

EDITOR'S NOTE: The Charter of the City of Howell, Michigan, was adopted at a special election held on November 8, 1955. Dates appearing in parentheses following a chapter or section heading indicate that the chapter or section was enacted or amended on the date given. Because of changes in law since the adoption of the Charter, some sections of the Charter may be superceded. Where possible, editor notes shall be supplied informing the reader of notable changes to the Charter.

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PREAMBLE

We, the People of the City of Howell, in order to secure the benefits of efficient self government and otherwise to promote our common welfare, do ordain and establish this Charter for the government of our City, pursuant to authority granted by the Constitution and laws of the State of Michigan.

CHAPTER 1

BOUNDARIES AND SUBDIVISIONS OF THE CITY

Section 1.1 Name.

The City shall be a body corporate under the name, "City of Howell."

Section 1.2 Boundaries.

The City shall embrace the territory constituting the City of Howell, on the effective date of this Charter, together with such annexations thereto and less any detachments therefrom that may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed thereby to be changed without amendment of this section. The Clerk shall maintain and keep available in his office for public inspection and distribution an official description of the current boundaries of the City.

Section 1.3 Wards.

The City shall consist of one ward.

Section 1.4 Election Precincts.

The City shall be divided into election precincts in the manner required by law.

CHAPTER 2

DEFINITIONS AND INTERPRETATION

Section 2.1 Definitions.

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

- (1) "Charter" means this Charter, as amended from time to time;
- (2) "City" means the City of Howell;
- (3) "Assessor, Attorney, Clerk, and Treasurer" mean the persons occupying, holding the offices, or performing the duties of City Assessor, City Attorney, City Clerk, and City Treasurer, respectively, as the same are required or contemplated by law;
- (4) "Council" means the City Council of the City of Howell and includes any term employed in any State or Federal law referring to or denoting governing bodies of cities;

- (5) "Law" means this Charter, the Constitution and statutes of Michigan, and applicable common law;
- (6) "Person" includes corporations, both public and private, partnerships, and associations, as well as individuals;
- (7) "Printed" and "printing" include reproductions by printing, engraving, stencil duplication, lithographing, or any similar method;
- (8) "Publication" means publication by posting in five (5) public places in the City, including the office of the Clerk of the City, or by publishing in a legal newspaper having a general weekly circulation within the County, or both, provided that if publication is made by posting in five (5) public places in the City, including the office of the Clerk, notice of such postings shall be printed in a newspaper having general circulation within the County. (Amended in 1966)
- (9) "Written" and "in writing" include hand written script, printing, typewriting, and teletype or telegraphic communications;
- (10) The singular number includes the plural, the plural number includes the singular and the masculine gender includes the feminine gender and the neuter;
- (11) 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 the happening of any event or requirement for which provision is made in this Charter.

CHAPTER 3

GENERAL MUNICIPAL POWERS

Section 3.1 Powers of the City.

Unless otherwise provided or limited in this Charter, the City of Howell and its officers shall be vested with any and all powers, privileges, and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and laws of the State of Michigan, and of the United States of America, including all the powers, privileges, and immunities which cities are permitted to or may provide in their charters by Act No. 279 of the Public Acts of 1909, as amended, as fully and completely as though these powers, privileges, and immunities were specifically enumerated in and provided for in this Charter, and in no case shall any enumeration of particular powers, privileges, or immunities in this Charter be held to be exclusive. The City and its officers shall have power to exercise all municipal powers in the management and control of municipal government, whether such powers be expressly enumerated or not; to do any act to advance the interests of the City, the good government and prosperity of the Municipality and its inhabitants; and, through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its Municipal concerns, subject to the provisions of the law.

Section 3.2 Specific Powers of the City.

