, 33, 32, and 31 to the southwest corner of Section 31, thence northerly along the westerly line of Sections 31, 30, 19 and 18 to the northwest corner of Section 18, thence easterly along the northerly line of Sections 18 and 17 to the northeast corner of Section 17 and the southwest corner of Section 9, thence northerly along the westerly line of Sections 9 and 4 to the northwest corner of Section 4, thence easterly along the northerly line of Sections 4, 3, 2, and 1 to the point of beginning, including all of Sections 3, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 36, and that part of Sections 1, 2, 4, 9, 17, 18, 19, 27, 33, 34, and 35 except the following parcels:

(a) Part of Section 1 described as:

- (1) E. 16 acres of N. 36 acres of N.E. Frc. $\frac{1}{4}$ ex. W. 150 ft. of N. 290 ft.
- (2) W. 150 ft. of N. 290 ft. of E. 16 acres of N. 36 acres of N.E. $\frac{1}{4}$.
- (3) N. 40 acres of S. 80 acres of N.E. Frc. $\frac{1}{4}$.

- (4) S. 40 acres of N.E. Frc. $\frac{1}{4}$.
- (5) N. 45 acres of E. 65 acres of W. $\frac{1}{2}$ of S.E. $\frac{1}{4}$, also N. 61 acres of E. $\frac{1}{2}$ of S.E. $\frac{1}{4}$.

(b) Part of Section 2 described as:

- (1) W. $\frac{1}{2}$ of N.E. Frc. $\frac{1}{4}$.
- (2) E. $\frac{3}{4}$ of S.E. $\frac{1}{4}$ ex. beg. at S.E. Sec. Cor., th. W. 191.70 ft., thence N. 01 degrees, 19 ft., 30 in., E. 158.03 ft., thence N. 89 degrees, 13 ft., 10 in., E. 188.63 ft., thence S. 0 degrees, 12 ft., W. 160.55 ft. to P.O.B., also ex. S. 208 ft. of E. $\frac{1}{2}$ of W. $\frac{1}{2}$ of S.E. $\frac{1}{4}$.

(c) Part of Section 4 described as:

- (1) W. $\frac{1}{2}$ of the S.W. $\frac{1}{4}$ and S.W. $\frac{1}{4}$ of N.W. $\frac{1}{4}$.
- (2) Part of the N.E. Frc. $\frac{1}{4}$ and part of the N.W. Frc. $\frac{1}{4}$ beg. at a pt. on N. Sec. line E. 1,869.12 ft. from N.W. cor. of Sec., th. N. 89 degrees, 30 ft. E. along Sec. line 1,353.66 ft., th. S. 00 degrees, 30 ft. E. 1,287 ft., th. S. 89 degrees 30 ft. W. 1,353.66 ft., th. N. 0 degrees, 30 ft. W. 1,287 ft. to P.O.B.
- (3) Part of N.W. Frc. $\frac{1}{4}$ beg. at N.W. cor. of Sec., th. E. alg. N. Sec. line 1,869.12 ft., th. S. 1,848 ft., th. W. 1,869.12 ft., to W. Sec. line, th. alg. Sec. line 1,848 ft. to P.O.B.

(d) Part of Section 9 described as:

- (1) W. $\frac{1}{2}$ of W. $\frac{1}{2}$.

(e) Part of Section 17 described as:

- (1) That part of W. $\frac{1}{2}$ of N.W. $\frac{1}{4}$ lying sly. of U.S. 16 Hwy. ex. S. 156 ft. of W. 770 ft.
- (2) W. $\frac{1}{2}$ of S.W. $\frac{1}{4}$, ex. N. 510 ft. of W. 770 ft., also ex. S. 1,110 ft.
- (3) W. $\frac{1}{2}$ of E. $\frac{1}{2}$ of S.W. $\frac{1}{4}$.
- (4) E. $\frac{1}{2}$ of E. $\frac{1}{2}$ of S.W. $\frac{1}{4}$, ex. S. 10 acres, also ex. E. 200 ft. of remainder.

(f) Part of Section 18 described as:

- (1) S. 312.30 ft. of N.E. $\frac{1}{4}$, ex. E. 990 ft.
- (2) S. $\frac{1}{4}$ of S.W. Frc. $\frac{1}{4}$ and W. $\frac{1}{2}$ of S.E. $\frac{1}{4}$.

(g) Part of Section 19 described as:

- (1) N.W. $\frac{1}{4}$ of N.E. $\frac{1}{4}$ and N.W. Frc. $\frac{1}{4}$.

- (h) Part of Section 27 described as:
- (1) "Brookland Farms No. 1" as recorded in Oakland County, Michigan, Register of Deeds Liber 86, Pages 8-9.
- (i) Part of Section 33 described as:
- (1) S. ½.
- (j) Part of Section 34 described as:
- (1) S. ½.
- (k) Part of Section 35 described as:
- (1) That part of the S.W. ¼ of N.W. ¼ lying E. of P.M.R.R./W.
 - (2) S.E. ¼ of N.W. ¼ and W. 10 Parcels of S.W. ¼ of N.E. ¼ and N.E. ¼ of S.W. ¼.
 - (3) West ½ of S.W. ¼, ex. that part lying N.W. of P.M.R.R.
 - (4) Part of S.E. ¼ of the S.W. ¼ beg. on S. Sec. line dist. S. 89 degrees, 09 ft. W. 1,013.54 ft. from S. ¼ cor., th. S. 89 degrees, 09 ft. W. 318.8 ft., th. N. 00 degrees, 29 ft. W. 1,305.43 ft., th. N. 88 degrees, 56 ft., 30 in. E. 256.84 ft., th. S. 00 degrees, 38 ft., E. 640 ft., th. N. 89 degrees, 09 ft. E. 66 ft., th. S. 00 degrees, 38 ft. E. 666 ft. to P.O.B.

State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.6 et seq., MSA 5.2085 et seq.

CHAPTER 2. MUNICIPAL POWERS

Section 2.1. General powers.

Unless otherwise provided or limited in this Charter, the City and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Statutes and Constitution of the State of Michigan, including all powers, privileges and immunities granted to cities and their officers by Act 279 of the Public Acts of 1909 of the State of Michigan [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, and including all powers, privileges and immunities which cities

are, or may be, permitted to provide in their charters by said Act 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, as fully and completely as though these powers, privileges and immunities were specifically enumerated and provided for in this Charter; and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

The City and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be herein expressly enumerated or not; to do any act to advance the interests of the City, good government and prosperity of the municipality and its inhabitants; to make and enforce all laws, ordinances and resolutions which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by the Constitution and Statutes of the State of Michigan in cities, except where forbidden, or where the subject is covered exclusively by a general law. The City and its officers should have power to provide for the public peace and health and for the safety of persons and property and to provide that the levy[,] collection and return of state, county, and school taxes shall be in conformity with the general laws of the state except that the preparation of the assessment roll, the meeting of the Board of Review, and the confirmation of the assessment roll shall be as provided by this Charter.

State law reference—Permissible that Charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, MCL 117.4j(3), MSA 5.2083(3).

Section 2.2. Further definition of powers.

In addition to the powers possessed by the City under the Constitution and Statutes of the State of Michigan and those set forth throughout this Charter, the City shall have power with respect to and may, by ordinance or other lawful acts of its officers, provide for the following, subject to any specific limitation placed thereon by this Charter:

State law reference—Restrictions on city powers, MCL 117.5, MSA 5.2084.

- (a) The regulation of trades, occupations and amusements within its boundaries, including the sale of intoxicating liquors and the number of licenses to be issued therefor and for the prohibition of such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants;
State law reference—Permissible that Charter provide for regulation of trades and occupations, MCL 117.4i(4), MSA 5.2082(4).
- (b) The establishment and vacation of streets, alleys, public ways and other public places and the use, regulation, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them;
State law reference—Permissible that Charter provide for regulation of public ways, MCL 117.4h(1), MSA 5.2081(1).
- (c) The acquisition by purchase, gift, condemnation, lease, construction, or in any manner permitted by statute, of private property of every type and nature for public use; which property may be located within or without the County of Oakland and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the City, either proprietary or otherwise;
State law reference—Permissible that Charter provide for condemnation, MCL 117.4e(2), MSA 5.2078(2).
- (d) For the maintenance, development, operating, leasing and disposal of City property, subject to any restrictions placed thereon by statute or this Charter; provided, specifically, that if it shall become necessary to take and appropriate private property for the public uses or purposes specifically in this Section, the right to occupy and hold the same and the ownership therein and thereto, may be acquired by the City in the manner, and with like effect, as provided by the general laws of this State relating to the taking of private property for public use in cities and villages, including Chapter XIII of Public Act 3 of 1895 [MCL 73.1 et seq., MSA 5.1429 et seq.];
State law reference—Permissible that Charter provide for maintenance and disposition of city property, MCL 117.4e(1), MSA 5.2078(1).
- (e) The selling and delivering of water, heat, power and light within and without its corporate limits in an amount not to exceed that permitted by statute and the Constitution;
State law references—Authority to operate utilities, Mich. Const. 1963, Art. VII, § 24; permissible Charter provisions concerning public utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.
- (f) The use, upon the payment of reasonable compensation, by others than the owners of property located in the streets, alleys and public places and used in the operating of a public utility;
State law reference—Permissible that Charter provide for joint use of public property, MCL 117.4h(2), MSA 5.2081(2).
- (g) The use, control and regulation of streams, water and watercourses within its boundaries, but not so as to conflict with the laws or actions thereunder where a navigable stream is bridged or dammed;
State law reference—Permissible that Charter provide for regulation of watercourses, MCL 117.4h(4), MSA 5.2081(4).
- (h) The enforcement of all local, police, sanitary and other regulations as are not in conflict with the general laws;
State law reference—Permissible Charter provision, MCL 117.4i(9), MSA 5.2082(9).
- (i) The regulating or limiting, where less than a total prohibition of the use, occupancy, sanitation and parking of mobile homes within the City; and the right of the City to so regulate any mobile homes shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation or in any manner whatsoever;
- (j) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within

its corporate limits, including the fixing and collection of charges for service thereof on a public-utility basis and, for such purpose, to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

State law reference—Permissible that Charter provide for vehicle parking facilities, MCL 117.4h(6), MSA 5.2081(6).

- (k) Regulating, restricting and limiting the number and location of oil and gasoline stations and storage in bulk plants;

State law reference—Permissible that Charter provide for regulating gas stations, MCL 117.4i(2), MSA 5.2082(2).

- (l) Establishing districts or zones within which use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings and the density of population may be regulated by ordinances in accordance with statutory provisions governing zoning; and to prescribe by ordinance, method of enforcement of conditions imposed by the Board of Appeals on applications for variances or for certificates or licenses under provisions of a zoning ordinance;

State law reference—Permissible that Charter provide for zoning, MCL 117.4i(3), MSA 5.2082(3).

- (m) Licensing, regulating, restricting and limiting the number and location of advertising signs or displays and billboards within the City;

State law reference—Permissible that Charter provide for regulation of billboards, MCL 117.4i(5), MSA 5.2082(5).

- (n) The preventing of injury or annoyance to the inhabitants of the City from anything which is dangerous, offensive or unhealthful and for the preventing and abating of nuisances and punishing those occasioning them or neglecting or refusal [refusing] to abate, discontinue or remove the same;
- (o) The regulating of airports located within its boundaries and, for the purpose of promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the City by

aircraft and airborn[e] missiles and spheres of all types;

- (p) The requiring, as a condition of approving plats of land or premises hereafter laid out, divided or platted into streets and alleys within the City, that all streets shown on said plat be graded, graveled and paved or otherwise improved; that all ditches, drains and culverts necessary to make such streets usable be constructed; and that cement sidewalks be constructed in the proper places, all in accordance with City specifications. The Council may require a bond or cash deposit conditioned upon the installation of such of the foregoing improvements as it required, within such time as it determines;
- (q) The regulating and control of the collection and disposal of garbage and rubbish within its boundaries;
- (r) The requiring of an owner of real property within the City to maintain sidewalks abutting on such property; and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property in accordance with provisions of Chapter 11 of this Charter and ordinances adopted pursuant thereto;
- (s) The requiring of an owner of real property within the City to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the City within a reasonable time after the Council notifies him that such hazard or nuisance exists; and if the owner fails to comply with such requirements or if the owner is unknown, to abate such hazard or nuisance and assess the costs thereof against such property in accordance with provisions of Chapter 11 and ordinances adopted pursuant thereto;
- (t) The compelling of owners of real property within the City to keep sidewalks abutting upon their property clear from snow, ice or other obstructions; and if the owner fails to comply with such requirements, to remove

such snow, ice or other obstructions and assess the cost thereof against the abutting property in accordance with provisions of Chapter 11 and ordinances adopted pursuant thereto;

- (u) The control over all trees, shrubs and plants in the public streets, highways, parks, or other public places in the City and all dead, diseased trees, noxious weeds, shrubs, flowers and plants on private property and trees on private property overhanging the street, sidewalk or public places and the removal thereof and assess the cost thereof against the abutting property in accordance with Chapter 11 and ordinances adopted pursuant thereto;
- (v) A plan of streets and alleys within its limits; **State law reference**—Permissible that Charter provide for plan of streets and alleys within 3 miles of city, MCL 117.4h(3), MSA 5.2081(3).
- (w) The maintenance, development, operation, leasing and disposal of City property, subject to any restriction placed thereon by statute or this Charter;
- (x) To establish any department that it may deem necessary for the general welfare to the City; provided, however, that this provision shall not extend to and include public schools;
- (y) A plan of street lighting within its limits;
- (z) The regulating and control of traffic and parking of automobiles and other vehicles upon the public streets;
- (a-1) The regulating and control of junkyards, sanitary landfills and of excavations and removal of land;
- (a-2) The Council may provide by ordinance for the merit system of personnel management for employees in the service of the City and may provide for a pension system and recognize standard plan of group life, hospital, health or accident insurance for its appointive officers and employees.

