

PART I

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***Editor's note**—Printed in this part is the Home Rule Charter of the city, which was approved at an election held on October 20, 1969, and made effective on November 3, 1969. Amendments, if any, are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets. Provisions which are obsolete are indicated by editor's notes.

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CHAPTER 1. NAME AND BOUNDARIES

Section 1.1. Name and Boundaries.

(a) The Municipal corporation now existing and known as the Village of Portland shall continue as a body corporate and shall henceforth be known as and include the territory constituting the City of Portland on the effective date of this Charter, together with all territories that may be annexed thereto and less any detachments therefrom that may be made in a manner prescribed by law.

(b) The Clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the City.

State law reference—Alteration of boundaries, MCL 117.6 et seq.

Section 1.2. Wards.

The City shall consist of and constitute one single ward.

State law reference—Mandatory that Charter provide for one or more wards, MCL 117.3(e).

CHAPTER 2. MUNICIPAL POWERS*

Section 2.1. General Powers.

The City and its officers shall have the power to manage and control its finances, rights, interests, buildings, and property, to enter into contracts, to do any act to advance the interest, good government, and prosperity of the City and its inhabitants, to protect the public peace, health, safety, and general welfare, and to prevent and restrain crime and vice. In the exercise of such powers, the City may enact ordinances, rules, and regulations and take such other action as may be required, not inconsistent with law. The power of the City shall include but shall not be limited to the following:

- (a) To declare as a hazard or nuisance any act or condition upon public or private property, or both, including, but not limited to,

***State law references**—Charter to provide for preservation of public peace, health and safety, MCL 117.3(j); charter provisions relative to ordinances, MCL 117.3(k).

the accumulation of rubbish and the growing of noxious weeds, which is, or may be dangerous to the health, safety, or welfare of the inhabitants of the City; to provide for the abatement thereof, and to provide that cost of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located.

- (b) To provide for the public welfare by:
 - (1) Regulating trades, occupations, and amusements within the City, and prohibiting trades, occupations, and amusements, which are detrimental to the safety, health or welfare of its inhabitants;
 - (2) Regulating the preparation, storage, transportation, and sale of foods, drugs, and beverages for human consumption;
 - (3) Collecting and disposing of garbage and rubbish and liquid waste disposal;
 - (4) Licensing and regulating the number of vehicles, which carry persons or property for hire, fixing the rates of fare and charges, and determining the locations of stands for such vehicles;
 - (5) Licensing and regulating billboards and advertising signs and locations thereof;
 - (6) Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;
 - (7) Regulating the location, height and type of fences abutting public or between private properties;
 - (8) Establishing zones within the City and regulating therein the use and occupancy of lands or structures; the height, area, size and location of

- buildings; the required open spaces for light and ventilation of buildings, and the density of population;
- (9) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires;
 - (10) Regulating and controlling the use of streams, waters, and water courses within the City in any manner consistent with the provisions of law.
- (c) Power to establish and reasonably control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:
- (1) Creating and vacating the same and acquiring and disposing of land, or any interest in land, required therefor, including any surplus land which may be incidental to or necessary for the purchase of land required;
 - (2) Providing a plan of streets and alleys within and for a distance beyond the limits of the City as permitted by law;
 - (3) Requiring the owners of real property to build and maintain public sidewalks according to plan in the area of streets immediately adjacent to such property, and, upon failure of any owner to do so, construct and maintain such sidewalks and assess the cost thereof against such property as a special assessment;
 - (4) Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them free from snow, ice, dirt, wood, shrubbery, or any other object which obstructs such sidewalks, or which makes the same hazardous or offensive to the public health or safety, and upon failure of such persons to do so, to cut and remove such weeds or to remove such objects, and to assess the cost thereof against such property as a special assessment;
 - (5) Compelling all persons to care for the untraveled portions of the streets lying between the traveled portion and the property line which abut upon premises owned, controlled or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety, and, upon failure to do so, cutting and removing such weeds and removing such objects and assessing the cost thereof against such adjoining property as a special assessment;
 - (6) Providing for the grade of streets and requiring public utility users of streets and other public places to conform thereto with respect to their tracks, lines or facilities located on, above, or under the streets or alleys, requiring railroads to keep their tracks and the street surface between the tracks, and for legally required distance on each side of them in reasonable repair at all times, but in any case, at least one and one-half feet on each side of the tracks;
 - (7) Regulating the speed of vehicles, trains, and locomotives upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings;
 - (8) Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property;
 - (9) Preventing and abating the encumbering of streets and alleys or any part thereof;
 - (10) Regulating the location of buildings and structures and of trees, shrubbery, or signs at or near street corners and street intersections with alleys and driveways, so as to provide for the public safety and welfare in the use of streets and alleys;

- (11) Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;
 - (12) Providing for the use by other than the owner, of property located on, above, or under the streets, alleys, and public places, in the operation of a utility, upon the payment of reasonable compensation therefor to the owner thereof;
 - (13) Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the City and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the City;
 - (14) Providing for the control over all trees, shrubs and plants in the public streets, highways, parks, or other public places in the City, all dead and diseased trees on private property and the trees on private property overhanging the street, sidewalk, or public places, including the removal thereof and assessing the cost thereof against the abutting property as a special assessment;
 - (15) Regulating the use, occupancy, sanitation and parking of house trailers or mobile homes within the City, and the right of the City to so regulate them shall not be abrogated thereof because of any detachment from wheels or because of placing them on, or attaching them to the ground by means of any temporary or permanent foundation or in any manner whatsoever.
- (d) To undertake any public work or make any public improvement or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another Governmental unit or agency.
- (e) To construct, provide, maintain, extend, operate, and improve:
 - (1) Within the City, a City Hall, City office buildings, police and fire stations, civic auditoriums, public libraries, and polling places; and,
 - (2) Either within or without the corporate limits of the City or of the County; Public Parks, recreation grounds, zoological gardens, museums, airports and landing fields and facilities for the landing of helicopters and air vehicles having like characteristics, cemeteries, levees, embankments, and structures for flood control and other purposes related to the public health, safety, welfare; electric light and power plants and systems, public heating systems and plants, gas plants and systems, water works and water treatment plants and systems, storm sewers, garbage and rubbish collection and disposal facilities, market buildings and market places, facilities for the storage and parking of vehicles, hospitals, and any other structure or facility which is devoted to or intended for public purposes within the scope of the powers of the City.
 - (f) To acquire by purchase, gift, condemnation, lease or otherwise, real and personal property, and interests in property, either within or without the corporate limits of the City or of the County, for any public purpose or use within the scope of its powers, including, but not by way of limitations, the uses and purposes set forth in this section.
 - (g) To join any municipal corporation or with any other unit or agency of government, whether local, state or federal, or with

any number or combination thereof, by contract or otherwise as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

State law references—Mandatory Charter provisions, MCL 117.3; permissible Charter provisions, MCL 117.4c et seq.

CHAPTER 3. ELECTIONS*

Section 3.1. Qualifications of Electors.

The residents of the City having qualifications of electors in the State of Michigan shall be eligible to vote in the City when duly registered.

State law references—Charter to provide for registration of electors, MCL 117.3(c); registration of electors, MCL 168.491 et seq.

Section 3.2. Election Procedure.

The election of all City officers shall be on a non-partisan basis. The general election statutes shall apply and control all procedures relating to City elections, including qualifications of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The Clerk shall give public notice of each City election in the same manner as is required by law for the giving of public notice of general elections in the State.

State law references—Charter to provide for manner and means of holding elections, MCL 117.3(c); Michigan election law, MCL 168.1 et seq.

Section 3.3. Precincts.

The election precincts of the City shall remain as they existed on the effective date of this Charter unless altered by the Elections Commission in accordance with statutes.

State law reference—Election precincts, MCL 168.654 et seq.

Section 3.4. Election Commission.

An Election Commission is hereby created consisting of the City Clerk as Chairman, the City

***State law reference**—Michigan election law, MCL 168.1 et seq.

Attorney, and the City Assessor. The Election Commission shall appoint the Board of Election Inspectors of each precinct and have charge of all activities and duties required of it by law relating to the conduct of elections in the City. The compensation of the election personnel shall be determined in advance by the Council.

State law reference—Boards of city election commissioners, MCL 168.25 et seq.

Section 3.5. Regular City Election.

A regular city election shall be held on the first Monday in April in each odd numbered year.

State law reference—Charter to provide for time of holding election, MCL 117.3(c).

Section 3.6. Special Elections.

Special elections shall be held when called by resolution of the Council at least forty-nine (49) days in advance of such election, or when required by law. Any resolution calling a special election shall set forth the purpose of such election.

State law reference—Special primaries and elections, MCL 168.631 et seq.

Section 3.7. Elective Officers and Terms of Office.

At each regular City election there shall be elected three Councilmen and such additional number as may be required to fill vacancies pursuant to the provisions of Section 5.6. The two receiving the highest number of votes shall be elected for a term of four (4) years, and the one receiving the third highest number of votes shall be elected for a term of two (2) years, a number equal to the number of vacancies being filled (if any) who shall receive the next highest number of votes in order, shall be elected for a term of two years. The term of office of the Councilmen shall commence on the Monday next following the date of the regular City election at which they were elected, at eight o'clock P.M. local time.