Without limiting the general grant of powers contained in Section 3.1., the City shall have power to manage and control the finances, rights, interests, buildings, and property belonging to the City, to enter into contracts, and to protect the public peace, morals, health, safety, and general welfare. In the exercise of the City's powers, the Council may enact ordinances, rules, and regulations, and take such other action as may be required, not inconsistent with law, to:

- (1) Declare as a hazard or nuisance any act or condition which is or may be dangerous to the health, safety, morals, or welfare of the inhabitants of the City; to provide for the abatement thereof; and to provide that the costs of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located;
- (2) Provide for the public welfare by:
 - (a) Regulating trades, occupations, and amusements within the City, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;
 - (b) Regulating the preparation, storage, transportation and sale of foods, drugs, and beverages for human consumption;
 - (c) Collecting and disposing of garbage and rubbish;
 - (d) Licensing, regulating, and limiting the number and locations of oil and gasoline stations;
 - (e) Licensing, regulating, and limiting the number of vehicles which carry persons or property for hire, fixing the rates of fare and charges, and determining the location of stands for such vehicles;
 - (f) Licensing, regulating, and limiting the number and locations of billboards and advertising signs;

(g) Directing and regulating the construction, erection, alteration, equipment, repair, moving, removal, demolition, occupancy, and maintenance of buildings and structures and their appurtenances and service equipment;

(h) 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;

(i) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent and suppress fires;

(j) Regulating and controlling the use of streams, waters, and watercourses within the City;

(3) Establish and control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:

(a) Creating and vacating the same and acquiring and disposing of the land, or any interest in land, required therefor;

(b) Providing a plan of streets and alleys within the City and for a distance of not more than three miles beyond its limits;

(c) Requiring the owners of real property to build and maintain public sidewalks abutting upon such property, and upon the failure of any owner to do so, constructing and maintaining such sidewalks and assessing the cost thereof, or such part of such cost as the Council shall establish by ordinance, against such property as a special assessment;

(d) Compelling all persons to care for the space between street curbs and the sidewalks 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;

(e) Compelling persons to keep sidewalks which abut upon premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, or any other object which obstructs such sidewalks, or which makes the same offensive or hazardous to the public health or safety;

(f) Providing for the grade of streets and requiring public utility users of the streets to conform thereto with respect to their tracks or facilities located on, above, or under the streets; requiring railroads or street railroads to keep their tracks and the street surface between, and for a distance of one foot on each side of them and other utility facilities in the streets, in reasonable repair at all times; and requiring railroads to give warning by person or automatic signal of the approach of trains upon or across the streets and to light all such crossings at night;

(g) 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;

(h) Providing for and regulating the lighting of streets and alleys;

(i) Preventing and abating the encumbering of streets and alleys or any part thereof;

(j) 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;

(k) Providing for the use by others than the owner thereof of any property located on, or under, or above streets, alleys, and other public property, which is devoted to public utility purposes, upon the payment of a reasonable compensation therefor to the owner;

(4) Undertake any public work or make any public improvement or any repair or replacement thereof either directly or by contract with 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;

(5) Construct, provide, maintain, extend, operate, regulate, and improve:

(a) Within the City; a City Hall; community buildings; police stations, fire stations; a civic auditorium; and polling places; and,

(b) Either within or without the corporate limits of the City or of Livingston County; public parks; recreation grounds and stadiums; Municipal camps; public grounds; zoological gardens; museums; airports and landing fields; cemeteries; public wharves and landing upon navigable waters; levees and embankments for flood control and other purposes related to the public health, safety, and welfare; electric light and power plants and systems; gas plants and systems; public heating plants and systems; waterworks and water treatment plants and systems; sewage disposal plants and systems; storm sewers; garbage disposal

facilities; refuse and rubbish disposal facilities; market houses and market places; facilities for the storage and parking of vehicles; hospitals; facilities for the docking of pleasure crafts and hydroplanes; and any other structure or facility devoted to or intended for public purposes within the scope of the powers of the City.

(6) Acquire by purchase, gift, condemnation, construction, lease, or otherwise, property, and interests in property, either within or without the corporate limits of the City or of Livingston County, for any public use or purpose within the scope of its powers, including, but not by the way of limitation, the uses and purposes set forth in clause (5) of this section, including the necessary lands therefor;

(7) Join with any municipal corporation or with any other unit of government, 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;

(8) Provide for the public peace and health and for the safety of persons and property.