State law reference—Permissible that Charter provide for a system of civil service, MCL 117.4i(7), MSA 5.2082(7).

Section 2.3. Further definition of powers.

All powers granted in Act 279 of 1909 of the Public Acts of the State of Michigan [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, which are not in conflict with the provisions of this Charter, are hereby adopted as part of this Charter by reference thereto, but the City shall not be subject to any limitations or restrictions of said Act except where in contravention or conflict with the provisions of any general law of the state or where provided for in this Charter.

Section 2.4. Intergovernmental contracts.

The City shall have the power to join with any governmental unit or agency, or with any number or combination thereof, by contract or otherwise as may be permitted by law, to have performed (a) jointly, or (b) by one or more of them for or on behalf of the other or others, or (c) by any other person, firm or corporation, any function which is permitted to be so performed by law by such governmental unit or agency, and to provide for the financing thereof.

State law references—Intergovernmental contracts between municipal corporations, MCL 124.1 et seq., MSA 5.4081 et seq.; intergovernmental transfers of functions and responsibilities, MCL 124.531 et seq., MSA 5.4087(1) et seq.

Section 2.5. Outside fire protection.

In the exercise of the powers contained in Section 2.1., the Council shall have the right to contract with persons, firms, corporations or governing bodies to furnish or have furnished fire protection to property outside or within the City boundaries for a fair consideration.

Section 2.6. Outside police protection.

In the exercise of the powers contained in Section 2.1., the Council shall have the right and power to contract with other governing bodies for mutual police protection in order to afford full and adequate protection to the City and its inhabitants and property, not only as to the area of the City but in the general metropolitan area where happenings may affect the City or its residents.

CHAPTER 3. NOMINATIONS AND ELECTIONS*

Section 3.1. Election districts; voting precincts.

The City shall constitute one election district and such voting precincts as the Election Commission may establish. The Council shall fix the location of the polling places.

State law references—Mandatory that Charter provide for one or more wards, MCL 117.3(e), MSA 5.2073(e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

Section 3.2. Qualifications of electors.

The residents of the City having the qualifications of electors in the State of Michigan and registered with the City shall be electors of the City.

State law reference—Qualifications for registration as elector, MCL 168.492, MSA 6.1492.

Section 3.3. Election procedures.

The election of all City officers shall be on a nonpartisan basis. Otherwise, general election laws shall apply to and control all procedures relating to registration and elections unless otherwise provided herein.

State law references—Mandatory that Charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.

Section 3.4. Election Commission.

The Election Commission shall consist of the City Clerk and two (2) members appointed by the Council. Such Commission shall have the duties and powers conferred on city election commissioners by statute. The City Clerk shall act as Chairman of the Commission.

Section 3.5. Election Inspectors.

The Election Commission shall, before each election, appoint for each precinct of the City a Board of Inspectors of each election, consisting of not

**State law references*—Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).

less than three (3) qualified electors, and shall fix their compensation.

Section 3.6. Board of Canvassers.

The Board of Canvassers shall consist of four (4) members who shall possess the powers and duties as prescribed by statute and shall canvass all elections; except that if any such persons are candidates for office or nomination at the election to be canvassed, such persons shall not serve as Canvassers of such election. Members of the Board shall possess the qualifications required by statute, and their selection shall be made in accordance with the statute in such case made and provided. A quorum thereof shall be constituted as prescribed by statute.

State law reference—Board of canvassers, MCL 168.30a, MSA 6.1030(1).

Section 3.7. Election officials.

When any City election or primary is held on the same day as a State or County election or primary, the same election officials shall act in both the City and State or County election or primary.

Section 3.8. Regular city elections; when held.

A regular City election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year. All other regular general elections shall be held on the dates and in the manner provided by the election laws of the State of Michigan.

State law reference—Odd-year general election, MCL 168.644a et seq., MSA 6.1644(1) et seq.

Section 3.9. Special elections.

Special elections shall be held when called by resolution of the Council at least sixty (60) days in advance of such election or when required by this Charter or the statutes of the State of Michigan. Any resolution calling a special election shall set forth the purpose of such election. Special elections shall be conducted in conformity with the provisions of the election laws of the State of Michigan, except as otherwise provided in this Charter.

State law reference—Special election approval, MCL 168.631, 168.639; MSA 6.1631, 6.1639.

Section 3.10. Nonpartisan primary election; when held.

Primary elections for the nomination of candidates for elective office under the provisions of this Charter shall be held on the first Tuesday following the first Monday in August of each odd-numbered year.

Editor's note—See Code of Ordinances § 13-2 for designation of primary date as Tuesday following the second Monday in September of each odd-numbered year.

State law reference—Odd-year primary election, MCL 168.644b, MSA 6.1644(2).

Section 3.11. Vacancies for unexpired terms.

When vacancies for unexpired terms of the elective officers are to be filled by election under provisions of Section 5.6(c) of this Charter, separate provisions shall be made on the ballot for such purpose.

Section 3.12. Notice of election.

Notice of the time and place of holding any City election, the officers to be elected and the matters to be voted upon shall be given by the Clerk by posting such notice in not less than three (3) public places in the City two (2) weeks prior to such election and by publishing such notice at least two (2) times; the first publication to be made not less than ten (10) days prior to such election in a newspaper circulated in the City.

State law reference—Notice of election, MCL 168.653a, MSA 6.1653(1).

Section 3.13. Form of ballot.

The form, printing and numbering of ballots in all elections shall conform to that prescribed by statute, except that no party designations or emblem shall appear on ballots for elections of City elective offices. The names of candidates shall rotate in [the] manner prescribed by statute.

If two (2) or more candidates or nominees for the same office have the same or similar surnames, the Election Commission shall print the residence address under the respective names of such candidates or nominees on the ballots (or on labels or slips to be placed on voting machines, when used). Except as provided in this Section, there shall be

no supplemental identification of candidates on the ballot.

State law reference—Arrangement of ballot, MCL 168.706, MSA 6.1706.

Section 3.14. Voting machines.

Ballots may be cast by the use of voting machines and, if used, shall conform to all of the provisions of the statutes in such case made and provided.

State law references—Voting machines at primaries, MCL 168.584 et seq., MSA 6.1584 et seq.; voting machines generally, MCL 168.770 et seq., MSA 6.1770 et seq.

Section 3.15. Voting hours.

The polls of all elections shall be opened and closed at the time prescribed by statutes for State elections.

State law reference—Opening and closing of polls, MCL 168.720, MSA 6.1720.

Section 3.16. Supplies and equipment.

The Council shall provide all necessary voting booths, voting machines, equipment, ballot boxes and supplies for the conducting of all elections and primaries.

State law reference—Polling places, equipment and supplies, MCL 168.662, MSA 6.1662.

Section 3.17. Nomination to office.

Candidates for any elective office, to be voted for at any municipal election held under the provisions of this Charter, except as provided in Section 5.6(c), shall be nominated at a primary election, and no other name shall be placed upon the election ballot for the election of such officers except those nominated in the manner hereinafter prescribed. However, whenever the number of candidates for nomination to any office does not exceed three (3) times the number to be elected to that office, then in such case, no primary election for the nomination of candidates for such office shall be held, and such candidates shall be deemed to be nominated to such office. The names of such candidates for any such office shall be placed upon the election ballot to be voted for at the next regular municipal election, in all respects as though

the said candidates had been nominated at a primary election.

(Amended 8-7-84)

State law references—Mandatory that Charter provide for nomination of elective officers, MCL 117.3(b), MSA 5.2073(b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 3.18. Nominations for primary elections.

The method of nomination of the elective officers of the City for primary elections shall be by petition signed by not less than one hundred (100) nor more than two hundred (200) electors of the City; or in lieu thereof, a candidate may notify the Clerk of the City in writing that he is a candidate for a designated office, giving his legal name and address, and pay to the Clerk the sum of One Hundred (\$100) Dollars to be paid into the general fund of the City. All nominating petitions or notifications of candidacy with required cash payment, shall be filed with the Clerk between the eightieth day and 4:00 p.m. at the prevailing time on the sixtieth day preceding such primary election. The form of nominating petition shall be substantially as that designated by the Secretary of State for nomination of nonpartisan judicial offices. Signing of petitions shall be governed by general election statutes.

Section 3.19. Approval of petitions.

The Clerk shall accept only nomination petitions which conform to the above requirements and, if accepted, endorse thereon his approval and the date of filing. When a petition is filed by persons other than the person appearing thereon as candidate, it may be accepted only when accompanied by the written consent of the candidate. Within five (5) days after the last day for filing petitions, the Clerk shall make his final determination as to the validity and sufficiency of each petition. If the Clerk finds the petition does not satisfy the requirements, he shall forthwith notify the candidate in writing of such fact, by personal messenger if possible.

Any candidate whose petition is invalid or insufficient shall be allowed to file a supplementary or replacement petition before 4:00 p.m. at the prevailing time on the eighth day after the last day for filing the original petition; thereafter no further petitions may be filed.

Section 3.20. Certification.

The names of the candidates who file valid nominating petitions and the names of candidates who comply with filing for candidacy by paying the required cash payment shall be certified by the Clerk to the Election Commission to be placed on the ballot for the next City primary election.

Section 3.21. Public inspection of petition.

All nominating petitions shall be open to public inspection in the office of the Clerk.

Section 3.22. Who are nominated.

When only one person is to be elected to any one office, then the two (2) candidates receiving the highest number of votes for nomination to that office shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for that office at the regular municipal election. When more than one person is to be elected to any office, then the candidates, equal in number to twice the number of persons to be elected to that office, receiving the highest number of votes for said office, and no others, shall be placed upon the ballot as candidates for said office at the next regular municipal election.

Where no primary contest is involved, those candidates who have complied with Section 3.18. for an elective office shall be determined to be nominated.

Section 3.23. Return of Board of Election Inspectors.

Immediately upon the closing of the polls, the Board of Election Inspectors in each precinct shall count the ballots and ascertain the number of votes cast in such precinct for each of the candidates and upon each of the questions and propositions voted upon and shall make immediate return thereof to the Clerk upon blanks to be furnished by the Clerk.

Section 3.24. Canvass of the returns of the primary election.

The Board of Canvassers shall meet at the Council Chambers at 8:00 p.m., at the prevailing time, on the Thursday following such primary election,

shall canvass the returns filed with the Clerk, and shall determine the results thereof. Such meeting shall be public, and after the results have been determined, the same shall be published in a manner to be prescribed by the Board of Canvassers. The Board of Canvassers, after determination of the results of such election, shall certify this determination to the Clerk.

State law references—Board of canvassers, MCL 168.30a, MSA 6.1030(1); canvass of returns, MCL 168.323, MSA 6.1323.

Section 3.25. Canvass of the vote.

The Board of Canvassers shall convene at the Council Chambers at 8:00 p.m., at the prevailing time, on the Thursday following any regular or special election and shall canvass the results of such election, determine the vote upon City questions and propositions, and declare whether the same have been duly adopted or rejected and what persons have been duly elected at such election to the several City offices voted upon thereat.

State law references—Board of canvassers, MCL 168.30a, MSA 6.1030(1); canvass of returns, MCL 168.323, MSA 6.1323.

Section 3.26. Who elected.

The person receiving the highest number of votes for any office shall be deemed to have been duly elected to that office. If more than one person is to be elected to any office, then the persons, equal in number to the number to be elected to that office, receiving the highest number of votes for that office shall be deemed to have been duly elected to that office. Upon the completion of the canvass of the returns, the Board of Canvassers shall publish the results of such canvass.

Section 3.27. Where candidates are tied.

If at any regular or primary election, there shall be no choice between candidates, by reason of two (2) or more candidates having received an equal number of votes, the Board of Canvassers shall appoint a date at which time the right to nomination or election shall be determined by lot. Notice of the time and place at which such determination shall be made shall be given to all persons interested therein at least twelve (12) hours prior to the time at which determination is to be made. Such notice shall be given by the Clerk at the last or usual place of abode of the persons interested

in such determination. This manner of determining by lot shall be the same as provided by the General Election Laws of the State for such determination in case of a tie vote for a County office.