State law reference—Charter to provide for election of city council, MCL 117.3(a).

Section 3.8. Nominations.

The candidates for elective office shall be nominated from the City at large by petitions, blanks for which shall be furnished by the City Clerk.

Each such petition shall be signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the City, and shall be filed at the Clerks office before four o'clock in the afternoon, local time, on the forty-ninth (49th) day preceding each election. Each elector signing shall add his residential street and number and the date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office, and should be [he] do so the signatures bearing the most recent date shall be invalidated. No petition shall be left for signatures in any public place. When a petition is filed by persons other than the person whose name appears thereon as a candidate it may be accepted only when accompanied by the written consent of the candidate.

State law references—Charter to provide for nomination of elective officers, MCL 117.3(b); candidates for board offices, MCL 168.646a.

Section 3.9. Approval of Petitions.

The Clerk shall accept only nomination petitions which conform with the forms provided by him and which contain the required number of valid signatures for candidates having those qualifications required for the respective elective City offices as set forth in this Charter. The Clerk shall forthwith after the filing of the petitions notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each petition and whether or not the candidate has the qualifications required for his respective elective City office, and shall write his determinations thereof on the face of the petition, and shall notify immediately in writing the candidate whose name appears thereon of his determinations. Any candidate whose petitions are found insufficient may file an amended petition not later than four o'clock P.M., local time on the fortieth (40th) day prior to the election. Thereafter no further petitions may be filed. Withdrawal of a candidate's

name from consideration on the ballot must be made in writing and in conformance with the time allowed by statute.

State law reference—Nominating petition, MCL 168.544c et seq.

Section 3.10. Form of Ballot.

The ballots for all elections under this Charter shall conform to the printing and numbering of ballots as required by statute, except that no party designation or emblem shall appear on any City ballot.

State law references—Form of ballots, MCL 168.568 et seq.; preparation of ballots, MCL 168.323.

Section 3.11. Canvass of Votes.

The Board of Canvassers designated by statute as being permitted to cities for canvass of votes on candidates and issues shall canvass the votes of all City elections on the day following each regular or special election at a time and place designated by statute. The Clerk shall notify in writing the successful candidates of their election and do so immediately upon receipt of the results from the Board of Canvassers.

Editor's note—The board of county canvassers handles the canvass of votes pursuant to MCL 168.24a.

Section 3.12. Tie Vote.

If at any City election there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the determination of the election of such candidates shall be by lot as provided by statute.

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

CHAPTER 4. THE COUNCIL: LEGISLATION*

Section 4.1. Council.

The legislative power of the city, except as reserved by this Charter, shall be vested in a

***State law references**—Power of city to adopt ordinances relative to municipal concerns, Mich. Const. 1963, art. VII, § 22; charter to provide for adopting, amending and repealing ordinances and publication thereof, MCL 117.3(k).

Council consisting of five Councilmen. The Council shall have power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

State law reference—Charter to provide for election of city council, MCL 117.3(a).

Section 4.2. Mayor and Mayor Pro Tem.

(a) At the first meeting of the Council following each regular City election, the Council shall organize and elect one of its members to the office of Mayor and one to the office of Mayor Pro Tem.

(b) The Mayor shall preside at all meetings of the Council and shall be a full voting member of the Council. He shall be the chief executive officer of the City insofar as required by law, and for all ceremonial purposes. He shall be conservator of the peace, and shall have the powers conferred by law upon Sheriffs in times of emergency to suppress disorder, preserve the public peace and health and safety of persons and property, and have other emergency powers as permitted by statute. He shall authenticate by his signature such instruments as may be required, under provisions of law. He shall do all acts required of him by law.

(c) The Mayor Pro Tem shall act in the stead of the Mayor in the case of the Mayor's absence or disability to act. He shall succeed to the office of Mayor in the case of a vacancy in that office, thereby creating a vacancy in the office of Mayor Pro Tem. The Council shall fill any vacancy in the office of Mayor Pro Tem, but until such vacancy is filled, the senior member of the Council from the standpoint of continuous service shall act as Mayor Pro Tem. As between persons of equal seniority the person who received the highest number of votes at the time of his last election shall act.

Section 4.3. Compensation of Mayor and Councilmen.

The compensation for members of the Council shall be five hundred dollars (\$500.00) per annum. The Mayor shall receive as compensation, in addition to his compensation as a Councilman, the sum of two hundred dollars (\$200.00) per annum, all payable quarterly. Councilmen shall

receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 4.4. Meetings of Council.

The Council shall hold at least two regular meetings each month at such time and place within the City as it shall prescribe by ordinance. Special meetings may be called by the Mayor, City Manager, or by any two Councilmen on at least twelve hours actual notice given to each Councilman and the Mayor or by written notice left at their respective residences by the Clerk after he has received the request from those authorized. All regular and special meetings of the Council shall be open to the public and citizens shall have reasonable opportunity to be heard.

State law reference—Open meetings act, MCL 15.261 et seq.

Section 4.5. Quorum.

Three 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, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

Section 4.6. Rules of the Council.

The Council shall determine the rules of its proceeding subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept by the Clerk in the English language, which shall be signed by the Mayor and Clerk, and published.
- (b) The vote upon passage of all ordinances, and upon the adoption of all resolutions shall be by a "Yes" or "No" vote and entered upon the record, except that where the vote is unanimous, it shall be necessary to so state. The people shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.
- (c) No Councilman shall vote on any question in which he is financially interested or on any question concerning his own official conduct; but on all other questions every

Councilman present shall vote unless excused by unanimous consent of the remaining members present.

- (d) The Council may by a majority vote of its members compel the attendance of its members and other officers of the City at its meetings and enforce orderly conduct and procedure therein. A police officer designated by the presiding officer of the Council may serve as Sergeant-At-Arms in the enforcement of the provisions of this section.
- (e) There shall be no standing committees of the Council.
- (f) The Council shall not make any contract with or give any official position to any person who is in default to the City.

Section 4.7. Prior Ordinances and Regulations.

All Bylaws, ordinances, resolutions, rules and regulations of the Village of Portland which are not inconsistent with this Charter and which are in force and effect on the effective date of this Charter shall continue in full force and effect until repealed or amended.

Section 4.8. Ordinances and Resolutions.

All official action of the Council shall be by ordinance or resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted by this Charter or by State or Federal law pertaining 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 Portland Ordains."

Section 4.9. Enactment, Amendment, Repeal, and Effective Date of Ordinances.

(a) Each ordinance, after adoption, shall be identified by number. An ordinance or a part of an ordinance may be repealed or amended only by an

ordinance passed in the manner provided in the section. An ordinance may be repealed by reference to its number only.

(b) If a section of an ordinance is amended, the section shall be reenacted and published at length. This requirement shall not apply to the schedule of stop streets, parking limitations or other regulations contained in any traffic ordinance or vehicular traffic regulating portion of the City's ordinance code.

(c) Each Ordinance shall be recorded by the Clerk forthwith in the Ordinance Book, and the enactment of such ordinance and the effective date thereof shall be certified by him therein.

(d) The ordinances of the City shall be set forth in code form within two (2) years after the adoption of this Charter, and an ordinance included on hazards and nuisances.

(e) Each proposed ordinance shall be introduced in written form. No ordinance shall be finally passed by the Council at the same meeting at which it is introduced.

Section 4.10. Publication of Ordinances.

(a) Before an ordinance may become operative it shall be published in at least one newspaper which is of general circulation in the City. The effective date of an ordinance shall be stated therein, but shall not be less than ten (10) days after its adoption nor before publication thereof. It is provided, however, that an ordinance which is declared therein to be immediately necessary because of [an] emergency affecting the public peace, health, or safety may be given earlier effect than otherwise provided herein. In the case of such emergency ordinance, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in five conspicuous locations in public places in the City; and the Clerk shall immediately after such posting enter in the ordinance book under the record of the ordinance a certificate under his hand stating the time and places of such publication by posting, which certificate shall be prima facie evidence of such publication by posting. Such ordinance shall also be published in accordance with the requirements for publication of other

ordinances but not as a requirement for the effectiveness thereof. The publication of an ordinance in full as a part of the published proceedings of the Council shall constitute publication as required herein.

(b) All codes and other ordinance subject matter, which are or may be permitted by law to be adopted by reference, shall be adopted and published in the manner permitted and required by law.

(c) Upon completion of the codification of the ordinances, the deposit of a number of copies as provided by law in the office of the Clerk, available for public inspection and sale at cost, shall constitute publication thereof.

Editor's note—The charter requirement of publication prior to operation is superseded by state statute. A city may publish a summary instead, provided that the summary includes the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. See MCL 117.3(k).

Section 4.11. Penalties.

The Council shall provide in each ordinance for the punishment of violation thereof, but unless permitted by law, no such punishment, excluding the costs charged, shall exceed a fine of five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both, in the discretion of the Court. Imprisonment for violations of ordinances may be in the City or County jail.

Editor's note—Higher penalties are permitted for violations that substantially correspond to violations of state law that are 93 day misdemeanors pursuant to MCL 117.4i(k). Municipal civil infractions are permitted under MCL 117.4l.