Section 3.3 Exercise of Powers.

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities or townships, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the City and its inhabitants. Where no procedure for the exercise of any power of the City is set forth, either in this Charter or in any statute of the State of Michigan, the Council may prescribe by ordinance a reasonable procedure for the exercise thereof.

Section 3.4 Continuation of Rights and Liabilities.

The adoption of this Charter shall not be regarded as discharging, impairing, or limiting any right vested in or liability incurred by the City of Howell at the time of the adoption of this Charter.

CHAPTER 4

GENERAL PROVISIONS AFFECTING OFFICERS OF THE CITY

Section 4.1 Officers to be Elected.

The elective officers of the City shall be a Mayor, six Councilmen, three members of the Board of Review, and one Municipal Judge, each of whom shall be elected from the City at large.

[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but has been superseded by Michigan State Legislative Action.

Section 4.2 The Administrative Officers.

The administrative officers of the City shall be the City Manager, Assessor, Attorney, Chief of Police, Clerk, Fire Chief, Health Officer, and Treasurer. The Council may, by resolution, upon the recommendation of the City Manager, create such additional administrative offices, or combine any administrative offices, in any manner not inconsistent with State law, and prescribe the duties thereof as it may deem necessary for the proper operation of the City government. No creation of any administrative office, or combination thereof one with another, shall abolish the office of City Manager nor diminish any of the duties or responsibilities of that office as set forth in this Charter.

Section 4.3 Terms of Elective Officers.

The terms of office of Councilmen shall be for four years. The term of office of the Mayor shall be for two years. The term of office of the Municipal Judge shall be for six years. The terms of office of all elected officers of the City except the Municipal Judge, shall commence on and date from the Monday following the regular City election at which they are elected. The term of office of the Municipal Judge shall commence on and date from the first of January next following his election.

[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but has been superseded by Michigan State Legislative Action.

Section 4.4 Administrative Officers; Appointment, Terms, and Remuneration.

(a) The City Manager, Assessor, Attorney, Clerk, Treasurer and Health Officer shall hold office by virtue of appointment by the Council which body shall also set their salaries. They shall hold office at the pleasure of the Council.

(b) All administrative officers of the City except the City Manager, Assessor, Attorney, Clerk, Treasurer and Health Officer shall be appointed or selected by the City Manager, subject to the confirmation of each appointment by the Council, and shall serve at the pleasure of the City Manager who shall set their salaries

and wages in accordance with budget appropriations.

(c) All personnel employed by the City who are not elected officers or members of a board created by this Charter or declared to be administrative officers by or under authority of this section shall be deemed to be employees of the City.

Section 4.5 Eligibility for Office in City.

No person shall be elected or appointed to any office who is in default to the city. The election or appointment of any such defaulter shall be void. No person shall be eligible to any office of the city, other than that of City Manager, unless he shall be a registered elector of and a taxpayer to the city, and shall have been a resident of the city or of any territory comprising the city for at least one year for elective office immediately prior to the date of the election at which he is a candidate for office, or two years immediately prior the date of his appointment to office.

(Amended in 1988)

Section 4.6 Vacancies in Office.

Every City office shall become vacant upon the happening of any of the following events before the expiration of the term of such office:

1. The death of the incumbent;
2. His resignation;
3. His removal from office;
4. His conviction of any infamous crime or of any offense involving a violation of his oath of office;
5. His conviction of a violation of this Charter;
6. The decision of any competent tribunal, declaring his election or appointment to be void;
7. If the officer of the City shall absent himself continuously from the City for more than sixty days without the permission of the Council;
8. In the case of the Mayor and members of the Council, where such officer shall miss four consecutive regular meetings of the Council or twenty-five per cent of such meetings in a fiscal year of the City, unless such absence shall be excused by the Council at the time of the absence and the reason therefor entered in the proceedings of the Council;
9. If the officer shall be convicted of any act constituting misconduct in office under the provisions of this Charter.

(Amended in 1966)

Section 4.7 Resignations.