State law reference—Determination of election by lot, MCL 168.851 et seq., MSA 6.1851 et seq.

Section 3.28. Challengers.

A regularly nominated candidate shall be entitled, upon written application to the election authority not less than ten (10) nor more than twenty (20) days before election, to appoint one person to represent him as Challenger at each polling place where electors may cast ballots. A person so appointed shall have all the rights and privileges prescribed for Challengers by or under the General Election Laws of the State of Michigan. The Challengers may exercise their rights throughout the voting and until the ballots have been counted.

State law reference—Challenges, MCL 168.727 et seq., MSA 6.1727 et seq.

Section 3.29. Recount.

A recount of the votes cast at any election for any office or on any matter may be had in accordance with election statutes.

State law reference—Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

Section 3.30. Recall.

Any elected City official may be recalled from office by the electors of the City in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this Charter and by law.

State law references—Permissible that Charter provide for recall of its officers, MCL 117.4i(6), MSA 5.2082(6); recall generally, MCL 168.951 et seq., MSA 6.1951 et seq. See also Mich. Const. 1963, Art. II, § 8.

CHAPTER 4. ORGANIZATION OF GOVERNMENT

Section 4.1. Form of government.

The form of government provided for in this Charter shall be known as the "Council-Manager Plan". There is hereby created a Council of six (6)

Councilmen and one Mayor, elected in the manner hereinafter specified, which shall have full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the City.

Section 4.2. Election of Mayor and Council.

The Mayor and members of the Council shall be elected on a nonpartisan ballot from the City at large and shall be subject to recall as herein provided. No individual shall at the same election be a candidate for both Mayor and Councilman.

State law reference—Mandatory that Charter provide for election of a body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

Section 4.3. Term of office.

Each member of the Council shall be elected to serve a term of four (4) years, with three (3) Councilmen being elected every two (2) years. The Mayor shall be elected for a term of two (2) years. The Mayor and Council shall be the judge of the election and qualifications of its own members.

Section 4.4. Legislative body.

The Council shall constitute the legislative and governing body of the City possessing all the powers herein provided for, with power and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise any or all of the powers possessed by the City. The Mayor shall have a voice and vote in the proceedings of the Council equal with that of the other members of the Council but shall have no veto power. The Mayor shall be the presiding officer of the Council.

(a) *Limitations of Council.* The Council shall deal with City officers and employees solely through the City Manager, and no individual member thereof shall give orders to any subordinate of the City Manager either publicly or privately. No member of the Council shall direct or request: (1) the appointment of any person to, or the removal of any person from, any employment or office for which the City Manager is responsible; nor (2) the purchase of any specific materials, supplies, or equipment except at public meetings. It is not the intention of this provision to prevent frank discus-

sion of the business of the City between the City Manager and the Council or any member of the Council at any time but to prevent the personal favoritism or prejudice of any member of the Council from hampering the administration of the City government as set forth in this Charter.

(b) *Investigative Powers of Council.* The Council, or any person or committee authorized by it for that purpose, shall have power to inquire into the conduct of any department and to make investigations as to municipal affairs and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure on the part of any officer of the City to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this Section shall constitute misconduct in office. If such failure shall be on the part of any employee of the City, the same shall constitute a misdemeanor, punishable in the manner provided by statute in such cases.

(c) *Compensation of Council.* Each Councilman shall be paid for his services the sum of Fifteen (\$15) Dollars per meeting of the Council personally attended. A Councilman shall receive no further compensation for his official duties or any other purpose, except reasonable expenses as may be allowed by the Council when such expenses are actually incurred on behalf of the City, upon proper documentation thereof being furnished in such form and manner as the Council shall prescribe for all City employees seeking reimbursement of expenses.

State law reference—Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.5. The Mayor.

The Mayor shall be presiding officer and chief executive officer of the City and shall perform such other duties as are, or may be, imposed or authorized by the laws of the State or this Charter. He shall execute or authenticate by his signature such instruments as the Council, this Charter or any statute of the State of Michigan or law of the United States shall require. He shall be the conservator of the peace and may in emergencies exercise within the City the powers conferred upon sheriffs to suppress riot and disorder and shall

have the authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City and to suppress riot and disorder. In times of public danger or emergency, he may, with consent of the Council, take command of the police and such other departments and subordinates of the City as may be deemed necessary by the Council to maintain order and enforce laws.

(a) *Mayor Pro Tem.* The Mayor shall, at the first regular meeting of the Council after the election of the Mayor, appoint another member of the Council to serve as Mayor Pro Tem: who, during the absence or inability of the Mayor to perform his duties, shall act in the name and stead of the Mayor and shall, during the time of such absence or inability, exercise all the duties and possess all the powers of the Mayor.

(b) *Compensation of Mayor and Mayor Pro Tem.* The Mayor, and the Mayor Pro Tem when acting as Mayor shall receive compensation of Twenty (\$20) Dollars per meeting for each Council meeting personally attended by him and over which he shall preside. Such compensation shall be paid monthly. The Mayor or Mayor Pro Tem while serving as Mayor shall receive no further compensation for his official duties or any other purpose. Reasonable expenses may be allowed by the Council when such expenses are actually incurred on behalf of the city, upon proper documentation thereof being furnished in such form and manner as the Council shall prescribe for all City employees seeking reimbursement of expenses.

State law reference—Mandatory that Charter provide for duties and compensation of officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.6. Administrative plan.

Except as otherwise provided by this Charter, the administrative plan of the City shall be as covered by this Section and such other additions to the administrative plan as may be adopted by the Council by ordinance as deemed necessary for the administration of the functions and services of the City officers and departments.

(a) *Creation and Combination of Administrative Offices.* The Council may, by resolution, combine any administrative office in any manner which is not inconsistent with provisions of State law or this Charter.

(b) *General Functions and Duties of Administrative Officers.* All administrative officers of the City shall perform such duties as are provided for such officers by State or Federal law, this Charter, the City ordinances and the administrative directions of the City Manager. Each City officer shall exercise and possess all of the powers, privileges and immunity granted to City officers exercising the same duties for cities generally under the general laws of the State.

(c) *Direction by Manager.* Except as otherwise provided in this Charter, all departments, offices and agencies shall be under the direction and supervision of the City Manager and shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. The City Manager, with the consent of Council, may serve as the head of one or more such departments, officers or agencies or may appoint one person as the head of two (2) or more of them.

Section 4.7. City Manager.

The Council shall appoint a City Manager for an indefinite term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications.

(a) *Powers and Duties.* The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (1) He shall appoint and, when he deems it necessary for the good of the City, suspend or remove all City employees and appointive administrative officers provided for by Section 4.13 of this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

- (3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (4) He shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by him or by officers subject to his direction and supervision are faithfully executed.
- (5) He shall prepare and submit the Annual Budget and Capital Program to the Council.
- (6) He shall submit a monthly report and shall within sixty (60) days after the end of each fiscal year submit to the Council and make available to the public a complete report on the financial operations, financial condition and administrative activities of the City as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems advisable.
- (9) He shall perform such other duties as are specified in this Charter or may be required of him by the Council.

(b) *Acting City Manager.* The City Manager shall, by letter filed with City Clerk, designate, subject to approval of City Council, a qualified appointive administrative officer to exercise the powers and perform the duties of City Manager during his temporary absence, disability or vacancy in office. During such absence, disability or vacancy, Council may revoke such designation at any time and appoint another officer to serve until the City Manager shall return or his disability shall have ceased or a new City Manager shall have been appointed. No person who has been elected a member of the Council under this Charter shall be eligible for appointment as City Manager or Acting City Manager until two (2) years have elapsed following the expiration of the term for which he was elected.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.8. Removal of City Manager.

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

- (a) The Council shall adopt, by affirmative vote of not less than four (4) of its members, a preliminary resolution, which must state the reasons for removal, and may suspend the Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.
- (b) Within five (5) days after the copy of the resolution is delivered to the Manager, he may file with the Clerk a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. Notice of the date of hearing shall be promptly delivered to the Manager. The Manager may file with the Clerk a written reply to the preliminary resolution not later than five (5) days before the hearing.
- (c) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of not less than five (5) of its members, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.
- (d) The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review.

Section 4.9. City Clerk.

The City Clerk shall be appointed by the Council and shall hold office at the pleasure of the Council and shall be directly responsible to the Council. The functions and duties of the City Clerk shall be as follows:

- (a) The Clerk shall be the Clerk of the Council. He shall give notice of its meetings,

attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language. He shall keep a record of all ordinances, resolutions and actions of the Council.

- (b) He shall have power to administer all oaths required by State law, this Charter and the ordinances of the City.
- (c) He shall be custodian of the City seal and shall affix it to all documents and instruments requiring the seal and shall attest to the same. He shall also be custodian of all papers, documents and records pertaining to the City, the custody of which is not otherwise provided for by this Charter. All records of the City shall be public and the Clerk and other officers entrusted with such records shall so maintain and keep the same that they may be available to the public at all reasonable times. He shall give to the proper officials of the City ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the City is a party.
- (d) He shall at all times cooperate with the City Manager and provide such information and reports and perform such duties as are requested by the City Manager, so long as they are not inconsistent with the duties of his office as herein provided.
- (e) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council and perform other duties required of him by State or Federal law, this Charter, the Council and ordinances of the City.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.10. City Attorney.

The City Attorney shall be appointed by the Council and shall hold office at the pleasure of the Council. The functions, duties and compensation of the Attorney shall be as follows:

- (a) The Attorney shall act as legal advisor to and be attorney for the Council and shall be responsible solely to the Council. He

shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

- (b) He shall prosecute ordinance violations and conduct for the City such cases in court and before other legally constituted tribunals as the Council may request. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.
- (c) He shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and shall promptly give his opinion as to the legality thereof.
- (d) He shall call to the attention of the Council and the City Manager all matters of law and changes or developments therein affecting the City.
- (e) He shall perform such other duties as may be prescribed for him by this Charter, by the Council, or as prescribed by State or Federal law, or regulation.
- (f) He shall at all times cooperate with the City Manager and provide such information and reports and perform such duties as are requested by the City Manager, so long as they are not inconsistent with the duties of his office as herein provided.
- (g) He shall recommend to the Council retention of special legal counsel to handle any matter in which the City has legal interest or to assist him when he believes it to be in the best interest of the City.
- (h) The compensation set by the Council for the Attorney shall be in contemplation of the normal duties of that office. Special compensation may be provided at the discretion of the Council for appeals to, or litigation in, the Federal courts, the Circuit Court or State appellate courts; for work requiring extensive hearings before quasi-judicial or administrative tribunals; for legal work in connection with the issu-

ance of bonds of the City; for condemnation proceedings or for other matters outside the scope of his normal duties. No special compensation, nor any compensation to special legal counsel, shall be paid except in accordance with an agreement made between the Council and the Attorney or special counsel prior to the time such special services have been rendered.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.11. City Assessor.

The City Assessor shall be appointed by the Council and shall hold office at the pleasure of the Council and shall be directly responsible to the Council. The functions and duties of the City Assessor shall be as follows:

- (a) He shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute.
- (b) He shall prepare all regular and special assessment rolls in the manner prescribed by statute, Charter and by ordinance.
- (c) He shall at all times cooperate with the City Manager and provide such information and reports and perform such duties as are requested by the City Manager, so long as they are not inconsistent with the duties of his office as herein provided.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.12. City Treasurer.

The Director of Finance shall be the City Treasurer and shall perform all the duties required by this Charter and the general laws of the State or which the Council shall by ordinance prescribe.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.13. Creation of departments.

The administrative functions and powers of the City shall be divided into three (3) departments, as follows: Finance, Public Safety and Public Service. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of

all departments, offices and agencies; except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other. In the event that the City Council does establish a City department, office or agency in addition to those created by this Charter, such department, office or agency shall be placed under the direction and supervision of the City Manager and shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager.

Section 4.14. Director of Finance.

The Director of Finance shall have direct supervision over the Department of Finance and the administration of the financial affairs of the City, including budgeting and the keeping of accounts and financial records, assessment roll and collection of taxes, special assessments and other revenue, purchasing activities, payroll, data processing and such other duties and activities as the Council may by ordinance prescribe. In addition to the foregoing:

- (a) He shall be responsible for maintaining and keeping the books of accounts of the assets, liabilities, receipts and expenditures of the City and shall keep the Council and the City Manager informed as to the financial affairs of the City. The system of accounts of the City shall conform to such uniform system as may be required by law.
- (b) He shall examine and audit all accounts and claims against the City. He shall determine that no withdrawals shall be made from any City fund which, after deducting all prior withdrawals therefrom, has not a sufficient amount therein to pay such proposed withdrawal.
- (c) He shall, at least quarterly, and at any time upon direction of the City Manager or Council, examine and audit all books of account kept by any official, board or department of the City.
- (d) He shall balance all books and accounts of the City at the end of each calendar month and shall make a report to the City Manager and Council.