Section 4.12. Initiative and Referendum.

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

State law reference—Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 4.13. Initiatory and Referendary Petitions.

An initiatory or a referendary petition shall be signed by not less than fifteen percent of the registered electors of the city as of the date of

filing the petition, and all signatures on said petition shall be obtained within 30 days before the date of filing the petition with the Clerk. Any such petition shall be addressed to the Council. No such petition need be on one paper, but may be the aggregate of two or more petition papers identical as to contents. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and the petition shall propose to initiate no more than one ordinance. A referendary petition shall identify the ordinance it proposes to have repealed.

Each signer of a petition shall sign his name and shall place thereon after his name the date and his place of residence 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 thereof and that each signature thereon is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk, who shall, within fifteen days, canvass the signatures thereon. If a petition does not contain a sufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

Section 4.14. Council Procedure on Initiatory and Referendary Petitions.

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days, unless otherwise provided by law, either:

- (a) Enact the ordinance as submitted by an initiatory petition;
- (b) Repeal the ordinance referred to by a referendary petition; or
- (c) Determine to submit the proposal provided for in the petition to the electors.

Section 4.15. Submission of Initiatory and Referendary Petitions to Electors.

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next primary, general or special election held in the city for any other purpose, or, in the discretion of the Council, at a special election called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within ninety days from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special election within sixty days from such time for the submission of the initiatory proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the general laws of the State of Michigan.

Section 4.16. Ordinance Suspended; Miscellaneous Provisions on Initiatory and Referendary Ordinances.

The presentation to the Council by the Clerk of a valid referendary petition shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.

No ordinance which has been adopted by vote of the electors shall be repealed or amended within two years except by vote of the electors; and an ordinance repealed by the electorate may not be reenacted by the Council for a period of two years after the date of the election at which it was repealed.

If the provisions of two or more ordinances or propositions adopted at the same election be [are] inconsistent, the provisions in the measure receiving the highest affirmative vote shall prevail.

The Council may itself submit propositions for the repeal or amendment of any ordinance at any city election.

Section 4.17. Investigations.

The Council shall have authority for the purpose of hearing or investigating charges against

any officer, or making any other investigation of any character relative to the affairs of the municipality to require the Mayor to compel the attendance of witnesses and the production of books and papers or any records before the Council. In case charges are made against any officer, he shall be entitled to have the attendance of witnesses and an attorney in his behalf in addition to any books and papers or records necessary in his defense.

Failure on the part of any officer to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute misconduct in office, and 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 may be being considered, shall be required for any such removal.

Section 4.18. Vacating of Public Places.

Council 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 have a public hearing to hear objections thereto, and notice of time, purpose and place of such public hearing shall be published either separately or as part of the proceedings of the Council.

Section 4.19. Providing for Public [Peace,] Health and Safety.

The Council shall provide for the public peace and health and for the safety of persons and property. The Council shall have and exercise for the City all the authority and powers conferred upon Boards of Health by the general laws of the State or by ordinance, and the Council may enact all ordinances deemed necessary for the preservation and protection of the health of the inhabitants of the City.

The Council may at its discretion designate the County or District Department of Health as the official agency of the City to carry out and admin-

ister the duties and functions of the Board of Health as required by the statutes of the State, this Charter, and the ordinances of the City.

Editor's note—Most health functions are now performed by the county.

Section 4.20. Recall.

Any elected 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 statute.

State law references—Permissible that charter provide for recall of its officers, MCL 117.4i(g); recall generally, MCL 168.951 et seq.

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

Section 5.1. Eligibility for Office in City.

(a) No person shall hold any elective office of the City, unless he was a resident of the City for at least one year immediately prior to the date of the election at which he is a candidate. He must also have been a registered elector on the last day for filing nominating petitions for such office or prior to his appointment to fill a vacancy.

(b) No person shall be eligible for any elective or appointive City office who is in default to the City. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his last known place of residence according to the records [of] the City by the City Clerk upon the direction of the Council, or, unless the officer contests his liability for the default in a court of competent jurisdiction.

(c) No person who holds or has held the office of Councilman shall be eligible to hold any appointive office for which there is compensation paid by the City until one year has elapsed following the expiration of the term of office for which he was elected. This provision would not apply to such appointments as the Board of Review where nominal compensation may be paid by the City.

(d) No appointive City officer or employee shall seek an elective office of the City unless he resigns his position with the City.

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

Section 5.2. Financial Interests Prohibited.

No person holding any elective or appointive office under the City government shall take any official action on any contract with the City or other matter in which he is financially interested, or be a bondsman or surety on any contract or bond given to the City. Any member of the Council or other officer found guilty of violating the provisions of this section may be punished by a fine of not to exceed one hundred dollars (\$100.00) or be imprisoned for not more than ninety (90) days or both within the discretion of the court. The conviction of any Councilman or officer under this section shall operate in itself to forfeit his office.

State law references—Conflicts of interest as to contracts, MCL 15.321 et seq.; standards of conduct and ethics, MCL 15.341 et seq.

Section 5.3. Surety Bonds.

Except as otherwise provided in this Charter, the Council may require any officer or employee of the City to give a bond to be approved by the Council, conditioned upon the faithful and proper performance of the duties of the office or employment concerned, in such sums as the Council may determine. All such officers or employees who receive, distribute, or are responsible for City funds or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or appointment of another person to such office or employment, shall not exonerate such officer or employee or any sureties of such officer or employee from any liability incurred by such officer, employee or sureties. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. Bonds required by this section shall not be renewed upon the expiration of the terms for which issued, but, in each case, a new bond shall be furnished. No official bond shall be issued for a term exceeding three years, unless the term of the officers concerned exceeds three years. The bonds of all officers and employees shall be filed with the

Clerk, except that the Clerk's bond (unless he is covered within the scope of a blanket surety bond) shall be filed with the Treasurer. The requirements of this section may be met by the purchase of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employments [employees] of the City. Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office.

Section 5.4. Delivery of Office.

Whenever any officer or employee shall cease to hold such office or employment, for any reason whatsoever, he shall within five days, and sooner on demand, deliver to his successor in office or to his superior all the books, papers, money 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 hundred (\$500.00) dollars, or imprisonment for not to exceed ninety days, or both, in the discretion of the court.

Section 5.5. Vacancies in Office.

After notice and hearing any elective city office shall be declared vacant by the Council upon the occurrence of one or more of the following events:

- (a) For any reason specified by statute or this Charter as creating a vacancy in office and for any reason specified by statute for removal of city officers by the governor;
- (b) If the officer shall absent himself continuously from the city for more than sixty consecutive days in any one year without the permission of the Council;
- (c) In the case of Councilmen, if such officer shall miss four consecutive regular meetings of the Council, or six such meetings in any fiscal year, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council at the time of each absence;

- (d) If the officer shall be found guilty of any act constituting misconduct in office under the provisions of this Charter, either by a court or by a vote of a majority of the remaining members of the Council, at or following a hearing.

Section 5.6. Filling Vacancies.

(a) If a vacancy occurs in any elective office it shall be filled within thirty (30) days by a majority of the remaining members of the Council. Such appointee shall hold office until the next regular City election taking place more than sixty (60) days after such vacancy occurs, at which election a successor shall be elected for the unexpired term of the member in whose office the vacancy occurs. Provided, however, that the term of no member of the Council shall be lengthened by his resignation and subsequent appointment.

(b) If a vacancy occurs in any appointive office, it shall be filled in the manner provided for making the original appointment. In the case of members of Boards and Commissions appointed for a definite term such appointment shall be for the unexpired term.

State law reference—Filling vacancies, MCL 201.37.

Section 5.7. Oath of Office.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by the Michigan Constitution and shall file the same with the Clerk, together with any bond required by this Charter or by the Council. In the case of failure to comply with the provisions of this section within ten days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereon be vacant, unless the Council shall, by resolution, extend the time in which such officer may qualify as set forth above.

State law reference—Oath of office, Mich. Const. 1963, art. XI, § 1.

Section 5.8. Increase or Decrease in Compensation.

The Council shall not grant or authorize extra compensation to any city officer, elective or appointive, or to any employee, agent, or contractor,

after the service has been rendered or the contract entered into. Nor shall the salary of any officer, elective, or appointive, be increased or decreased after his election or appointment during any fixed term for which he was elected or appointed.

CHAPTER 6. THE ADMINISTRATIVE SERVICE*

Section 6.1. City Manager.

(a) The City Manager shall be the chief administrative officer of the City government. He shall be selected by the Council on the basis of training and ability. He shall serve at the pleasure of, and be subject to removal by the Council, but he shall not be removed from office during a period of sixty (60) days following any regular City election except by the affirmative votes of four members of the Council. His compensation shall be set by the Council.

(b) The Council shall appoint a City Manager within ninety (90) days after any vacancy exists in such position or they may appoint an Acting Manager during the period of a vacancy in the office, or the City Manager, with the consent and approval of the Council, may designate an administrative officer or employee of the City to act as City Manager if he is temporarily absent from the City or unable to perform the duties of his office. The residence requirements of the City Manager shall be at the discretion of the Council.