Resignations of elective officers and of the City Manager, Assessor, Attorney, Clerk, and Treasurer shall be made in writing and filed with the Clerk or Mayor, and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk or Mayor, as the case may be. Resignations of appointive officers, other than the City Manager, Assessor, Attorney, Clerk, and Treasurer, shall be made in writing to the City Manager, and shall be immediately acted upon by him.

Section 4.8 Filling Vacancies.

(a) If a vacancy occurs in any elective office or in the office of Assessor, Attorney, Clerk, or Treasurer, the Council shall, within thirty days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of the office in which the vacancy exists to fill such vacancy for the balance of the term of the person whose office is so filled. A vacancy in the office of City Manager shall be filled within ninety days.

(b) If a vacancy occurs in any appointive office, other than that of City Manager, Attorney, Assessor, Clerk, or Treasurer, the Council shall, within thirty days thereafter, appoint a qualified person to fill such vacancy in the manner required for making the original appointment.

Section 4.9 Term of Office Cannot Be Shortened or Extended.

Except by procedures provided in this Charter, the terms of the elected officials of the City and of officers of the City appointed for a definite term shall not be shortened. The terms of officers of the City may not be extended beyond the period for which any such officer was elected or appointed except that, with the consent of the Council, an elective officer of the City may, after his term has expired, continue to hold office, provisionally, until his successor is elected and has qualified.

Section 4.10 Increase or Decrease of 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 to a fixed term of office.

Section 4.11 Oath and Bond of Office.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State and shall file the same with the Clerk, together with any bond which he may be required by this Charter or by the Council to give. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. In 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 thereupon become vacant, unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 4.12 Surety and Fidelity Bonds.

Except as otherwise provided in this Charter, the Council may require any officer or employee to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in such sum as the Council shall determine. All such officers or employees receiving, disbursing, or responsible for the City funds shall be bonded. The resignation or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer or employee or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City, except as otherwise provided in this Charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No bond, except that of the Municipal Judge, shall be issued for a term exceeding two years. The requirements of this section may be met by the purchase by the City of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the City.

Section 4.13 Delivery of Office and Its Effects by Officer to His Successor.

Whenever any officer or employee shall resign, be removed from office or employment, or the term for which any officer has been elected or appointed has expired, he shall, on demand, deliver to his successor in office or to his superior all the books, papers, moneys, and effects in his custody as such officer or employee, and which in any way appertain to his office or employment. Every person violating this provision shall be deemed guilty of a violation of this Charter, and may be proceeded against in the same manner as public officers generally for a like offense under the general laws of the State, now or hereafter in force and applicable thereto. Every officer and employee of the City shall be deemed an officer within the meaning and provisions of such general laws of the State for the purposes of this section.

CHAPTER 5 THE CITY COUNCIL

Section 5.1 City Governing Body.

All powers of the City shall be vested in and all matters of policy of the City shall be exercised and determined by a Council of seven members composed of the Mayor and six Councilmen.

Section 5.2 Council to Judge Qualification of Its Members.

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

Section 5.3 Salaries of Members of the Council.

The Mayor shall receive as remuneration for his services to the City the sum of \$500 per year and each Councilperson shall receive the sum of \$10 per Council meeting attended for a sum not to exceed \$400 per year. Such remuneration shall be payable semiannually, and, except as otherwise provided in this Charter, shall constitute the only salary or remuneration which may be paid for services performed by the Mayor or any Councilperson for the discharge of any official duty for or on behalf of the City during their term of office. Upon authorization of the City Council, reasonable expenses may be allowed when actually incurred on behalf of the City.

(Amended in 1966)

[Editor's Note] The provision for salaries has been superseded by Michigan State Legislative Action.

Section 5.4 Duties of Mayor.

(a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the City. He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power.

(b) He shall be a conservator of the peace, and may exercise within the City the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City, and to suppress riot and disorderly conduct.

(c) He shall authenticate by his signature such instruments as the Council, this Charter, or the laws of the State of Michigan or of the United States shall require.

Section 5.5 Mayor Pro Tem.