- (e) He shall keep accurate detailed accounts of:
- (1) All taxes assessed by the City and all moneys due the City from any and every source.
 - (2) All moneys received and the several sources from which derived.
 - (3) All funds of the City and disbursements made therefrom.
- (f) He shall have custody of all moneys of the City and all evidence of indebtedness belonging to the City or held in trust by the City.
- (g) He shall collect all moneys of the City the collection of which is not provided for elsewhere by Charter or ordinance. He shall receive from other officers and employees of the City all money belonging to and receivable by the City that may be collected by it, including fines, license fees, taxes, assessments and all other charges.
- (h) He shall disburse all City funds in accordance with the provisions of statute, this Charter and procedures to be established by the Council.
- (i) He shall have such powers, duties and prerogatives in regard to the collection and custody of City taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes.
- (j) He shall perform such other duties as may be prescribed for him by State or Federal law and regulation, this Charter or by the Council.

State law references—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d); mandatory that charter provide for a system of accounts, MCL 117.3(n), MSA 5.2073(n).

Section 4.15. Director of Public Safety.

The Director of Public Safety shall have the control and management of the police and fire divisions of the Public Safety Department; which divisions shall consist of a chief of each and such other officers, patrolmen, firemen and other employees or members as the Council shall authorize.

(a) *Police Department.* The Council shall provide for, establish and maintain, within the administrative division of the City, a Police Department to enforce all laws and all ordinances and codes which are in force in the City and to preserve peace and good order in the City. A Police Chief shall be appointed by the City Manager after consultation with the Council. The Police Chief, under the general direction of the Director of Public Safety, shall be in command and be responsible for the operation of said Police Department and for the procurement and training of personnel therefor. The police force of the City shall have and exercise all the immunities, privileges and powers of police officers under the common law and statutes of the State of Michigan for the preservation of quiet, good order, and for the safety of persons and property in the City.

(b) *Fire Department.* The Council shall have power to enact such ordinances and to establish and enforce such regulations as it shall deem necessary to guard against the occurrence of fires in the City and to protect the property and persons or inhabitants of the City against the occurrence of fires and against accident or damage resulting therefrom. For this purpose, the Council shall provide for, establish and maintain a Fire Department within the administrative division of the City. A Fire Chief shall be appointed by the City Manager after consultation with the Council. The Fire Chief, under the general direction of the Director of Public Safety, shall supervise and direct the fire fighting and prevention forces of the City, shall be responsible for the use, care and management of the City's fire fighting apparatus, equipment and property, shall conduct such supervision and educational programs within the City as will diminish the risk and potentiality of fires, and shall be responsible for procurement and training of personnel therefor.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.16. Director of Public Service.

The Director of Public Service shall manage and have charge of the construction, inspection, operation and maintenance of public utilities and property owned or operated by the City and all other works connected therewith. He shall have

charge of the enforcement of all the obligations of privately owned or privately operated public utilities enforceable by the City. He shall be responsible for the making and preservation of all surveys, maps, plans, drawings and estimates for public works.

State law reference—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

**CHAPTER 5. GENERAL PROVISIONS
REGARDING OFFICERS AND
PERSONNEL OF THE
CITY**

Section 5.1. Eligibility for office in the city.

No person shall hold any elective office of the City unless he is a qualified and registered elector of the City prior to the last day for filing petitions for such office and continues to be throughout his tenure of office.

No person shall hold any elective office of the City if he shall have been found guilty of a felony by a competent tribunal.

The Council shall be the sole judge of the election and qualifications of its own members.

State law reference—Mandatory that Charter provide for qualification of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 5.2. Nepotism.

Relatives by blood or marriage of any Councilman or City Manager within the second degree of consanguinity or affinity shall be disqualified from being an employee of the City during the term for which such Councilman was elected or during the tenure of office of such City Manager, except by the affirmative vote of five (5) members of the Council. This provision shall not apply to those employees who are employees of the City at the time of the election of such Councilman or the appointment of such City Manager. Nor shall this provision apply to any employee if the status of relationship between an employee and a Councilman or City Manager changes to a prohibited relationship after one year following the employment of such person or election of such Councilman or appointment of such City Manager.

Section 5.3. Vacancies in office.

(a) *Vacancies in Office of Council.* The office of any Councilman, including the office of Mayor, shall be declared vacant by the Council before the expiration of term of such office:

- (1) If a vacancy in office is created for any reason specified by statute or by this Charter;
- (2) If no person is elected to, or qualified for, the office at the election at which such office is to be filled;
- (3) If he shall miss four (4) consecutive regular meetings of the Council or twenty-five percent (25%) of the regular meetings in any fiscal year of the City for reasons other than confining illness, unless such absence shall be excused by the Council and the reason therefor entered in its proceedings at the time of each absence;
- (4) If he is removed by the Council in accordance with the provisions of Section 5.4.

(b) *Vacancies in Office of Boards or Commissions.* The office of any member of any board or commission created by this Charter shall be declared vacant for reasons (1), (3) or (4) as listed in the foregoing part of this Section.

Section 5.4. Removals from office.

Removals of Councilmen, including the Mayor and members of boards or commissions created by this Charter or by the Council shall be made for either of the following reasons: (1) for any reason specified by statute for removal of City officers by the Governor or (2) for any act declared by this Charter to constitute misconduct in office. Removal of such officer shall be made by the City Council only after a hearing held pursuant to notice given by the City Clerk. The notice shall be given at least ten (10) days prior to the hearing and shall be served upon the officer personally or by delivering the same to his last known residence. The notice shall contain the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges,

his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal.

State law reference—Removal of officers by governor, MCL 168.327, MSA 6.1327.

Section 5.5. Resignations.

Resignations of elected and Council-appointed officers shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting, or special meeting called for that purpose, following receipt thereof by the Clerk.

Section 5.6. Filling vacancies.

(a) *Vacancies in Offices Appointed by Council.* Vacancies in offices appointed by the Council shall be filled in the manner provided for the original filling of such offices.

(b) *Vacancy in Office of Mayor.* In the event of the vacancy of the office of the Mayor, the Mayor Pro Tem will serve the remainder of that unexpired term as Acting Mayor, and the Council position made temporarily vacant (by Mayor Pro Tem's filling office of Mayor) shall be filled in accordance with Section 5.6(c). Upon the expiration of the term as Acting Mayor, the Mayor Pro Tem shall resume the office of Councilman, provided that his term has not expired.

(c) *Vacancies in Elective Office.* Vacancies in elective offices other than the Mayor, including the temporary vacancy created by the Mayor Pro Tem's assuming the office of Acting Mayor as provided in Section 5.6(b), shall, within thirty (30) days after such vacancy occurs, be filled for a term expiring on the date of the next regular City election, by appointment of a person possessing the qualifications for the office by a majority vote of the members of the Council then in office.

If any such vacancy in the position of Councilman, including the temporary vacancy created by the Mayor Pro Tem's assuming the office of Acting Mayor, as provided in Section 5.6(b), which the Council is authorized to fill, is not so filled within thirty (30) days or if three (3) or more

vacancies exist simultaneously in such position, such vacancy or vacancies shall be filled for the respective unexpired terms at a special election. The temporary vacancy in the Council position created by the Mayor Pro Tem's assuming the office of Acting Mayor shall be filled for a term expiring on the date of the next regular City election. Notice of such special election shall be given by the Clerk ninety (90) days prior to such election, and the election shall be held in manner provided by this Charter. Candidates shall qualify by the filing of nominating petitions or cash payment in accordance with Section 3.18 and shall be certified to the Election Commission and placed on the ballot in manner identical to that provided in Sections 3.17, 3.18, and 3.20 hereof. No primary election shall be held.

Notwithstanding the foregoing, any vacancies which occur one hundred twenty (120) days or less before the next regular City election shall not be filled.

Section 5.7. No change in term of office or compensation.

Except by procedures provided in this Charter, the terms of Mayor, Councilmen and members of boards or commissions appointed for a definite term shall not be shortened or extended beyond the period for which the officer was elected or appointed; except that such officer shall continue to hold office until his successor is elected or appointed and has qualified. The salary of any elective officer shall not be changed from the day he is elected until the end of the term of office for which he was elected.

State law reference—Term of officer not to be shortened or extended, MCL 117.5(d), MSA 5.2084(d).

Section 5.8. Compensation of employees and officers.

The compensation of all employees and officers of the City whose compensation is not provided for herein shall be fixed by the Council within the limits of Council appropriations.

The respective salaries and compensation of officers and employees, as fixed pursuant to this Charter, shall be in full for all official services of such officers or employees and shall be in lieu of

all other fees, commissions and other compensations receivable by such officers or employees for their services to the City.

Any such fees, commissions and other compensation shall belong to the City and shall be accounted for by such officers or employees, paid into the City Treasury and a statement thereof filed periodically with the Clerk.

Nothing contained in this Section shall prohibit the payment of necessary bona fide expenses incurred in services on behalf of the City.

State law reference—Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

Section 5.9. Financial interest in contract or purchase.

(a) *Approval of Contract or Purchase.* No contract or purchase involving an expenditure in excess of One Hundred (\$100) Dollars shall be made by the City in which any elective officer, or any member of his family, has any financial interest, direct or indirect, other than the common public interest, unless approved by the affirmative vote of not less than four (4) members of the Council, and such interested officer shall not have the right to vote upon any such contract or purchase. A "contract" shall, for the purposes of this Section, include any arrangement or agreement pursuant to which any material service, or other thing of value, is to be furnished to the City for a valuable consideration to be paid by the City, or sold or transferred by the City, except the furnishing of personal services as an officer or employee of the City. The term "member of his family" shall include only spouse, child, grandchild, father, mother, sister, brother and/or the spouse of any of them.

(b) *Definition of "Financial Interest".* Without limiting the generality of Paragraph (a) of this Section, an elective officer shall be deemed to have financial interest in a contract if he or any member of his family is a partner, officer, director, or sales representative of the person, firm or corporation with which such contract is made. Ownership, individually or in a fiduciary capacity, by an elective officer, or member of his family, of securities or of any beneficial interest in securities of any corporation with which a contract is

made or any corporation which is a sales representative of any person, firm or corporation with which such contract is made, shall not be deemed to create a financial interest in such contract, unless the aggregate amount of such securities or interest in such securities so owned by such elective officer and the members of his family, shall amount to ten percent (10%) of any class of the securities of such corporation then outstanding.

(c) *Disclosure of Financial Interest.* Except as permitted in Paragraph (a) of this Section, any elective officer who knowingly permits the City to enter into any contract in which he has financial interest, without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office.

(d) *Surety on Bond.* No elective or appointive officer shall stand as surety on any bond to the City which may be required by this Charter or any ordinance of the City. Any officer of the City who violates the provisions of this Paragraph shall be guilty of misconduct in office.

(e) *Effectiveness of Section.* This section of this Charter shall be in effect except as otherwise prohibited by the general law of the State.

State law references—Conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

Section 5.10. Oath of office and bond.

Every officer, elected or appointed, before entering upon the duties of his office shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by statute, this Charter or the Council. In case of failure to comply with the provisions of this Section within ten (10) days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office, and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify.

State law reference—Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

Section 5.11. Surety bonds.

Except as otherwise provided in this Charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement, or both, and all other officers and employees so required by the Council, shall, before they enter upon the duties of their respective offices, file with the City Clerk an official bond, in such form and amount as the Council shall prescribe and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office and will, on demand, deliver over to his successor in office, or other proper officer or agent of the City, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee. Such bonds may be further conditioned as the Council may prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the City or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this Paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all or a group of City employees and officers.

All official bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the City. All bonds of all officers or employees shall be filed with the Clerk.

Section 5.12. Delivery of office.

Whenever any officer or employee shall cease to hold such office or employment, for any reason whatsoever, he shall, within five (5) days or sooner, on demand, deliver to his successor in office, or to his superior, all the books, papers, moneys and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally, for a like offense under statute. Any employee found guilty of violating this provision by a court of competent jurisdiction may be punished by a fine of not to exceed Five Hun-

dred (\$500) Dollars or imprisonment for not more than ninety (90) days, or both, in the discretion of the Court.

CHAPTER 6. COUNCIL PROCEDURES**Section 6.1. Regular meetings.**

The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least two (2) such meetings each month. A regular meeting shall be held on the Monday following each regular City election. If any time set for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held on the next secular day which is not a holiday. If the Council meets at a place other than its regular meeting place, then public notice to such effect shall be published in a newspaper circulated in the City.

State law reference—Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 6.2. Special meetings.

Special meetings of the Council shall be called by the Clerk on the written request of the Mayor or by any two (2) members of the Council. There shall be at least twenty-four (24) hours' written notice to the public and each member of the Council designating the time, place and purpose of any special meeting and served personally on, or left at, the usual place of residence of each of the Council members by the Clerk or someone designated by him. Any special meeting of the Council at which all members of the Council present, or have in writing waived the requirements that the required notice be given, and at which a quorum of the Council is present, shall be a legal meeting.