Section 6.2. City Manager: Functions and Duties.

(a) The City Manager shall be responsible to the Council for the proper administration of the affairs of the City. He shall make all appointments and removals of those appointed, except he shall receive the approval of a majority of the Council for the appointment of the Clerk, Treasurer, and Assessor, and shall set employees compensation in accordance with budget appropriations. He shall supervise and coordinate the work

***State law references**—Charter to provide for necessary officers, MCL 117.3(a); charter to provide for qualifications and duties of its officers, MCL 117.3(d).

of the administrative officers and departments of the City except the work of the City Clerk in keeping the Council records and as the clerical official of the Council.

(b) The City Manager shall see that all laws and ordinances are enforced. He shall prepare and administer the annual budget under policies formulated by the Council and he shall keep the Council advised as to the financial condition and needs of the City. He shall furnish the Council with information concerning City affairs and prepare and submit such reports as may be required or which the Council may request, including an annual report which shall include the work of the several departments. Subject to any employment ordinance of the City, he shall employ or be responsible for the employment of all City employees and supervise and coordinate the personnel policies and practices of the City. He shall establish and maintain a central purchasing service for the City and he or his authorized representative to be the purchasing agent for the City.

(c) The City Manager shall attend all meetings of the Council with the right to be heard in all Council proceedings but without the right to vote. He shall possess such other powers and perform such additional duties as may be granted to or required of him by the Council, so far as may be consistent with the provisions of law. He shall establish any rules necessary to carry out any of the foregoing duties.

Section 6.3. City Clerk.

(a) The Clerk shall be the clerk and clerical officer of the Council and shall keep its journal. He shall keep a record of all actions of the Council at its regular and special meetings. He shall certify all ordinances and resolutions adopted by the Council.

(b) The Clerk shall have the power to administer all oaths required by law and by the ordinances of the City. He shall be the custodian of the City seal, and shall affix the same to documents required to be sealed. He shall be the custodian of all papers, documents, and records pertaining to the City, the custody of which is not otherwise provided by this Charter. He shall give the proper officials ample notice of the expiration or termi-

nation of any official bonds, franchises, contracts or agreements to which the City is a part and he shall notify the Council of the failure of any officer or employee required to take an oath of office or furnish any bond required of him.

(c) The Clerk shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council, or by the City Manager.

Section 6.4. City Treasurer.

(a) The Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value or indebtedness belonging to or held in trust by the City. He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine, and shall report the same to the City Manager.

(b) The Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and City taxes and moneys as are provided by law.

(c) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances and resolutions of the Council, or by the City Manager.

Section 6.5. City Assessor.

(a) The Assessor shall possess all the power vested in and shall be charged with the duties imposed upon assessing officers by law. He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the City.

(b) He shall perform such other duties as may be prescribed by law or the ordinances of the City, or by the City Manager.

Section 6.6. City Attorney.

(a) The City Attorney shall be legal advisor and counsel for the City and for all the officers and departments thereof in all matters relating to their official duties and shall file with the City a copy of all written opinions given by him. He shall prepare or review all ordinances, regulations, contracts, bonds, and other such instruments as

may be required by this Charter, the Council, or the City Manager, and shall promptly give his opinion as to the legality thereof.

(b) He shall prosecute ordinance violations and shall represent the City in cases before the courts and other tribunals. In such instances as the Council shall direct, he shall defend officers and employees of the City in actions arising out of the performance of their official duties.

(c) Upon the City Attorney's recommendation, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist the City Attorney.

(d) He shall perform such other duties in connection with his office as may be prescribed for him by this Charter, the Council or the City Manager.

Section 6.7. Finance Officer.

(a) The City Manager shall designate a person to act as a finance officer from among the administrative officers of the City. However, when the Council feels that a separate official is required, they may so designate by ordinance and the official will be an appointment of and under the supervision of the City Manager and subject to removal by him.

(b) The Finance officer shall be the general accountant of the City, shall keep the books of account of the assets, receipts, and expenditures of the City, and shall keep the Council and City Manager informed as to the financial affairs of the City. The system of accounts of the City shall conform to such uniform systems as may be required by law.

(c) He shall balance all the books of account of the City at the end of each calendar month, and he shall make a report thereon, as soon as practical, to the City Manager. He shall, upon direction of the City Manager, examine and audit all books of account kept by any official or department of the City.

Section 6.8. Additional Administrative Powers and Duties.

The Council shall by ordinance establish departments of City government and determine and prescribe the functions and duties of each department. Upon recommendation of the City Manager, the Council may by ordinance prescribe additional powers and duties and diminish any powers and duties in a manner not inconsistent with this Charter to be exercised and administered by appropriate officials and departments of the City.

Section 6.9. City Planning.

The Council shall provide for and maintain a City Planning Commission which shall possess all of the powers and perform the functions of planning commissions as set forth by State statute. The citizen members of the planning commission shall be appointed by the Mayor subject to confirmation by the Council.

State law reference—Municipal planning, MCL 125.31 et seq.

Section 6.10. Merit System of Personnel Management.

The Council may provide by ordinance for a merit system of personnel management for the City.

Section 6.11. Compensation and Employee Benefits.

(a) All administrative officers of the City shall be appointed for an indefinite term.

(b) The City Council shall have the power to make available to the administrative officers and employees of the City and its departments, an actuarial pension plan by ordinance, and any recognized group plan of life, hospital, health, or accident and income protection insurance or any one or more thereof.

Section 6.12. Violations Bureau.

The Council shall have the power and authority to establish by ordinance a traffic violations Bureau, as provided by law, for the handling of such violations of ordinances and regulations of

the City, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any of such ordinances may within the time specified in the notice of such charge answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge, waiving a hearing in court and giving power of attorney to make such plea and pay such fine in court. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given receipt which so states. The creation of such a bureau shall not operate as to deprive any person of a full and impartial hearing in Court should a person so choose.

Section 6.13. Park and Recreation Board.

There shall be created, by ordinance, within one year after the effective date of this Charter, a Park and Recreation Board consisting of five members appointed for staggered terms of five years, beginning on July 1st, and whose members shall be appointed by the Mayor with the approval of the Council.

Such Board shall meet monthly, at a place designated by the Council, select its own officers each year, and make recommendations to the City Manager and the City Council on acquisition and disposition of City Park property, recreation activities sponsored by the City government, and sources of revenue and amounts of expenditures for Park and Recreation activities. Such Board shall also make recommendation to the City Council on intergovernmental cooperation in regard to Park and Recreation property and activities.

The Park and Recreation Board shall annually make a report to the Council in March, and at such other times as requested by the Council, of recommended Park and Recreation revenues and expenditures for the ensuing fiscal year starting July 1st of each year.

The designation of such Park and Recreation Board shall in no way preclude the City Council from combining the Departments of Parks or

Recreation with any other Departments of the City for efficient operation, all in accordance with Section 6.8 of this Charter.

Section 6.14. Cemeteries.

The Council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with improvements thereon and appurtenances thereto, owned or hereafter acquired by the City either within or without its corporate limits. A plan for platting, sale and perpetual care of all lots, plots, and lands therein shall be provided. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the City belonging to, or under the control of any church or religious society, or any corporation, company or association. Such City cemeteries shall be operated as any other department of the City.

CHAPTER 7. TAXATION*

Section 7.1. Fiscal Year.

The fiscal year of the City shall begin on the first day of July of each year.

Section 7.2. Power to Tax: Tax Limit.

The City shall have the power to assess taxes and levy and collect rents, tolls, and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed one and one-half (1½%) percent of the assessed value, as equalized, of all real and personal property subject to taxation in the City. Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by statute.

State law references—Charter to provide for taxation of real and personal property not to exceed two percent of value, MCL 117.3(g); property taxes, MCL 211.1 et seq.

***State law references**—General powers of city to levy taxes for public purposes, Mich. Const. 1963, art. VII, § 21; charter to provide for taxation, MCL 117.3(h).

Section 7.3. Subjects of Taxation.

The subject of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law.

State law references—Charter to provide that subjects of taxation for municipal purposes are the same as for state, county and school purposes, MCL 117.3(i); property taxes generally, MCL 211.1 et seq.

Section 7.4. Tax Day.

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as the thirty-first (31st) day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day.

State law reference—Tax day, MCL 211.2(2).

Section 7.5. Preparation of the Assessment Roll.

(a) On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City. Such roll shall be prepared as required by the general property tax Act. Values shall be estimated according to recognized methods of systematic assessment.

(b) On or before the first Monday in March the Assessor may give, by first class mail, a notice of any change from the previous year in the assessed value of any property or of the addition of any property to the roll, to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Editor's note—MCL 211.30a requires the review of assessments to be completed on or before the first Monday in April.

State law reference—Time, place and method of assessments, MCL 211.10 et seq.

Section 7.6. Board of Review.

The Board of Review shall be composed of three freeholders who are qualified and registered electors of the City but not officers or employees of the City nor candidates for office. One member of the Board shall be appointed by the Council annually in January for a term of three years. The Board

shall constitute a Board of Review for all tax assessments. The Assessor shall be clerk of the Board, shall keep a record of its proceedings and may be heard at its meetings, but shall have no vote. The Council shall fix the compensation of the members of the Board of Review each year previous to the first meeting of the Board. The Board shall annually in February select its own Chairman for the ensuing year. A majority of the members of the Board shall constitute a quorum.