The Council shall, at its first regular meeting following each regular biennial City election, select one of its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor when, on account of absence from the City, disability or otherwise, the Mayor is temporarily unable to perform the duties of his office, and, in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. In the event of a vacancy occurring in the office of Mayor Pro Tem, the Council shall appoint from its membership to fill such vacancy and, in the time of emergency, members of the Council may act as Mayor Pro Tem in the order of the number of votes received by them at their election, until a Mayor Pro Tem is so appointed.

Section 5.6 Meetings of the Council.

(a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings in each month. If any time set for the holding of a regular meeting of the Council shall fall on a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

(b) Special meetings of the Council may be called by the Clerk on the written request of the Mayor or of any two members of the Council, on at least six hours written notice to each member of the Council, designating the time, place, and purpose of any such meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have, in writing, waived the requirement that notice be given at least six hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present, shall be a legal meeting.

(c) No business shall be transacted at any special meeting of the Council, unless the same has been stated in the notice of such meeting. However, if notice of the special meeting is duly given and if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.

(d) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four 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, two members or more may adjourn any regular or special meeting to a later date.

(f) The Council shall determine its own rules and order of business and shall keep a journal in the English language of all of its proceedings, which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions, shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g) The Council may, by a vote of not less than two of its members, compel the attendance of its members and other officers of the City at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the City who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police or, in his absence, his assistant in command of the City police shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

Section 5.7 Health.

The Council, together with the City Manager, shall constitute the Board of Health of the City. The Board of Health shall adopt rules and regulations for their own government and shall possess all powers, privileges, and immunities granted to boards of health by State law. The Board of Health shall have supervision of all matters relating to the sanitary condition of the City and the preservation of life and health of its inhabitants. The Mayor shall be President and the Health Officer shall be the executive officer of the Board of Health.

The City Clerk shall be the Secretary of the Board of Health.

Section 5.8 Restriction on Powers of the Council.

(a) Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a Councilman shall constitute misconduct in office.

(b) There shall be no standing committees of the Council.

(c) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the City. Further, the Council shall not have the power to sell any park, cemetery, or any part thereof, except where such park is not required under an official master plan of the City, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, unless approved by three-fifths of the electors voting thereon at any general or special election. Except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least four members of the Council.

Section 5.9 Investigations.

The Council, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer of the City and to make investigations as to Municipal affairs, and for that purpose may require the appearance of witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any person to appear as so required or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a violation of this Charter and shall be subject to such punishment or other procedures as are permitted by law.

Section 5.10 Publication of Council Proceedings.

The proceedings of the Council shall be published at least once within fifteen days after each meeting of the Council. The publication of a synopsis of such proceedings, prepared by the Clerk and approved by the Mayor, showing the substance of each separate proceeding of the Council shall be a sufficient compliance with the requirements of this section.

CHAPTER 6 CITY LEGISLATION

Section 6.1 Prior City Ordinances and Regulations.

All by-laws, ordinances, resolutions, rules, and regulations of the City of Howell which are not inconsistent with the provisions of this Charter, in force and effect at the time of the adoption of this Charter, shall continue in full force as by-laws, ordinances, resolutions, rules, and regulations of the City of Howell, until repealed or amended by action of the proper authorities.

Section 6.2 Ordinance Enactment.

All legislation of the City of Howell shall be by ordinance or by resolution. The word "resolution" as used in this Charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by State or Federal law and to matters 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. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be, "The City of Howell Ordains:." Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. No ordinance shall be revised, or amended by reference to its title only, but the section or sections of the ordinance revised, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the Clerk in a book to be called "The Ordinance Book"; and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures thereon.

Section 6.3 Penalties.

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any City ordinance or for the commission by any officer of the City of any act declared by this Charter to constitute misconduct in office shall exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court, except that any officer of the City found guilty of any act declared by this Charter to constitute misconduct in office, shall, in addition to such fine or

imprisonment, or both, forfeit his office.

Section 6.4 Publication of Ordinances.