State law reference—Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 6.3. Business of special meetings.

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, other than the enactment of an ordinance, any business which may lawfully come before a regular meeting may be transacted at a special meeting, if all the members of the Council present consent thereto and all the members absent file their written consent.

Section 6.4. Meetings to be public.

All regular and special meetings of the Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard; except that the Council may hold meetings closed to the public where allowed by statute.

State law references—Mandatory that Charter provide for public meetings, MCL 117.3(1), MSA 5.2073(1); open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 6.5. Quorum; adjournment of meeting.

Four (4) members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but in the absence of a quorum, the Mayor or any two (2) members may adjourn any regular or special meeting to a later date.

Section 6.6. Compulsory attendance and conduct at meeting.

Any four (4) or more members of the Council may, by vote, either request or compel the attendance of its members and other officers of the City at any meeting. Any member of the Council or other officer who, when notified of such request for his attendance, fails to attend such meeting, for reason other than confining illness, shall be deemed guilty of misconduct in office unless excused by the Council.

The presiding officer shall enforce orderly conduct at meetings, and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall, upon a majority vote of the Council, be deemed guilty of misconduct in office.

Section 6.7. Organization and rules of council.

The Council shall determine its own organization rules and order of business, subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept by the Clerk in the English language and shall be signed by the presiding officer and Clerk of the meeting.
- (b) A roll-call vote shall be required on all ordinances, and the "Yes" or "No" vote shall be entered upon the records opposite the name of the Councilman. Whenever the vote

is unanimous, it shall only be necessary to so state.

- (c) No member of the Council shall vote on any question in which he has a financial interest other than the common public interest or on any question concerning his own conduct. On all other questions, each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present or unless he requests the same to be tabled until the next meeting of the Council, to be held in not less than twenty-four (24) hours. Such requests for postponement may be denied by vote of the Council; in which event, such member shall not be required to vote. If the question is tabled until the following meeting, such member shall then be required to vote unless excused by unanimous consent of the remaining members present. Any member refusing to vote, except when excused in accordance with this Paragraph, shall be guilty of misconduct in office.
- (d) In all roll-call votes, the names of the members of the Council shall be called in alphabetical order, and the name to be called first shall be advanced one position alphabetically in each successive roll call.
- (e) Any standing committees of the Council shall be composed of at least three (3) members who shall be appointed by the Mayor.

State law references—Mandatory that Charter provide for keeping of a journal of every session, MCL 117.3(m), MSA 5.2073(m); conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

CHAPTER 7. CITY LEGISLATION*

Section 7.1. Prior legislation.

All valid ordinances and regulations of the City of Novi, County of Oakland, State of Michigan, which are in force and effect at the time of the

***State law references**—Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

effective date of this Charter and not contrary to or inconsistent with this Charter, shall continue in force and effect until revised, altered, amended or repealed by the City.

Section 7.2. Ordinances, resolutions, motions and orders.

All official actions of the Council shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be so done by this Charter, by State or Federal law or which pertain to the internal affairs or concerns of the City government. All other acts of the Council and all acts carrying a penalty for the violation thereof shall be by ordinance.

The style of all ordinances shall be "The City of Novi Ordains". No ordinance shall be revised, altered or amended by reference to its title only. The section or subsections of the ordinance revised, altered or amended shall be reenacted and published in full, except as otherwise provided in this Charter. An ordinance may be repealed by reference to its number and title only. The effective date of any ordinance shall be prescribed therein and shall not be less than fifteen (15) days after its adoption unless the Council shall, upon attaching a declaration of emergency affecting the public peace, health or safety, fix an earlier date. Such emergency ordinance may be made effective immediately. No ordinance or measure making or amending a grant of a franchise, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

Each ordinance shall be identified by a number and short title. All ordinances when enacted shall be recorded by the Clerk in a book to be called "Ordinances", and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures thereon.

Copies of all ordinances and all amendments to this Charter shall be prepared and kept on hand in the office of the Clerk and shall be available for public distribution.

The copies of ordinances and of any compilation code or codes referred to in this Charter may be

certified by the Clerk and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

Section 7.3. Publication.

The Council shall have power to determine the method of publication of all notices and proceedings required to be published by law, by this Charter or by the Council for which a mode of publication is not prescribed. In the event publication in a newspaper is required by charter or statute, then such publication shall be made in a newspaper, as defined by State law, which shall be published or circulated in the City.

State law reference—Mandatory that Charter provide for publication of all ordinances before they become operative, MCL 117.3(k), MSA 5.2073(k).

Section 7.4. Penalties.

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any City ordinance or for the commission by any officer of the City of any act declared by this Charter to constitute misconduct in office shall exceed a fine of Five Hundred (\$500.00) Dollars or imprisonment for ninety (90) days, or both in the discretion of the Court. Any officer of the City found guilty of any act declared by this Charter to constitute misconduct in office shall, in addition to such fine or imprisonment; or both, forfeit his office.

State law reference—Limitation on penalties, MCL 117.4i(10), MSA 5.2082(10).

Section 7.5. Publication of ordinances.

Each ordinance passed by the Council shall be published at least once within fifteen (15) days after the adoption of the ordinance by the Council. Publication shall be effected by posting a copy of the same in at least three (3) public places in the City, together with at least one of the following methods, to be stated in the ordinance; namely,

- (a) By publication of the ordinance in full, after its final passage, as a part of the published proceedings of the Council, in a newspaper circulated in the City;

- (b) By publication of the ordinance in full, after its final passage, in a newspaper circulated in the City;
- (c) By publication of a brief notice in a newspaper circulated in the City stating the date of enactment and effective date of such ordinance, a brief statement as to the subject matter of such ordinance and such other facts as the Clerk shall deem pertinent, if any, and a statement that a complete copy of the ordinance is available for public use and inspection at the office of the City Clerk.

The Clerk shall, immediately after such publication and posting, enter in the record of the ordinance, in a blank space to be left for such purpose under the record of the ordinance, a certificate under his hand stating the time and place of publication and posting. Such certificate shall be prima facie evidence of the due publication and posting of the ordinance.

Section 7.6. Special procedure on certain council actions.

The Council shall, in carrying out the following actions, be required to proceed in the following manner:

- (a) *Action to Vacate Public Places.* Action to vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof, shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing thereon and shall publish notice of such hearing at least one week prior thereto.
- (b) *Action Requiring Affirmative Vote of Five (5) Members of Council.* The following actions shall require the affirmative vote of five (5) members of the Council for effectiveness thereof:
 - (1) Vacating, discontinuing or abolishing any highway, street, lane, alley or public place, or part thereof;
 - (2) Leasing, selling or disposing of any City-owned real estate or interest therein;
 - (3) Condemning private property for public use;

- (4) Creating or abolishing any office;
- (5) Appropriating any money;
- (6) Imposing any tax or assessment.

- (c) *Technical Codes.* The Council may adopt as an ordinance, by reference thereto in the adopting ordinance, in whole or in part, provisions of:

- (1-1) Any Michigan statute; or
- (1-2) Any detailed technical regulations promulgated or enacted by:
 - (i.) Any State or Federal agency,
 - (ii.) Any municipality, or
 - (iii.) By any organization or association which has developed a standard code or set of such technical regulations.

Such adopting ordinance shall clearly identify and state the purpose of the provisions or regulations, as adopted. Where any ordinance or code or amendment thereto, adopting provisions by reference, is enacted, all requirements for its publication may be met, other provisions of this Charter notwithstanding, by:

- (2-1) Publishing the ordinance citing such provisions in the manner provided by this Charter for the publication of other City ordinances and including, as part of such publication, a notice that printed copies of the provisions so cited are available for inspection by, and distribution to, the public at the office of the Clerk; and
- (2-2) So making copies available for public inspection and for distribution to the public at a reasonable charge.
- (d) *Franchise and Contracts.* Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges or public places in the City for any purpose shall be complete in the form in which it is finally passed. It shall remain on file with the Clerk for public inspection for at least one week before the final passage or adoption thereof.

State law reference—Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Section 7.7. Compilation.

The Council shall have authority to direct the codification of ordinances adopted by the Council at such time or times as shall be determined by the Council.

State law reference—Authority to codify, MCL 117.5b, MSA 5.2084(2).

Section 7.8. Initiative and referendum.

An ordinance may be initiated by petition or a referendum on an ordinance enacted by the Council may be had, by a petition as hereinafter provided.

- (a) *Petitions.* An initiatory or a referendum petition shall be signed by not less than fifteen percent (15%) of the registered electors of the City, who shall have signed said petition within three (3) months before the date of filing the petition with the Clerk. An initiatory petition shall set forth in full the ordinance it purposes to initiate, and no petition shall purpose to initiate more than one ordinance. Before being circulated for signatures, all such petitions may be approved as to form by the Clerk. No such petition need be on one paper but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil and shall place thereon, after his name, the date and his place of residency by street and number or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof stating the number of signers thereto and that each signature of the person whose name it purports to be was made in the presence of the affiant. Such petition shall be filed with the Clerk, who shall, within (10) days, canvass the signatures thereon to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the City or to be improper as to form or compliance with the provisions of this Section, the Clerk shall notify forthwith the person filing such petition and ten (10) days from such notification shall be allowed for the filing of supplemental petition papers. When found suf-

ficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

- (b) *Council Procedure.* Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty (30) days, either:
- (1) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the City; or
 - (2) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.
- (c) *Ordinance Suspended.* The certification by the Clerk of the sufficiency of a referendary petition, within thirty (30) days after the passage of the ordinance to which such petition refers, shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors, as the case may be.
- (d) *Submission to Electors.* Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose or, at the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.
- (e) *Limitation on Amendment or Repeal.* An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed except by initiatory or referendum proceeding[s] for a period of two (2) years.
- (f) *Limitation on Adoption.* An ordinance containing the same provision as that rejected by the electorate through initiatory or referendum proceedings cannot be adopted for a period of two (2) years from the date of the election rejecting the provision.

- (g) *Conflicting Provisions.* Should two (2) or more ordinances be adopted at the same election having conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(6), MSA 5.2082(6).

Section 7.9. Severability of ordinances.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a Court, such invalidity shall not affect the remaining portion or application of the ordinance which can be given effect without the invalid portion or application; provided, such remaining portion or application is not determined by Court to be inoperable. And to this end, ordinances are declared to be severable.

CHAPTER 8. GENERAL FINANCE*

Section 8.1. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the thirtieth day of June of the following year. Such year shall constitute the budget year of the City government.

Section 8.2. Budget procedure.

On or before the first day of April, each City officer shall submit to the City Manager an estimate of the expenditure requirements of the next fiscal year for the department or activities under his control. Such estimates shall be submitted on forms and in a manner prescribed in the City budget manual approved by the Council to govern the preparation, submission and the administration of the annual budget. The City Manager shall prepare a complete, itemized balanced budget document containing the proposal for the next fiscal year and shall submit it, accompanied by a proposed appropriation resolution, on the third Monday in April.

*State law reference—Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

Section 8.3. Budget document.

The budget document shall present a complete financial plan for the ensuing fiscal year and shall include at least the following information for all funds of the City except trust and agency funds and special assessment funds. (A fund is defined as an independent fiscal and accounting entity with a self-balancing set of accounts):

- (a) Detailed estimates of all proposed expenditures for each department and office of the City showing the expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, which shall be compared with appropriations for the current year;
- (b) Statements of the bonded and other indebtedness of the City showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year;
- (d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures and commitments of the City government during the ensuing year;
- (f) Such other supporting schedules as the Council may deem necessary.

Section 8.4. Budget hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Council shall direct. Such public hearing shall be held in accordance with the provisions of State statute.

Section 8.5. Adoption of budget; tax limit.

Not later than the third Monday in May, the Council shall, by resolution, adopt a balanced budget for the next fiscal year; shall appropriate from the several funds of the City the sums necessary to finance the budget; and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, subject to the limitations contained in Section 9.1 of this Charter.

An appropriation shall be deemed an authorization granted by the Council to make expenditures and to incur obligations for specific purposes pursuant to limitations imposed in Section 12.1. An appropriation shall limit the amount which may be spent for such specific purposes as may be defined by the Council and shall specify the period of time during which such amount may be expended.

State law reference—Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).

Section 8.6. Budget control and amendments.

After the budget has been adopted and the appropriation resolution has been passed, no money shall be drawn from the Treasury, nor shall any obligation for the expenditure of money be incurred, except pursuant to the terms of the appropriation resolution. The Council may amend such resolution at any time so as to authorize: (a) the transfer of any unexpended and unencumbered balance of an appropriation made for a specific purpose; (b) the transfer of appropriations within a department, account, fund or agency; and (c) the appropriation and allocation of available revenues not included in the annual budget. The amended resolution shall be made upon the concurring vote of not less than five (5) members of the Council. The Council may make emergency appropriations as provided in the following Section. The remaining unexpended and unencumbered balance of any appropriation at the end of the fiscal year shall revert to surplus in the fund from which it was appropriated.