State law reference—Charter to provide for board of review, MCL 117.3(a).

Section 7.7. Duties and Functions of the Board of Review.

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are conferred by law upon and required of Boards of Review. 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 [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 status of any property after that day shall be considered by the Board in making its decisions.

Section 7.8. Meetings of the Board of Review.

(a) The Board of Review shall convene in its first session as provided by State law each year for the purpose of considering and correcting the roll. The City Council shall designate the time and place for the public sessions and shall designate the hours during which the Board must remain in session. Notice of such meetings shall be published by the Assessor at least one week prior to each session of the Board. Should any assessments be increased from the amount shown on the assessment roll as prepared by the Assessor or any property added to the roll by the Board, or the Board has resolved to consider at its second session an increase to certain property or adding any property to such roll, the Assessor may give notice thereof to the owner as shown by such roll, by first class mail, mailed not later than the third

day following the end of the first session of the Board. Such notice shall state the date, time, and place, and purpose of the second session of the Board. The failure of any such notice to be given or the owner to receive it shall not invalidate any assessment roll or assessment thereon.

(b) The Board of Review shall meet in its second session as provided by State law each year and shall continue in session until all interested persons have had an opportunity to be heard.

Editor's note—MCL 211.30a requires the review of assessments to be completed on or before the first Monday in April.

Section 7.9. Certification of Roll.

On or before the first Monday in April the Board shall complete its review of the roll and a 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, but the omission of such endorsement shall not affect the validity of such roll.

Section 7.10. Clerk to Certify Tax Levy.

Within three 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 the 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 the said roll against any property or any person in accordance with the provisions of this Charter or any Ordinance of the City.

Section 7.11. 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 certification of the several amounts to be raised, as provided in Section 7.10, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the

general ad valorem City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the City.

State law reference—Completion of assessment, avoidance of fractions, MCL 211.39.

Section 7.12. Tax Roll Certified for Collection.

After spreading the taxes the Assessor shall certify the tax roll and attach his warrant thereto directing and requiring the City Treasurer to collect prior to the date required by statute, from the several persons named in said 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, assessment and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. The tax roll shall be delivered to the Treasurer for collection on or before the first day of June.

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

Section 7.13. Tax Lien.

On July first the taxes thus assessed shall become a debt due to the City from the persons to whom assessed, and 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 law and shall continue until such taxes, interest and charges are paid.

Section 7.14. Taxes Due: Notification Thereof.

City taxes shall be due and payable on the first day of July of each year. The Treasurer shall not be required to call upon the persons named in the tax roll, nor to make personal demand for the

payment for taxes, but he shall publish notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof, and mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed. Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this charter in case of late payment or nonpayment of the same.

Section 7.15. Collection Charges on Late Payment of Taxes.

All taxes paid on or before September 30th of each year shall be collected without penalty by the Treasurer. On the first day of October, he shall add to all taxes paid thereafter a penalty of three percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one-half of one percent as interest on all unpaid municipal taxes until paid or returned to the County Treasurer. Such collection fees, penalties and interest 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.

Section 7.16. Failure or Refusal to Pay Personal Property Tax.

If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the State, and from which seizure no property shall be exempt. He may sell the property seized to the amount sufficient to pay the taxes and all charges in accordance with statute. The Treasurer may, if otherwise unable to collect a tax on personal property, sue the person, firm or corporation to whom it is assessed in accordance with statute.

Section 7.17. Collection of Delinquent Taxes.

All City taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him, shall be returned to the County Treasurer in the same manner and with like effect as returns by township treasurers of township, 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 assessments 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 are collected under provisions of the general laws of the State and shall be and remain a lien upon the property against which they are assessed, until paid.

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

Section 7.18. State, County, and School Taxes.

The levy, collection and return of state, county and school taxes shall be in conformity with the general laws of the state.

CHAPTER 8. GENERAL FINANCE***Section 8.1. Budget Procedure.**

On or before the second Monday in March of each year, each officer, department and board of the City shall submit to the City Manager an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The City Manager shall compile and review such budget requests and shall then prepare his budgetary recommendations and submit them to the Council at its meeting nearest the third Monday in April of each year.

***State law references**—Revised municipal finance act, MCL 141.2101 et seq.; local government fiscal responsibility act, MCL 141.1201 et seq.; fiscal stabilization act, MCL 141.1001 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.

Section 8.2. Budget Document.

The budget document shall present a complete financial plan for the ensuing year. It shall include at least the following information:

- (1) A brief and concise, budget summary showing the estimated receipts and expenditures of each fund and the total of all funds.
- (2) A statement of the detailed estimates of all proposed expenditures for each fund itemized for each department and activity by objects of expenditure and showing in parallel columns the expenditures for the preceding year, the appropriation and expenditures for the current year, and the recommendations of the City Manager as to the appropriations to be made for the ensuing year, including any appropriation for contingencies. Expenditures for the current year shall be computed as the actual expenditures to the last day of February, or the last day of the month preceding this for which he has a financial statement available, plus the estimated expenditures from that date to the end of the current fiscal year.
- (3) Detailed statements of estimates of all anticipated income of the City from taxes and sources other than current taxes and borrowing, compared with the amounts received by the City from each of the same or similar sources for the last preceding year, and for the current year.
- (4) A statement of the estimated financial condition of each City fund reflecting the estimated surplus or deficit in each such fund and showing all the transfers made from each such fund.
- (5) A statement of the bonded or other indebtedness of the City showing the amount required in the ensuing year for retirement on the debt and necessary interest requirements.
- (6) An estimate of the amount of money to be raised by taxation and the amount to be raised by bond issues which together with

estimated income from other sources will be necessary to meet the proposed expenditures.

- (7) Such other information as may be required by the Council.

Section 8.3. Budget Hearing.

A public hearing on the budget proposal shall be held before its final adoption. Notice of the time and place of holding such hearing shall be published by the Clerk at least a week in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the Clerk for a period of not less than one week prior to such public hearing.

State law reference—Public hearing required prior to adoption of budget, Mich. Const. 1963, art. VII, § 32.

Section 8.4. Adoption of Budget.

At a meeting held not later than the second regular meeting in May, the Council shall by resolution, adopt a budget for the next fiscal year and make appropriation of the money needed therefor. Such resolution shall designate the sum to be raised by taxation for the general purposes of the City and for the payments of principal and interest on its indebtedness. Failure to adopt such resolution within the time herein set shall not invalidate either the budget or the tax levy therefor.

Section 8.5. Budget Control.

(a) Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the City except in accordance with an appropriation thereof for such specific purposes, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council, by resolution, may transfer any unencumbered appropriation balance, or any portion thereof, from one account, department, fund or agency to another.

(b) The Council may make additional appropriations during the fiscal year for unanticipated expenditures required by the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

(c) Except in those cases where there is no other logical account to which expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation from the contingency fund (or other similar fund) shall be transferred to the logical account, and the expenditure charged to such account.

(d) At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(e) The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to restrictions imposed or permitted by law, revert to the general fund.

Section 8.6. Independent Audit: Annual Report.

An Independent audit shall be made of all accounts of the City government at least annually and more frequently if deemed necessary by the Council. Such audits shall be made by a qualified public accountant experienced in municipal accounting selected by the Council. An annual report of the City business shall be made available for distribution to the public by the City Manager in such printed form as will disclose pertinent facts concerning the activities of the City government. The Council shall provide the funds to

defray the cost of the annual audit and the report herein required in each annual budget of the City.

State law reference—Annual accounting of public funds, Mich. Const. 1963, art. IX, § 21.

Section 8.7. Collection and Deposit of Monies.

The Council shall designate the depositories for City funds and shall provide for the regular deposit of all City moneys.

State law references—Designation of public fund depositories, MCL 129.11 et seq.; deposits of public moneys, MCL 211.43b.

CHAPTER 9. SPECIAL ASSESSMENT*

Section 9.1. Special Assessments: General Powers.

The Council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessments upon property in a special district and shall so declare by resolution or resolutions shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the City, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof. The Council shall also have the power of re-assessment with respect to any such public improvement.

Section 9.2. Special Assessment Procedure Fixed by Ordinance.

The Council shall prescribe by ordinance the complete special assessment or re-assessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and confirming of the assessment rolls, correction of errors, the

***State law references**—Special assessments for public improvements, MCL 68.31 et seq.; public improvement or public building, MCL 141.261 et seq.; notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.

collection of special assessments, and any other matters concerning the making and financing of improvements by special assessment.

Section 9.3. Contest of Assessment.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment (a) unless, within thirty (30) days after confirmation of the special assessment roll, written notice is given to the Clerk for attention of the Council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or 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 Council may revoke its confirmation, correct the illegality if possible, and reconfirm same as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

Section 9.4. Implementation of the Charter.

The City Council shall have and is hereby given the power to pass ordinances implementing the provisions of this Chapter and detailing the procedures relative thereto.

CHAPTER 10. BORROWING AUTHORITY†

Section 10.1. Grant of Authority to Borrow.