Section 8.7. Emergency appropriations.

The Council shall have the authority to make emergency appropriations from fund surpluses to

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meet urgent and immediate needs at any time during the fiscal year. Any resolution of the Council authorizing emergency appropriations shall state the specific purpose for which the appropriation is made, the necessity therefore, the amount of the appropriation, and the source of the revenue that is appropriated to the purpose specified. In the event such emergency appropriations or proposed emergency appropriations should, during any fiscal year, aggregate more than one quarter of one percent (.25%) of the assessed value of the taxable real and personal property in the City as shown by the last preceding tax roll, then before final action shall be taken thereon, notice shall be given by publication once in a newspaper of general circulation in the City at least seven (7) days prior to the meeting at which action is to be taken. Such notice shall state the time and place of the meeting of the Council and a brief statement as to the subject matter of the appropriation. No further notice shall be required in the event the hearing on such appropriation shall be adjourned to a subsequent meeting. In the event that the Council shall declare it necessary for the public health, safety and welfare of the City that the resolution providing for such appropriation be given immediate effect, then, with a favorable vote of not less than five (5) members of the Council, the notice above provided for shall not be required, and such resolution may be given immediate effect.

Section 8.8. Quarterly financial report.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager, or, in his absence, the Director of Finance, shall submit to the Council data showing the relation between the estimated and actual income and expenses to date; and it shall appear that the income is less than anticipated in the appropriation resolution, the Council shall reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures in line with revenue.

Section 8.9. Depository.

The Council shall designate the depository or depositories for City funds and shall provide for

the regular deposit of all City funds. The Council shall provide for such security for City deposits as is authorized or permitted by the general laws of the State or required by the Council, except that personal surety bonds shall not be deemed proper security.

State law references—Designation of depositions, MCL 129.12, MSA 3.752; deposit of public moneys, MCL 211.43b, MSA 7.86.

Section 8.10. Withdrawal of funds.

All funds drawn from the Treasury shall be drawn pursuant to the authority and appropriation of the Council and upon checks signed by two (2) officers of the City to be designated by resolution of the Council.

Section 8.11. Audit.

An independent audit shall be made of all City accounts at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountant to be selected by the Council. A balance sheet statement prepared by the certified public accountant which shall disclose the assets, liabilities, reserves, and equities or each fund of the City at a specific date, except trust and agency funds, shall be published in a newspaper of general circulation in the City. If a single balance sheet is prepared for several funds, it must be in a columnar or sectional form so as to exhibit the accounts of each fund and balanced account group individually; provided further, that the balance sheet statement published in a newspaper of general circulation as required above shall be accompanied by a summary statement of any disclosures filed with the State Treasurer as required by Public Act 2 of 1968, of the Public Acts of the State of Michigan [MCL 141.421 et seq., MSA 5.3228(21)], as amended.

CHAPTER 9. TAXATION*

Section 9.1. Power to tax; limitations.

The City shall have the power to lay and collect taxes for municipal purposes.

*State law reference—General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

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The annual, general ad valorem property-tax levy shall not exceed:

- (a) For general municipal purposes—six and one-half tenths of one percent (6½ mills),
- (b) For specific street and highway improvement purposes—one tenth of one percent (1 mill),
- (c) For Novi Public Library—one tenth of one percent (1 mill),
- (d) For establishing and maintaining parks and recreation purposes—one-half tenth of one percent (½ mill), and
- (e) For acquiring, constructing, improving, and maintaining drain, stormwater, and flood control systems in the City of Novi—one-tenth of one percent (1 mill)
- (f) For the operation of the City of Novi Police and Fire Departments, including the payment of personnel and purchase of equipment—one and eight-tenths of one percent (1 8/10) mills)

of the assessed value of all real and personal property subject to taxation in the City, exclusive of any levies authorized by general statute to be made beyond Charter tax-rate limitations. This tax limitation may be increased for a period not to exceed three (3) years at any time by a majority vote of those electors in the City of Novi voting thereon at any regular City election or special election called for that purpose.

All Charter tax-limitation increases, granted for a period not to exceed three (3) years, by a majority vote of the electors of the City, pursuant to the Charter in effect as of February 24, 1969, shall continue in effect under this Charter for the unexpired period.

(Amended 8-10-82; Res. of 7-6-87, Ref. of 11-3-87)

State law reference—Mandatory that Charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g).

Section 9.2. Taxation.

The subjects of ad valorem taxation for City purposes shall be the same as for State, County and school purposes under the statute. City taxes

shall be levied, collected and returned in the manner provided by statute.

State law references—Mandatory that Charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general law, MCL 117.3(f), MSA 5.2073(f); property subject to taxation, MCL 211.1 et seq., MSA 7.1 et seq.

Section 9.3. Exemption from taxes.

No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.

State law reference—Property exempt from taxation, MCL 211.7 et seq., MSA 7.7 et seq.

Section 9.4. Tax day.

The taxable status of persons and property shall be determined as of the 31st day of December, which shall be deemed the tax day for the immediately succeeding calendar year, which is also the tax year; subject to the exceptions provided or permitted by statute.

State law references—Designation of tax day, MCL 211.2, MSA 7.2; time, place and method of assessment, MCL 211.10 et seq., MSA 7.10 et seq.

Section 9.5. Preparation of the assessment roll.

The Assessor shall make and complete an assessment roll for the City, in the manner and form provided in the general tax law of the State, not later than the first Monday in March each year. On said date he shall file such roll with the Clerk for public inspection during the normal office hours of the Clerk, and such period of inspection shall continue until the date of convening of the Board of Review. On that date the Clerk shall turn such assessment roll over to the Board of Review. Further, the Assessor shall, by first class mail addressed to the owner named on the tax roll, notify the owner of any change in the assessment of the property; such notice shall be mailed prior to March 1. Failure on the part of the Assessor to give such notice shall not invalidate the assessment roll nor release the person or property assessed from any taxes provided in this Charter.

State law references—Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

Section 9.6. Board of Review.

The Board of Review shall be appointed by the Council and shall be comprised of three (3) persons who are residents of the City and have the qualifications required by this Charter for officers of the City. Said members of the Board, during their term of office, shall not be City officers, employees, nominees or candidates for elective

City office. The Assessor shall be Secretary of the Board and shall attend its meetings prepared to present the position of his office without the right to vote upon any decision of the Board.

State law reference—Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

Section 9.7. Duties and functions of Board of Review.

For the purpose of reviewing and correcting assessments, the Board of Review shall have the same powers and perform like duties in all aspects as are by statute conferred upon and required of Boards of Review in townships, as applicable to cities, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments; and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases, the roll shall be reviewed according to the facts existing on the tax day, and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon or additions or corrections to the assessment roll.

Section 9.8. Notice of sessions of Board of Review.

Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least seven (7) days prior to the first session of the Board.

Section 9.9. Meeting of the Board of Review.

The Board of Review shall convene in its first session on the Tuesday following the first Monday in March of each year, at such time of day and place as shall be designated by the Council, and shall remain in session for at least eight (8) hours for the purpose of reviewing and correcting the roll. If necessary, said Board, on its own motion or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the de-

scription and value of real property liable to assessment in said City, omitted from such assessment roll. They shall correct errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this Charter.

In each case in which the assessed value of any property is increased over the amount shown on the assessment roll prepared by the Assessor, when any property is added to such roll by the Board or when the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by said roll, by first class letter mailed not later than the day following the end of the first session of the Board; and he shall file with the Board sworn certification to such effect. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice, or of the owner to receive it, shall no invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the second Monday in March of each year, at such time of day and place as shall be designated by the Council, and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than eight (8) hours. At the end of the second session, the Board may not increase any assessment or add any property to the rolls except in those cases in which the Board resolved at its first session to consider such increase or addition at its second session.

State law reference—Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073(i).

Section 9.10. Endorsement of roll.

After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall

not effect the validity of such roll. The roll, as prepared by the City Assessor, shall stand as approved and adopted as the act of the Board of Review except when changed by a vote as herein provided.

State law references—Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i); completion of review of assessments prior to first Monday in April required, MCL 211.30a, MSA 7.30(1).

Section 9.11. Clerk to certify tax levy.

Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

Section 9.12. City tax roll.

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll, to be known as the "City Tax Roll"; and upon receiving the certifications of the several amounts to be raised, as provided in Section 9.11, the Assessor shall spread upon said roll the several ad valorem taxes according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amounts prescribed by statute. Any excess created thereby on any tax roll shall belong to the City.

State law reference—Avoidance of fractions, MCL 211.39, MSA 7.80.

Section 9.13. Tax roll certified for collection.

After spreading the taxes, the Assessor shall certify the tax roll and the Mayor shall annex his warrant thereto directing and requiring the Treasurer to collect prior to March 1 of the following year, from the several persons named in said tax roll, the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll,

all statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before the fourth Monday in May, the roll shall be delivered to the Treasurer for collection.

State law reference—Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.

Section 9.14. Tax lien on property.

On July 1, the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed. The amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Section 9.15. Taxes due; notification.

The Treasurer shall give notice to the taxpayers of the City, by publication at least once in a newspaper of general circulation in the City (which publication of notice shall be made at least ten (10) days prior to the first day of July in each year), of the time when said taxes will be due for collection or shall give such notice of the time when said taxes will be due for collection, by first class mail, addressed to the owners of the property upon which taxes are assessed, according to the names of such owners and their addresses as indicated on the tax roll. Such notice shall be deemed sufficient for the payment of all taxes on said tax roll. Failure on the part of the Treasurer to give said notice shall not invalidate the taxes on said tax roll nor release the person or property assessed from any penalty or interest provided for in this Chapter in case of nonpayment of the same.

Section 9.16. Collection fees.

All taxes paid on or before August 31 of each year shall be collected by the Treasurer without collection fee. Property taxes shall become delinquent if they remain unpaid on September 1. On September 1, the Treasurer shall add to all taxes paid thereafter a collection fee of four percent

(4%) of the amount of said taxes. Such collection fee shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added. The City may by ordinance, provide interest and penalties for delinquent City real and personal property taxes.

Section 9.17. Failure or refusal to pay personal property tax.

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him, or them, by October 1, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation in an amount sufficient to pay such tax, fees and charges for subsequent sale whenever the same may be found in the State.

No property shall be exempt from such seizures. The Treasurer may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

State law reference—Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

Section 9.18. Delinquent tax roll to County Treasurer.

If the Treasurer has been unable to collect any of the City taxes on said roll on real property before the first day of March following the date when said roll was received by him, it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by township treasurers of townships, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges and fees hereinbefore provided; which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer under the

provisions of the general laws of the State and shall be and remain a lien upon the lands against which they are assessed, until paid.

State law reference—Return of delinquent taxes, MCL 211.55 et seq., MSA 7.99 et seq.

Section 9.19. Protection of city lien.

The City shall have power, insofar as the exercise thereof shall not conflict with or contravene the provisions of any general law of the State, to acquire by purchase any premises within the City at any tax or other public sale or by direct purchases from the State of Michigan or the fee owner when such purchase is necessary to protect the lien of the City for taxes or special assessments, or both, on said premises. The City may hold, lease or sell the same solely for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose.

Section 9.20. Additional rights, duties, powers, immunities and procedures.

Except as otherwise provided by this Charter or ordinance, the rights, duties, powers, immunities and procedures established by State general law shall apply in the collection and enforcement of City property taxes.

State law reference—General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

CHAPTER 10. BORROWING POWER*

Section 10.1. Grant of authority to borrow.

Subject to the applicable provisions of statute and Constitution, the Council may by ordinance or resolution borrow money and issue bonds and other evidence of indebtedness therefor, for any purpose within the scope of powers vested in the City. Such bonds or other evidences of indebtedness may include, but not be limited to the following types:

**State law reference*—Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

- (a) General obligation bonds which pledge the full faith, credit and resources of the City of the payment of such obligations, including bonds for the City's portion of public improvements;
- (b) Notes issued in anticipation of the collection of taxes of the current fiscal year. The proceeds of such notes may be spent only in accordance with appropriations as provided by Sections 8.6 and 8.7 of this Charter;
- (c) Emergency bonds, due in not more than three (3) years, which pledge the full faith, credit and resources of the City for the payment of such obligations, for the repairing or rebuilding of any of its municipal buildings, works, bridges or streets, or for an emergency fund for the relief of the inhabitants of the City in case of fire, flood, tornado, riot and disorder, or other public crisis or calamity;
- (d) Bonds issued in anticipation of special assessments, which bonds may be an obligation of one or more special assessment district or may be both an obligation of such special assessment district and general obligation of the City;
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing or operating of any public utility, as provided in Article VII, Sections 23, 24 and 25, of the 1963 Michigan Constitution provided, such bonds shall not impose any liability upon the City but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same; which franchise shall in no case extend for a longer period than twenty (20) years from the date of the sale of such utility and franchise or foreclosure. Such mortgage bonds shall be sold to yield an amount not to exceed the limit permitted by law. A sinking fund shall be created in the event of issuance of such bonds by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for such payment;

- (f) Bonds issued at the rate of interest not to exceed the maximum rate permitted by law to refund money advanced or paid on special assessments;
- (g) Bonds for the refunding of the funded indebtedness of the City;
- (h) Revenue bonds as authorized by statute, as amended, which are secured only by the revenues from a public improvement. Principal, interest and redemption premiums on the bonds issued hereunder shall be payable solely from the revenues of the public improvement. All such bonds shall contain a statement on their face that neither the bonds nor the coupon thereon constitute an indebtedness of the City of Novi, within the meaning of any constitutional or statutory limitations or prohibitions;
- (i) Other notes and bonds which may from time to time be authorized by statute.