Subject to applicable provisions of law and this Charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidences of indebted-

†**State law references**—Municipal power to borrow money and contract debts, Mich. Const. 1963, art. VII, § 21; charter may provide for city borrowing, MCL 117.4a.

ness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligation bonds, which pledge the full faith, credit, and resources of the City for payment of such obligations;
- (b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 8.5;
- (c) In case of fire, flood, wind storm, or other calamity, emergency loans due in not more than five years for the relief of inhabitants of the City and for the preservation of municipal property;
- (d) Special assessment bonds issued in anticipation of the payment of special assessment made for the purpose of defraying the cost of any public improvement, or in anticipation of payment of any combination of such special assessments: such special assessment bonds may be an obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts and a general obligation of the City;
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the City is authorized by this Charter or by law to acquire or operate;
- (f) Bonds for the refunding of the funded indebtedness of the City;
- (g) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the City;
- (h) Bonds issued in anticipation of future payments from the Motor Vehicle highway fund or any other fund of the State which the City may be permitted by law to pledge for the payment of principal and interest thereof;
- (i) Budget bonds, which pledge the full faith, credit, and resources of the City, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of taxation authorized by this Charter;
- (j) Bonds which the City is, by any general law of the State, authorized to issue, now or hereafter, which shall pledge the full faith, credit, and resources of the City or be otherwise secured or payable as provided in said law.

Section 10.2. Limits of Borrowing Authority.

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such bonded indebtedness there shall be excluded money borrowed on notes issued in the anticipation of the collection of taxes, special assessment bonds even though they are a general obligation of the City, mortgage bonds, revenue bonds, bonds in anticipation of State returned revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.

(b) The amount of emergency loans which may be made under the provisions of this charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the City to exceed the limit of the net bonded indebtedness fixed in this Charter or by law.

(c) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.

(d) The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such

issues, filing of petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

Section 10.3. Preparation and Record of Bonds.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this Charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose permitted by law. All bonds or other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signature of the Mayor and the Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

Section 10.4. Deferred Payment Contracts.

The City may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than ten (10) years nor shall the total amounts of principal payable under all such contracts exceed a sum permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. CONTRACTS

Section 11.1. Contracting Authority of Council.

(a) The power to authorize the making of contracts on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of law.

(b) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 11.2 hereof, shall be authorized by the Council and shall be signed on behalf of the City by the Mayor and Clerk.

Section 11.2. Purchase and Sale of Personal Property.

The Council shall establish, by ordinance, the procedures for the purchase and sale of personal property for the City for the direction of the City Manager. The ordinance shall provide the dollar limit within which purchase of personal property may be made without the necessity for securing competitive bids, and the dollar limit within which purchases may be made without the necessity of prior Council approval. No purchase of personal property shall be made unless a sufficient unencumbered appropriation balance is available therefor or provision made by the Council for financing the same.

Section 11.3. Limitations on Contractual Power.

(a) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of thirty (30) years, unless such contracts shall first receive the approval of a majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for service with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the City by law.

(b) The City shall not have power to purchase, sell or dispose of any real estate unless:

- (1) In case of sale, there shall be two published notices of intent to sell prior to the adoption of a resolution for sale or disposal;
- (2) Such action is approved by the affirmative vote of at least [least] four members of the Council, and unless;
- (3) In the case of real estate owned by it, the resolution authorizing the sale, lease, or disposal thereof shall be completed in the

manner in which it is finally passed and has remained with the Clerk for public inspection for ten days before the final adoption or passage thereof.

(c) Except as provided by ordinance authorized by Section 11.2 of this chapter each contract for construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public by the City Manager or his authorized representative at the time designated in the notice of letting and shall be reported by him to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after ample opportunity for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or authorize the City Manager or other proper official of the City to negotiate for a contract on the open market.

(d) All contracts shall be in accordance with Sections 5.8 and 4.6(f) of this Charter.

Section 11.4. Licenses and Franchises Remain in Effect.

All licenses and franchises granted by the Village of Portland and in force within the City when this Charter becomes law, shall remain in full force and effect until the expiration of the time for which they were respectively granted.

CHAPTER 12. UTILITY FRANCHISES AND MUNICIPAL OWNERSHIP*

Section 12.1. General Powers Respecting Utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, 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, transportation, and garbage and refuse disposal

*State law reference—Restrictions on municipal utilities, Mich. Const. 1963, art. VII, §§ 24, 25.

facilities, or any of them to the municipality and its inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

Section 12.2. Management of Municipal Utilities.

All municipally owned or operated utilities shall be administered as a regular department of the City government, under the management and supervision of the City Manager.

Section 12.3. Rates.

(a) The Council shall have the power to fix such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants 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. Higher rates may be charged for service outside the corporate limits of the City.

(b) The rates and charges for any municipal utility shall be fixed as to at least meet all the costs of such utility including depreciation.

(c) Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under the appropriate fund caption, which 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 each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

Section 12.4. Collection of Municipal Utility Rates and Charges.

(a) The Council shall provide by ordinance for the collection of all public utility rates and charges of the City, and for such purposes shall have all the power granted to cities by statute.

(b) That, except as otherwise provided by law, the City shall have as security for collection of 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.

(c) The ordinance shall specify the terms and conditions under which utility services may be discontinued in case of delinquency in paying for such rates and charges, and, that suit may be instituted by the City before a competent tribunal for the collection of such rates and charges.

Section 12.5. Disposal of Utility Plants and Property.

Unless approved by the affirmative vote of a majority 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 assessment belonging to and appertaining to any municipally 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 section shall not apply to the sale or exchange of any articles of machinery or equipment of any owned City 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. The provisions of this section shall not extend to vacation or abandonment of streets as provided by law.

Section 12.6. Municipal Electric Utility.

There is hereby created a Board of Light and Power composed of three members who shall be appointed for terms of three years, with the term of one member expiring each year. The Mayor, with the approval of the City Council, before July 1, 1970, shall appoint three members whose terms will expire on June 30, 1971, and on the same

date in 1972 and 1973. Henceforth the terms of each Board member will commence on July 1st and extend for three years unless removed by the Council under the provisions of Section[s] 5.5 and 5.6 of this Charter. The term of office of any person who is appointed to fill a vacancy shall commence on the date of his appointment to fill out the period of the vacancy. The Board shall organize at its first meeting in July and shall elect one of its members Chairman. The Board shall set its meeting date and shall hold at least one regular meeting in each month at a meeting place designated by the Board with the approval of the Council. Special meetings may be called at the request of the Chairman or of the remaining two members of the Board, or by the City Manager in the manner provided in this Charter for calling special meetings of the Council. All meetings of the Board shall be open to the public. The Board shall keep a journal of its meetings, and its proceedings shall be filed with the Clerk as a public record. Members of the Board shall receive nominal compensation, which amount shall be set by resolution of the Council each year. Members shall be allowed reasonable expenses when actually incurred by them upon authority of the Board. The City Manager shall be an ex officio member of the Board and may attend all of its meetings with the right to be heard in all of its deliberations, but without the right to vote or to receive extra compensation other than his regular salary as City Manager.

Section 12.7. Responsibility of the Board for City's Electric Utility.

The Board shall plan the maintenance and replacement of the Electric Utility as is needed to maintain adequate service to the people of Portland and its customers. It shall review the financial and physical capabilities of the system periodically and make recommendations to the City Manager and the City Council in regard to the operation and finances of the system from time to time.

The Board shall work with the City Manager each year in the preparation of a budget for the Electric Utility. It shall be presented to the City Council each year at the same time as the other budgets, in accordance with this Charter. At least

two members of the Board must approve of the budget as submitted and the budget shall be presented without alteration after the affirmative action by a majority of the Board. It shall contain the anticipated revenues, including rate structure, and expenditures for the next fiscal year.

The City Council shall pass the budget as submitted by the Board unless changed by a vote of four members of the Council in over-riding specific provisions or the entire budget. The Board shall be subject to all provisions of this Charter and statute in regard to the operation of the Utility and borrowing power as authorized herein, in the preparation of its' recommendations to the City Council. It shall recommend the procedures for the purchase, and sale of personal property, for the Utility, to the Council. The Board and the City Council shall agree upon rates and conditions upon which the Electric Utility shall furnish electricity and services for the City including streetlights and light and power for other City uses.

Section 12.8. Payments to City.

The Electric Utility shall annually pay to the Treasurer for the use and benefit of the City, an amount in lieu of taxes, which payment shall be in recognition of and compensation for all benefits received from the City in the use of City streets, services and facilities, said amount to be negotiated by the Board and the City Council, on the basis of the current City tax rate and the equalized value of the real and personal property of the Utility.

Section 12.9. Utility Reserve Fund.

There is hereby created an Electric Utility reserve fund in the amount of ten (10) percent of the un-depreciated original cost of the electric utility of the City, which reserve fund shall be maintained for the purpose of accumulating and holding available such money which, in addition to insurance carried by the City, may be deemed by the Board to be prudently necessary for the protection, improvement, replacement, and extension of the City's electric public utility plants and facilities. Such funds may be invested in proper

securities of a nature to be able to be cashed when needed for the purposes as set forth herein, in any manner permitted by law.

The Council may, at any time, and for so long as it deems desirable, increase the amount held and reserved in the City's public utility fund to a sum larger than the amount required to be maintained by this section.

Section 12.10. Distribution of Revenues of City Electric Utility.

(a) The revenues of the electric utility of the City shall be devoted to the following purposes in the order listed:

- (1) To the expense of administration and operation of the utility, and the maintenance thereof as may be necessary to preserve it and its facilities in good repair and working order;
- (2) Such of the remaining amount of the revenues as may be required for the principal and interest on any indebtedness of the Electric Utility;
- (3) Of the remaining amount of the revenues the City's electric utility reserve fund shall be reimbursed for any funds used during the preceding year or years in order to conform to the provisions of Section 12.9 of this Charter;
- (4) Of the remaining amount, there is hereby created a fund to be known as the City Capital Improvement Fund, and funds above the amount needed in meeting the provisions of the first three purposes designated above, shall be appropriated to this fund from the Electric Utility. This fund shall be used solely to defray the cost, or part of the cost, of capital improvements of the City. The City Council may appropriate from the Capital Improvement fund from year to year for needed improvements. The Council may also appropriate other City funds to this fund for capital improvements.

Section 12.11. Public Utility Franchises.

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

(b) No franchise ordinance which is not subject to revocation at the will of the 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 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 the terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Council, shall have been first paid to the Treasurer by the grantee.

(c) 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 voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the Clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.

State law references—Submittal to electors required if franchise irrevocable, Mich. Const. 1963, art. VII, § 25; expense of special election to be paid by grantee, MCL 117.5(i); franchise limited to 30 years, Mich. Const. 1963, art. VII, § 30.

Section 12.12. Conditions of Public Utility Franchises.

All public utility franchises granted after the adoption of this Charter, whether it be 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 or 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 nuisance, non-use, or failure to comply with the provisions thereof;
- (b) To require adequate extension of plant and service and 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 service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire length 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 impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Section 12.13. Use 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 public utilities insofar as such joint use may be reasonably practical 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.

Section 12.14. Rates for Franchised Utilities.

The rates charged by public utilities under the supervision of State regulatory agencies shall be fixed by such agencies. The rates not preempted by the State for public utilities shall be set, after public hearing, by the City Council.

Section 12.15. Sale and Assignment of Franchises.

No franchise granted by the City shall ever be leased, assigned or otherwise alienated except in accordance with the express conditions of said franchise. Nothing in this Section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise nor shall this restrict the right of the purchaser, upon foreclosure sale, to operate same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this Charter.

CHAPTER 13. PUBLIC LIBRARIES*

Section 13.1. Board of Library Trustees.

There is hereby created a Board of Library Trustees composed of five members who shall be appointed by the Mayor with the approval of the Council for terms of five years, with the term of one member expiring each year. Within one month after the effective date of this Charter five members shall be appointed for terms ending on June 30, 1971, and on the same date in 1972, 1973, 1974, and 1975. Henceforth the terms of each Board member will commence on July 1st and extend for five years unless removed by the Council under the provisions of Sections 5.5 and 5.6 of this Charter. The term of office of any person who is appointed to fill a vacancy shall commence on the date of his appointment to fill out the period of the vacancy.

The Board shall organize at its first meeting in July and shall elect one of its members Chairman, one Vice-Chairman and one Secretary. The Board shall set its meeting date and shall hold at least one regular meeting in each month at a meeting

*State law reference—Libraries, MCL 397.201 et seq.

place designated by the Board. Special meetings may be called by the Chairman or at the request of any two members of the Board, in the manner provided in this Charter for calling special meetings of the Council. All meetings of the Board shall be open to the public. The Board shall keep a journal of its meetings, and its proceedings shall be filed with the Clerk as a public record. Members of the Board may receive nominal compensation, which amount shall be set by resolution of the Council each year. Members shall be allowed reasonable expenses when actually incurred by them upon authority of the Board.

Section 13.2. Authority of Board of Library Trustees.

The Board of Library Trustees shall have control and management of the grounds and buildings and the care and government of the public library, subject to the ordinances of the City and the provisions of this Charter. Said Board shall make and adopt such rules and regulations for their own guidance and for the government of the Library for the use and benefit of the inhabitants of the City and for the inhabitants of any other local government unit which may have a contractual arrangement with the Board for Library service.

The Board shall have exclusive control of the expenditures of all monies collected to the credit of the Library fund; provided, that the construction of or addition to any Library building shall be under the supervision of the City Council; and, provided further, that all monies received for such Library Fund shall be deposited with the City Treasurer to the credit of the Library fund, and shall be kept separate and apart from all other monies of the City, and be drawn upon by the City Treasurer upon properly authenticated vouchers of the Board of library Trustees signed by either the Chairman or Vice-Chairman or other Board Member designated by the Board of Trustees. The Board shall appoint a suitable Librarian and assistants who shall serve at the pleasure of the Board and shall fix their compensation.

Section 13.3. Reports and Audit.

The Board of Trustees shall annually in March, and more often if requested by the City Council,

submit a statement of the conditions of their trust and the proposed budget for the succeeding year starting July 1st, Their report and budget shall contain information on the condition of the Library funds and the budget items as required for other City funds, under the provision of Section 8.1 and 8.2 of this Charter.

An independent audit shall be made of the Library accounts by an auditor selected by the City Council under the provisions of Section 8.6 of this Charter. The cost of said audit shall be a charge against the Library account of the City.

The City Council may annually make an appropriation for the benefit of the Library fund.

Section 13.4. Donations.

The Library Board of Trustees is authorized to receive donations of money, personal property or real estate for the benefit of the Library in the name of the City of Portland, providing the donation of real estate is accepted by the City Council. The benefits of such bequest shall accrue to the credit of the Library Fund as outlined in Section 13.2 of this Charter.

CHAPTER 14. DEFINITIONS AND GENERAL PROVISIONS

Section 14.1. Definitions and Interpretations.

Except as otherwise specifically provided or indicated by the context of this Charter:

- (a) The word "State" shall mean the State of Michigan;
- (b) The word "City" shall mean the City of Portland;
- (c) The word "Council" shall mean the City Council of the City of Portland;
- (d) The word "officer" shall include, but shall not be limited to the Mayor, the members of the Council, and, as herein provided, the administrative officers, deputy administrative officers, and members of City Boards and Commissions created by or pursuant to this Charter;

- (e) The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- (f) The words "printed" and "printing" shall include printing, engraving, stencil, duplicating, lithographing, typewriting, Photostatting, or any similar method;
- (g) Except in reference to signatures, the words "written" and "in writing" shall include hand written script, printing, typewriting, and Teletype and telegraphic communications;
- (h) The words "publish" or "published" shall include publication of any matter, required to be published, in the manner provided by law or, where there is no applicable law, in one or more newspapers of general circulation in the City, qualified by law for publication of legal notices;
- (i) The words "public utility" shall include all common carriers in the public streets; water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, cable television, garbage and refuse collection and disposal and reduction plants, transportation, and such other and different enterprises as the Council may determine or designate;
- (j) All words 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 happening of any event or requirement to which any provision of this Charter is applied;
- (k) The singular shall include the plural, and the plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter;
- (l) All references to statutes shall be considered to be references to such statutes as amended.

Section 14.2. Records to be Public.

All records of the City shall be public, unless otherwise-provided by law, shall be kept in City offices, except when required for official reasons

or for purposes of safekeeping to be elsewhere, and shall be available for inspection at all reasonable times.

All papers, books, or other records of any matter required to be kept by any of the several departments of the City, either by law or by the provisions of any ordinance, shall be deemed public records of such department, and they, or copies duly certified by the custodian thereof, shall be prima facie evidence of their contents in all suits at law or in equity, or in other proceedings.

State law reference—Freedom of information act, MCL 15.231 et seq.

Section 14.3. Official Performance.

Whenever this Charter requires the performance of an act by an officer, the act may be performed by a deputy or by a subordinate, under the officer's direction, unless otherwise provided by law.

Section 14.4. Quorum.

A quorum of the Council or any Board or Commission created by or under authority of this Charter shall consist of a majority of the number of its members as established by this Charter, or by and under the ordinance creating such Board or Commission. The concurring vote of a majority of such established number of members of each such Council, Board or Commission shall be necessary for official action by it.

Section 14.5. Saturdays, Sundays and Holidays.

Whenever the date fixed by law or ordinance for the doing or completion of any act falls on a Saturday, Sunday or legal holiday, such act may be done or completed on the next succeeding day which is not a Saturday, Sunday or legal holiday or in accordance with law.

Section 14.6. Estoppel.

No estoppel may be invoked against the City.

Section 14.7. Penalties for Violation of Charter.

Any person or officer of the City found guilty by a Court of competent jurisdiction of any violation of this Charter may be punished by a fine which, in addition to Court costs charged to him, shall not exceed Five Hundred Dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both such fine and imprisonment, in the discretion of the Court. For an officer of the City the punishment provided in this section shall be in addition to that of having the office declared vacant as provided in this Charter. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

Section 14.8. Chapter and Section Headings.