State law references—City authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1), MSA 5.2074(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2), MSA 5.2074(2).

Section 10.2. Limits of borrowing powers.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent (10%) of the assessed value of all the real and personal property in the city subject to taxation as shown by the last preceding assessment roll of the City; provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following Sections:

- (a) 10.1(b) Tax-anticipation notes;
- (b) 10.1(d) Special assessment bonds, even though they are also a general obligation of the City;
- (c) 10.1(e) Mortgage bonds;
- (d) 10.1(h) Revenue bonds

and any other obligation excluded by statute or Constitution from such limitations. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness. The amount of emergency loans which the Council may make

under the provision of Section 10.1(c) may not exceed one quarter of one percent (.25%) of the assessed value of all the real and personal property in the City (or such larger percentage as cities may by statute be permitted to provide for in their Charter); notwithstanding such loan may increase the indebtedness of the City beyond the limitation fixed in the preceding paragraph.

The total amount of such special assessment bonds issued under Section 10.1(d) which are a general obligation of the City shall at no time, by reason of future issues other than issues of refunding bonds, exceed the statutory limitations thereon, nor shall such bonds be issued in any calendar year in excess of the amount so permitted to be issued by statute unless authorized by a vote of the electors in the manner provided by statute.

State law reference—Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(1), MSA 5.2074(1).

Section 10.3. Vote of electors required.

The Council shall not have power to authorize any issue of bonds unless approved by a majority of the electors voting thereon at a general or special election, except the following bonds:

- (a) Special assessment bonds;
- (b) Bonds for the City portion of local improvements, not to exceed forty percent (40%) of the cost of such improvement;
- (c) Refunding bonds;
- (d) Bonds for relief from fire, flood, tornado, riot and disorder, public crisis or calamity or for payment of judgments;
- (e) Revenue bonds; and
- (f) Other bonds excluded by statute from the requirement for such vote.

Section 10.4. Preparation and record of bonds.

Every bond issued by the City shall contain on its face a statement specifying the purpose for which the same is issued. It shall be unlawful for any officer of the City to sign or issue any such bond unless such statement is set forth on the face of the same or to use such bonds or the pro-

ceeds from the sale thereof for any purpose other than that mentioned on the face of such bond. Any officer who shall violate any of the provisions of this Section shall be deemed guilty of misconduct in office.

Bonds and all other evidence of indebtedness issued by the City shall be signed by the Mayor and the Clerk under the seal of the City. The coupons evidencing the interest upon said bonds may be executed with the facsimile signatures of the Mayor and the Clerk. A complete, detailed record of all bonds shall be kept by the Director of Finance. Upon payment of any bond or other evidence of indebtedness, the same shall be cancelled.

State law reference—Cremation or disintegration of public obligations, MCL 129.121 et seq., MSA 3.996(1) et seq.

Section 10.5. Unissued bonds.

Any authorization for the issuance of bonds by the City shall be void if such bonds shall not be issued within three (3) years from the date of such authorization.

Section 10.6. Installment payment contracts.

The Council may enter into installment contracts for the purchase of property or capital improvement by a vote of not less than five (5) members. All contracts relating to real and personal property shall not extend over a greater period than ten (10) years. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. SPECIAL ASSESSMENTS*

Section 11.1. General power relative to special assessments.

The City Council shall, after public hearing, have power to determine and declare by resolution that the whole or any part of the expense of public improvement, repair or abatement of nuisance shall be defrayed by special assessments upon the property specially benefited.

(a) Those roads, maintained by the City, which have heretofore been designated as Basic Arterial

Inter-County Thoroughfares on Plate II of Part V of the 1967 Master Plan for the Village of Novi and adopted by the Village Council at a Special Meeting held September 25, 1967, shall be improved without specially assessing any costs thereof to the residential property adjacent thereto.

(b) Those paved roads which have been accepted and are maintained by the City, and have been reported to and approved by the Michigan Department of State Highways and Transportation for the purposes of Act 51 of the Public Acts of 1951 [MCL 247.651 et seq., MSA 9.1097(1) et seq.] as amended, shall be maintained, repaired and improved without specially assessing any costs thereof to the residential property adjacent thereto.

State law reference—Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 11.2. Detailed procedure to be fixed by ordinance.

The complete special-assessment procedure to be used, including the preparing of plans and specifications, estimated costs, preparation, hearings, requirements for mailing and publishing of notices of hearing and correction of the special-assessment roll, collection of special assessments, assessment of single lots or parcels and any other matters concerning the making of improvements, repairs or abatement of nuisance by the special-assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement in whole or in part or is determined to be invalid and shall also provide for the refund of excessive assessments. If the excess is less than five percent (5%) of the total cost, it may be placed in the general fund of the City.

Section 11.3. Lien for special assessments.

From the date of confirmation of any roll levying any special assessment, the City shall possess a lien on the premises subject thereto, for the full amount of the unpaid special assessment and the interest on all unpaid installments thereof; and such amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, may be enforced as delinquent City property taxes or by a suit against such person.

*State law reference—Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5; MSA 5.2074, 5.2075, 5.2077, 5.2084.

Section 11.4. Contested assessments.

No action of any kind shall be instituted for the purpose of contesting or enjoining the collection of any special assessment, unless (a) within thirty (30) days after the confirmation of the special-assessment roll, written notice is given to the City Council indicating an intention to file such action and stating the grounds on which it is claimed such assessment is illegal; and unless (b) such action shall be commenced within sixty (60) days after the confirmation of the roll. If the City Attorney submits a written opinion finding said roll illegal, in whole or in part, the City Council shall revoke its confirmation, correct the illegality, if possible, and reconfirm the same. Property which is not involved in the illegality shall not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

CHAPTER 12. PURCHASES, SALES, CONTRACTS AND LEASES

Section 12.1. Purchase and sale of property.

Comparative prices shall be obtained for the purchase or sale of all materials, supplies, services and public improvements, and formal bids shall be required as outlined below, except: (a) in the employment of professional services; or (b) in those instances when the Director of Finance (or the Council as hereinafter provided) shall determine that no advantage to the City would result therefrom.

The City Council shall establish by Ordinance those sales or purchases which must be approved by the City Council, and those sales or purchases which shall require the solicitation of sealed bids. No sale or purchase shall be divided for the purpose of circumventing the dollar-value limitation contained in such ordinance. The Council may authorize the making of public improvements or the performance of any other City work by any City department or agency without competitive bidding.

Purchases shall be made from the lowest competent bidder who meets the specifications and whose bid is most advantageous to the City. Sales shall be made to the bidder whose bid is most advantageous to the City. All such bids shall be

publicly opened at an announced time and place, and contract shall be awarded at a regular or special City Council meeting.

The Council shall, by ordinance or resolution, establish detailed purchasing, sale and contract procedures, including procedures for written contracts and purchase orders, not inconsistent with this Charter.

(Res. of 6-5-89, Ref. of 11-7-89)

Section 12.2. Contracts.

The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of statute and of this Charter. No contract for employment or an agreement for the purchase of wares or merchandise or services shall be made unless the Director of Finance shall first have certified that an appropriation has been made for payment thereof when due. All orders and contracts which have not been approved by the Director of Finance as aforesaid shall be void. In the case of a contract obligating the City to periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification shall cover those payments on the contract which will be due in the current fiscal year.

No contract shall be amended after the same has been made except upon the authority of the Council.

No compensation shall be paid to any contractor or vendor except in accordance with the terms of the contract.

State law reference—Restriction on making contracts with persons in default to city, MCL 117.5(f), MSA 5.2084(f).

Section 12.3. Restriction on powers to lease property.

Any agreement or contract for the renting or leasing of public property for a period longer than three (3) years shall be subject to the same referendum procedure as provided in the case of ordinances passed by the Council. However, a summary of the terms of any such agreement or contract shall be published within ten (10) days after its

approval by the Council, and any petition for such referendum must be filed within thirty (30) days after such publication to be effective.

The transfer or assignment of any agreement or contract for the renting or leasing of public property may be made only upon approval of the Council, but approval of such transfer shall not be subject to referendum.

State law reference—Permissible that Charter provide for leasing public property, MCL 117.4e(3), MSA 5.2078(3).

CHAPTER 13. MUNICIPALITY-OWNED UTILITIES*

Section 13.1. General powers respecting utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment and garbage-disposal facilities, or any of them, to the municipality and the inhabitants thereof. It may also sell and deliver water, light, heat, power, gas and other public-utility services outside its corporate limits to an amount not to exceed the limitation set by statute and constitution.

Section 13.2. Management of municipality-owned utilities.

All municipality-owned utilities shall be administered as a regular department of the City government under one or more departments established by ordinance as provided in this Charter and not by an independent board or commission.

Section 13.3. Rates.

The Council shall have the power to fix from time to time such just and reasonable rates as may be deemed advisable for supplying inhabi-

*State law references—Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25; permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

tants of the City and others with such public-utility services as the City may provide. There shall be no discrimination in such rates within any classification of users thereof nor shall free service be permitted, but higher rates may be charged for services outside the City limits.

Section 13.4. Utility rates and charges; collection.

The Council shall provide by ordinance for the collection of all public-utility rates and charges of the City. Such ordinance shall provide, but not be limited to:

- (a) That the City shall have, when permitted by statute, as security for the collection of such utility rates and charges, a lien upon the real property supplied by such utility; which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance;
- (b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges; and
- (c) That suit may be instituted by the City in any court of competent jurisdiction for the collection of such rates or charges.

With respect to the collection of rates charged for water, the City shall have all the powers granted to cities by Public Act 279 of 1909, of the Public Acts of the State of Michigan [MCL 117.1 et seq., MSA 5.2071 et seq.].

Section 13.5. Disposal of utility plants and property.

Unless approved by a two-thirds (⅔) majority vote of the electors voting thereon at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipality-owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this Section shall be void and of no effect as against the City. The restrictions of this Sec-

tion shall not apply to the sale or exchange of any articles of machinery or equipment of any City-owned public utility which are worn out or useless or which have been, or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility or to the exchange of property or easements for other needed property or easements.

Section 13.6. Utility accounts.

Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption. Such accounts shall be classified in accordance with generally accepted utility-accounting practice. Charges for all service furnished to or rendered by other City departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operations. Such report shall be available for inspection at the office of the Clerk.

CHAPTER 14. PUBLIC UTILITY FRANCHISES

Section 14.1. Granting of public utility franchises.

Public utility franchises, and all renewals, extensions thereof and amendments thereto, shall be granted by ordinance only. No exclusive franchise shall ever be granted for a longer period than thirty (30) years.

Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of any franchise existing as of the date of the adoption of this Charter or that may hereafter be granted.

No franchise ordinance which is not subject to revocation at the will of Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or

special election and received the affirmative vote of three-fifths ($\frac{3}{5}$) of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty (30) days after application therefor has been filed with the Council, nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purposes shall be ordered unless the expense of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

A franchise ordinance, or renewal, or extension thereof, or amendment thereto, which is subject to revocation at the will of the Council may be enacted by the Council without referral to the electors but shall not be enacted unless it shall have been so on file in the office of the Clerk for public inspection for at least four (4) weeks after publication of a notice in a newspaper of general circulation in the City that such ordinance is so on file.

State law references—Franchises limited to thirty (30) years, Mich. Const. 1963, Art. VII, § 30; submitted to electors required if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).

Section 14.2. Conditions of public utility franchise.

All public utility franchises granted after the adoption of this Charter, whether so provided in the granting ordinance or not, shall be subject to the following rights of the City, but this enumeration shall not be exclusive nor impair the right of the Council to insert in such franchise any provision within the power of the City to impose or require:

- (a) To repeal the same for misuse, nonuse or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant, service or maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in services or rates;

- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;
- (f) To require of any utility which may not be subject to regulation by any administrative agency of the State, proper and adequate extension of plant, service and maintenance thereof, at the highest practicable standard of efficiency. The facilities and service of any utility subject to the jurisdiction and control of any regulation by the Michigan Public Service Commission shall be in accordance with the rules and regulations of the Michigan Public Service Commission or its successor;
- (g) After written request of the Council, to require the public utility to file with the Clerk copies of any annual report made that year by such utility to the Michigan Public Service Commission;
- (h) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Section 14.3. Regulation of rates.