The chapter and section headings used in this Charter are for convenience only and shall not be considered as part of this Charter.

Section 14.9. Amendments.

This Charter may be amended at any time in the manner provided by law. Should two or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail as to those provisions.

State law reference—Charter change, MCL 117.28 et seq.

Section 14.10. Severability of Charter Provisions.

If any provision, section, or clause of this Charter, or the application thereof to any person or circumstances, shall be found to be invalid, such invalidity shall not effect any remaining portion or application of the Charter, which can be given effect without the invalid portion or application, and, to this end, this Charter is declared to be severable.

Section 14.11. City Liability.

The City shall not be liable to pay damages for injuries which arise out of governmental functions and shall have all the immunities from claims for damages for injury to persons or prop-

erty as may be permitted by law. The procedures in regard to filing of claims and disposition of same shall be as permitted by law.

Editor's note—Liability for negligence of city in governmental functions is governed by MCL 691.1401 et seq.

Section 14.12. Trusts.

The Council may, in its discretion, receive and hold any property or funds in trust for park, cemetery, or other municipal purposes. Any trusts now existing for the benefit of the Village of Portland or Portland Township to which the City of Portland falls heir shall be continued in full force and effect in accordance with the cy pres doctrine.

Section 14.13. Transfer of Jurisdiction.

After the effective date of this Charter, the City shall be vested with all the property, moneys, contracts, rights and papers belonging to the Village of Portland. No right or liability, either in favor or against the Village of Portland existing at the time this Charter becomes effective and no suit or prosecution of any character shall in any manner be effected by any change resulting from the adoption of this charter but the same shall stand or proceed as if no change has been made. All debts and liabilities of the Village of Portland shall become the debts and liabilities of the City of Portland and all fines and penalties imposed at the time of such change shall be collected.

CHAPTER 15. SCHEDULE

Section 15.1. Purpose and Status of Schedule Chapter.

The purpose of this Chapter is to inaugurate the government of the City of Portland under this Charter and to provide for the transition from the former government of the Village of Portland to the new City status under this Charter. It shall constitute a part of the Charter of the City of Portland only to the extent and for the time required to accomplish that end.

Section 15.2. Election to Adopt Charter.

This Charter shall be submitted to a vote of the qualified electors of the territory comprising the

proposed City of Portland, at an election to be held on Monday, October 20, 1969, between the hours of 7:00 o'clock A.M. local time and 8:00 o'clock P.M. All provisions for such election shall be held in the manner provided by law. Proper and sufficient notice of such election and of the registration therefor shall be given by the Secretary of the Charter Commission as provided by law. The County Board of Canvassers serving the Village of Portland shall canvass the vote cast at said election within three days following the election. If, at such election, a majority of the qualified electors of the proposed City vote in favor of the adoption of this Charter, the Secretary of the Charter Commission shall do and perform all other acts which are required by law to carry this Charter into effect and to consummate the incorporation of the City.

The election shall be conducted by the officers of the Village of Portland, the voter registration lists of the Township of Portland shall be valid for those voting on this Charter including the additional registrants, and those charged with Village elections will follow usual election procedure.

Section 15.3. 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 after the word "Yes" is in favor of the proposed Charter, and a cross (X) in the square after the word "no" is against the proposed Charter.

Shall the proposed Charter of the City of Portland which was drafted by the Charter Commission elected December 9, 1968, be adopted?

Yes ()

No ()

Section 15.4. Election of Officers.

(a) At the election upon the adoption of this Charter the first elective officers of the City under this Charter shall be elected, viz.: Five Councilmen to be elected from the City at large. The two councilmen receiving the highest number of votes shall serve for terms beginning on the effective date of this Charter and extend until the Monday

next following the regular City election on the first Monday in April, 1973. The next three candidates for councilmen having the next highest number of votes shall have terms beginning on the effective date of this Charter and extending until the Monday following the regular City election on the first Monday in April, 1971. Thereafter, the successors of all such officers shall be elected at the regular City elections provided by this Charter, and shall hold office for the terms established herein.

The nomination and election of such first elective officers shall be non-partisan, and no primary shall be held in connection therewith.

(b) Candidates for such offices shall be nominated by the filing of petitions signed by not less than twenty-five (25) nor more than fifty (50) qualified and registered electors of the territory comprising the City of Portland, and filed with the Secretary of the Charter Commission not later than four (4:00) o'clock P.M. local time on Tuesday, September 2nd, 1969, at the Village Hall office of the Village Clerk of Portland. The Village Clerk shall publish notice of the last day and time for filing such nominating petitions, which notice shall be published in the Portland Review and Observer on or before Thursday, July 31, 1969. Such petitions shall be in the form designated by statute for the use in the nomination of non-partisan officers. The manner of approval of nominating petitions and those who qualify to sign shall be in general as outlined in Section[s] 3.8 and 3.9 of this Charter.

(c) Friday, the 19th day of September, 1969, shall be the last day of registration for such election. The Clerk of the Township of Portland will act as registrar for the purpose of registering the electors of the proposed City for the special election to be held on October 20, 1969. Those persons presently registered in the Township of Portland and residing within the limits of the proposed City of Portland, will be eligible to vote without further registration if their registrations are in order under the law.

Section 15.5. Form of Ballot for City Officers.

At the election held for the first City officers, the names of the several candidates for such

offices shall be placed on ballots or voting machines containing no party designation with respect to the candidate. The names of candidates on such ballot shall be rotated so that the name of each candidate for office will head the list approximately an equal number of times.

Section 15.6. Voting at Charter Election - Canvass of Votes.

(a) Each person voting at the election on the adoption of this Charter may, in addition to voting on the adoption of this Charter, vote for five Councilmen.

(b) The County Board of Canvassers as designated in Section 15.2 of this Schedule in addition to canvassing the vote on the adoption of this Charter shall also canvass the votes cast for the several first City Officers. Should this Charter be adopted those declared to be elected and their terms of office shall be as specified in Section 15.4(a) of this Schedule. Both the canvass of votes on the adoption of this Charter and the votes on City officers shall be canvassed and reported to the proper officials.

Section 15.7. Effective Date of Charter.

If the canvass of votes upon the adoption of this Charter shows it to have been adopted, it shall take effect and become law as the Charter of the City of Portland for all purposes on Monday, November 3rd, 1969, at 8:00 o'clock P.M. at which time the control of the officers of the Village of Portland shall cease and be superseded by that of the officers of the City of Portland.

Section 15.8. First Meeting of City Officers.

On or before the effective date of this Charter, each person who is elected to an office of the City shall appear before the Clerk of the Village of Portland and take and subscribe to his oath of office. The officer receiving such oath shall file the subscribed copy of such oath with the City Clerk within ten (10) days after the effective date of this Charter. The first officers of the City shall assemble at 8:00 o'clock P.M. local time, on Monday, November 3rd, 1969, in the Village Hall of the Village of Portland. The meeting shall be called to order by the Chairman of the Charter Commis-

sion, who shall introduce the new City officials to the Public, and call the meeting of the Council to order. He shall preside for the election of the Mayor from among the Councilmen and then turn the meeting over to the Mayor and the Council shall proceed with the business before it.

Section 15.9. Continuation of Appointed Officers.

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the Village will continue in that City office or employment which they held in the Village prior to the effective date of this Charter and they shall be subject in all respects to the provisions of this Charter; except that any officer or employee who holds a position which this Charter provides to be held at the pleasure of the appointing officer or body shall hold such position only at such pleasure regardless of the term for which originally elected or appointed.

Section 15.10. Council Action.

In all cases involving transition of the Village government to City government, which are not covered by this Chapter, the Council shall supply necessary details and procedures and may adopt such rules, regulations, resolutions, and ordinances as may be required therefor.

Section 15.11. Fiscal Year: City Budget.

The Council shall have the authority to continue under the former Village budget until the end of the Village fiscal year ending December 31, 1969. The Council shall on the recommendation of the City Manager make an interim budget required to defray the cost of operating the City from January 1, 1970, to June 30, 1970, in order to bring the City's financial plan in conformity with the fiscal year herein provided.

Section 15.12. Boards and Commissions.

The present Boards and Commissions established by the Village of Portland shall continue under the Ordinance establishing them unless in conflict with this Charter. The terms of office of the members of such Boards and Commissions shall continue as established and they shall con-

tinue in office until their successors are appointed in accordance with the terms of office established in the Ordinance creating them.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the proposed City of Portland held on the 16th day of June, 1969, at the usual place of meeting of the Commission, the following members of the Charter Commission were present; Blackmore, Eddy, Habegger, Keusch, Mellstead, Rowe, Russman, Sprague, and Thelen.

At such meeting the following resolution was offered by Commissioner Blackmore and supported by Commissioner Habegger:

Resolved, That the Charter Commission of the Proposed City of Portland hereby adopt the foregoing instrument as the Charter of the City of Portland, and the Secretary of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, for his approval.

The vote on the adoption of the resolution was as follows: Ayes: Blackmore, Eddy, Habegger, Keusch, Mellstead, Rowe, Russman, Sprague, and Thelen.

Nayes: None

Absent: None

Claudia J. Keusch

Secretary of the Charter Commission of the proposed City of Portland.