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

Section 14.4. Uses of public places by utilities.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places, as shall arise from its use thereof, and shall protect and save the City harmless from all damages arising from said use. Every such public utility may be required by the City to

permit joint use of its property and appurtenances located in the streets, alleys and other public places of the City by the City and by other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

The Council may grant a permit at any time in or upon any street, alley, or public place; provided such permit shall be revocable by the Council at its pleasure, whether such right to revoke be expressly reserved in said permit or not; and provided that when such permit is granted for water mains, sewers or drains, it may be made irrevocable unless the grantee be a private person, firm or corporation.

State law reference—Permissible that Charter provide for use of public places by public utilities, MCL 117.4h(2), MSA 5.2081(2).

Section 14.5. Sale or assignment of franchise.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same unless the Council gives its consent. Nothing in this Section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise nor restrict the rights of the purchaser, upon foreclosure sale, to operate the same; except that such mortgages or purchaser shall be subject to the terms of the franchise and provisions of this Chapter.

CHAPTER 15. MISCELLANEOUS

Section 15.1. Notice to city of claim for injuries.

The City shall not be liable for damages sustained by any person either to his person or property, by reason of the negligence of the City, its officers or employees. It shall not be liable by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway situated in the City, unless such person shall

serve or cause to be served, within sixty (60) days after such injury shall have occurred, a notice in writing upon the Clerk. The notice shall set forth substantially the time and place of such injury, the nature of the defect, the manner in which it occurred and the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time by claimant and a statement that the person receiving such injury intends to hold the City liable for such damages as may have been sustained by him. No person shall bring any action against the City for any damages to person or property arising out of any obstruction, ice, snow or other encumbrances upon such street, sidewalk, crosswalk or public highway situated in the City unless he shall also present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof; these claims shall be presented to the Council by the Clerk.

It shall be sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the City under this Section, that the notice of injury and the verified proof of claim, as in this Section required, were not presented and filed within the time and in the manner as herein provided.

State law reference—City liability for injuries, MCL 691.1401 et seq., MSA 3.996(101) et seq.

Section 15.2. Publication and mailing of notices.

The Council shall select the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The Council may determine that such publication may be made in a newspaper which is printed or circulated in the City, or that such publications may be made by posting in the office of the Clerk and in five (5) other public places in the City. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase, the purpose of or nature of the notice, ordinance, or proceedings posted and location of the places where posted, shall be published at least once in a

newspaper published or circulated in the City within ten (10) days after such posting was done.

In any case in which this Charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

Section 15.3. No estoppel by representation.

No official of the City shall have power to make any representation or recital of fact in any franchise, contract, document or agreement, contrary to any public record of the City. Any such representation shall be void and of no effect as against the City.

Section 15.4. City records.

All records of the City shall be public.

State law references—Mandatory that Charter provide that all records of the municipality shall be public, MCL 117.3(1), MSA 5.2073(1); freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

Section 15.5. Headings.

The Chapter and Section headings used in this Charter are for convenience only and shall not be considered to be a part of this Charter.

Section 15.6. Effect of illegality of any part of Charter.

Should any provision or Section, or portion thereof, of this Charter be held by a court of competent jurisdiction to be invalid, illegal or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or Section; it being hereby declared to be the intent of this Charter Commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any part of this Charter except that specifically affected by such holding. Further, it is hereby declared that it was the intent of the Charter Commission and of the electors of the City of Novi, in preparing and adopting this Charter, that said instrument should conform in all respects with the provisions and requirements of State law. In the event that any provisions of

this Charter shall conflict with or contravene the provisions of any general law of the State of Michigan, the provisions of such general law of the State shall govern.

Section 15.7. Amendments.

This Charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

State law references—Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22; Charter amendment procedure, MCL 117.21 et seq., MSA 5.2100 et seq.

Section 15.8. Definitions and interpretations.

Except as otherwise specifically provided or indicated by the context:

- (a) All words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.
- (b) The singular number shall include the plural; the plural number shall include the singular; and the masculine gender shall extend to and include the feminine gender and the neuter.
- (c) The word "person" may extend and be applied to bodies politic and corporate and to partnership[s] as well as to individuals.
- (d) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.
- (e) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting.
- (f) The word "officer" shall include the Mayor and other members of the Council, the

administrative officers, and members of the City boards and commissions created by or pursuant to this Charter.

- (g) The word "statute" shall denote the Public Acts of the State of Michigan in effect at the time the provision of the Charter containing the word "statute" is to be applied.
- (h) The word "Constitution" shall denote the Constitution of the State of Michigan in effect at the time the provision of Charter containing the word "Constitution" is to be applied.
- (i) All references to specific local or Public Acts shall be to such local or Public Acts of the State of Michigan as in effect at the time the reference to such act is to be applied.
- (j) All references to section numbers shall refer to section numbers of this Charter.

Section 15.9. Trusts and bequests.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

Section 15.10. Sundays and holidays.

Whenever the date fixed by this Charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Section 15.11. Penalties for misconduct in office.

Any officer of the City found guilty by a court of competent jurisdiction of any act declared by this Charter to constitute misconduct in office may be punished by a fine of not to exceed One Thousand (\$1,000) Dollars or imprisonment for not to exceed ninety (90) days or both in the discretion of the

court. The punishment provided in this Section shall be in addition to that of having the office declared vacant as provided in Section 5.4.

Section 15.12. Use of City property.

Property owned by the City as of November 24, 1999, shall not be used for the development of a golf course and/or banquet facility. Property acquired by the City after November 24, 1999, shall be used for such purposes only after voter approval at a general city election.

(Amended 11-2-99)

CHAPTER 16. CITY LIBRARY

Section 16.1. Establishment and maintenance.

The Council shall have power by ordinance to establish and maintain a public library and read-



ing room for the use and benefit of the inhabitants of the City in accordance with and under the provisions of Act 164 of the Public Acts of 1877 for the State of Michigan [MCL 397.201 et seq., MSA 15.1661 et seq.], as amended, and may levy a tax of not to exceed one-tenth of one percent (1 mill) on the dollar annually on all taxable property in the City; such tax to be levied and collected in like manner with other general taxes of said City and to be known as the "library fund".

Section 16.2. Officers.

When established, the City Library shall be under the direction of a Board of Directors who shall be appointed and hold office in the manner prescribed by said statute, shall possess such powers as are conferred by said statute and shall perform the functions and duties prescribed by such statute and granted by ordinance enacted under the provisions of this Charter.

Section 16.3. Contract for use of library.

By a favorable vote of not less than four (4) of the five (5) members of the Board of Directors and, if permitted by the ordinance enacted to establish the public library and reading room, the Board of Directors may enter into a contract for the use of any free public library and reading room in any township, city or village, as the case may be, and the Council may levy a tax of not to exceed one-tenth of one percent (1 mill) annually, upon the assessed valuation of the City, for the purpose of paying for such use, to be collected as heretofore set forth.

CHAPTER 17. SCHEDULE

Section 17.1. Election on adoption of Charter.

(a) *Date.* This Charter shall be submitted to a vote of the registered electors of the City of Novi at a regular election to be held on November 8, 1977. The Charter shall be adopted if a majority of the ballots cast thereon are in favor of adoption.

(b) *Form of Ballot.* The form of the ballot for the submission of this Charter shall be as follows:

Instructions: A cross (X) in the square before the word "Yes" is in favor of the proposed Char-

ter, and a cross (X) in the square before the word "No" is against the proposed Charter.

Shall the proposed Charter for the City of Novi drafted by the Charter Commission elected on November 5, 1974, be adopted?

Yes

No

Voting machines may be used in lieu of paper ballots, provided all procedures and use thereof shall be in accordance with provisions of Sections 168.770 to 168.793 of the Compiled Laws of the State of Michigan for 1948, as amended by Public Acts of 1967, No. 155.

(c) *Publication of Charter and Notice of Election.* The Charter Commission shall cause this Charter to be published in a newspaper circulated in the City at least once, not less than two (2) weeks and not more than four (4) weeks preceding the said regular election, together with notice of said election. Such notices shall also be posted in at least ten (10) public places not less than two (2) weeks prior to such election.

(d) *Procedure Governing Elections.* In all respects not otherwise provided for in this Chapter of this Charter, the election procedure shall be in accordance with provisions of the other Chapters of this Charter.

Section 17.2. Effective date of Charter.

For the purpose of initiating the procedure for the election on the adoption of this Charter, this Charter shall take effect on June 21, 1977. For all other purposes, this Charter shall take effect on January 1, 1978, at 8:00 a.m. at the prevailing time.

Section 17.3. Status of Schedule Chapter.

The purpose of this Schedule Chapter is to inaugurate the government of the City under this Charter, and it shall constitute a part of this Charter only to the extent and for the time required to accomplish this end.

RESOLUTION OF ADOPTION

At a regular meeting of the Charter Commission of the City of Novi held on the 14th day of

NOVI CODE

June, 1977, the following Resolution was offered by Chairman Mabel F. Ash, who, having vacated and relinquished the chair to Vice Chairman Carol Grace Smith, made the motion acting as a Commissioner:

RESOLVED, That the Charter Commission of the City of Novi does hereby adopt the foregoing proposed Charter for the City, that a copy shall be transmitted to the Governor of the State of Michigan for his approval, and that the proposed Charter shall be published in the Novi News on or before October 25, 1977:

FURTHER RESOLVED, That the proposed Charter shall be submitted to a vote of the registered electors of the City of Novi at a regular election to be held on November 8, 1977.

The Resolution was seconded by Commissioner A. Russell Button and adopted by the following vote:

YEAS: Mabel F. Ash, A. Russell Button, James J. Cooper, Winifred M. Dobek, Barbara J. Shoemake, Carol Grace Smith, Homer Starr and Patrick M. Downey.

NAYS: None

ABSENT: None.

The Chairman declared the foregoing Resolution carried and requested the members of the Charter Commission to authenticate said Resolution and also copies of the Charter to be presented to the Governor, by attesting their names thereto in the following manner:

Mable F. Ash	A. Russell Button
James J. Cooper	Winifred M. Dobek
Barbara J. Shoemake	Carol Grace Smith
Patrick M. Downey	Homer Starr

All the Commissioners having attested as to said Resolution and also having attested as to the copies of the Charter to be signed by the Governor, the meeting adjourned subject to the call of the Chairman.

AFFIDAVIT OF SECRETARY

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

WINIFRED M. DOBEK, Secretary of the Charter Commission of the City of Novi, being duly sworn, says that at an election duly called and held in the City of Novi on the 5th day of Nov. 1974, the following-named persons were duly elected as the Charter Commission, to revise the Charter of the City of Novi; namely,

Mable F. Ash, Chairman
Carol Grace Smith, Vice Chairman
Winifred M. Dobek, Secretary
Patrick M. Downey
A. Russell Button
James J. Cooper
Barbara J. Shoemake
Homer Starr

and that the annexed and foregoing Charter was duly adopted by said Charter Commission by the foregoing Resolution, which is a true and correct copy thereof, and that the said Charter Commission directed that said Charter be presented to the electors of the City of Novi in accordance with the requirements of the Charter and the laws of the State of Michigan.

Further deponent sayeth not.

Winifred M. Dobek, Secretary
Charter Commission of the City of Novi

Subscribed and sworn to before me this 14th day of June, 1977.

David M. Fried
Notary Public, Oakland County, Michigan
My Commission expires: 9-21-80

CERTIFICATION OF RESOLUTION OF ADOPTION AND OFFICIAL CHARTER

The undersigned, as duly elected and acting secretary of the Charter Commission of the City of Novi, Oakland County, Michigan, hereby certifies that the attached copy of the Official Charter and Resolution of Adoption adopted by the Charter Commission of the City of Novi on June 14, 1977, at a duly held meeting at which a quorum

CHARTER

was present, is a full, true, and accurate copy and that the Charter and Resolution have not been modified or rescinded at the date of this certificate.

Winifred M. Dobek, Secretary
Charter Commission of the City of Novi

Dated: June 22, 1977

[The next page is 93]

Novi, Michigan, Code of Ordinances >> PART I - CHARTER >> CHARTER COMPARATIVE TABLE >>

CHARTER COMPARATIVE TABLE

The original charter, sections 1.1 through 17.3 was adopted on November 8, 1977. This table contains the disposition of Charter amendments adopted subsequent to November 8, 1977.

Adoption Dates	Referendum Date	Section this Charter
8-10-82	—	<u>9.1</u>
8- 7-84	—	<u>3.17</u>
7- 6-87	11- 3-87	<u>9.1</u>
6- 5-89	11- 7-89	<u>12.1</u>
11- 2-99	— Added	<u>15.12</u>