Each ordinance passed by the Council shall be published at least once, within fifteen days after its adoption by the Council. All ordinances of the City shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of its publication, is specifically provided in the ordinance itself. The publication of any ordinance in full, after its final passage, as a part of the published proceedings of the Council shall constitute publication of such ordinance as required herein. An ordinance which is declared by the Council to be an emergency ordinance may be published by the posting thereof as provided in Section 2.1(8) of this Charter, provided a notice of such publication by posting be published in a newspaper meeting the requirements of such section within ten days after such posting.

(Amended Nov. 8, 1966)

Section 6.5 Technical Codes.

The Council may adopt any provision of State law or any code permitted by law as a City ordinance or code by reference thereto in an adopting ordinance and without publishing such code in full, provided that such code is clearly identified in the ordinance adopting the same, and the purpose of the code shall be published with the adopting ordinance and printed copies thereof be kept in the office of the Clerk, available for inspection by and distribution to the public at all times, and notice to that effect be published with the publication of the adopting ordinance.

Section 6.6 Franchises and Contracts.

Every ordinance or resolution granting any irrevocable franchise or right to occupy or use the streets, highways, bridges, or public places in the City for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least two weeks before the final passage or adoption thereof.

Section 6.7 Compilation or Codification.

(a) Copies of all ordinances enacted after the effective date of this Charter, and all amendments to this Charter, shall be available at the office of the Clerk.

(b) At least once in every ten years the Council shall direct the compilation or codification and the publication of the Charter and of all ordinances of the City, then in force, in loose-leaf or pamphlet form, and may provide for a reasonable charge for copies thereof. No further publication of any such compilation or codification shall be required for the validity thereof. In case the compilation or codification of the ordinances of the City shall have been maintained current and up-to-date during any ten year period, no re-compilation or re-codification of the ordinances of the City shall be required during or at the end of such period.

(c) The copies of ordinances and of any compilation, code, or codes referred to in this chapter may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

Section 6.8 Initiative and Referendum.

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

Section 6.9 Petitions.

An initiatory or a referendary petition shall be signed by not less than fifteen percent of the registered electors of the City who have signed said petition within ninety days before the date of filing the petition with the Clerk. No such petition need be on one paper, but may be aggregate of two or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature 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 ten days, canvass the signatures thereon to determine the sufficiency thereof. Any signatures obtained more than ninety days before the filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of registered electors of the City, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify forthwith the person filing such petition, and ten days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall

present the petition to the Council at its next regular meeting.

Section 6.10 Council Procedure.

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days, either:

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the City;

(b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

Section 6.11 Submission to Electors.

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any purpose, or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.

Section 6.12 Ordinance Suspended.

The certification by the Clerk of the sufficiency of a referendary petition within thirty days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be.

Section 6.13 Amendment of Ordinance Adopted by Initiative Procedure.

An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER 7 THE ADMINISTRATIVE SERVICE

Section 7.1 City Manager.

(a) The City Manager shall be the administrative agent of the Council, shall perform the duties of his office under its authority, and shall be accountable to the Council for the performance of his duties. He shall be chosen on the basis of his executive and administrative qualifications.

(b) It shall be the duty of the City Manager to:

(1) Supervise, and coordinate the work of the Clerk, except insofar as his work relates to that of Clerk of the Council; the Treasurer; the Assessor; the Police Department; the Fire Department; the Department of Public Works; the Water Department; and such additional administrative offices and departments as the Council may, from time to time create;

(2) Assemble the budgets prepared by the several administrative officers and departments of the City and present the same to the Council, with his recommendations;

(3) Establish and maintain a central purchasing service for the City;

(4) Maintain a City employment and central personnel service for City offices and departments;

(5) Maintain an inventory of City-owned property;

(6) Keep informed and report to the Council concerning the work of the several offices and departments of the City and, to that end, he may secure from the officers and heads of all administrative departments such information and periodical or special reports as he or the Council may deem necessary;

(7) In case of conflict of authority between officers and administrative departments, or in case of absence of administrative authority occasioned by inadequacy of Charter or ordinance provisions, resolve the conflict or supply the necessary authority, so far as may be consistent with law, this Charter, and the ordinances of the City, and direct the necessary action to be taken in conformance therewith; making a full report immediately, to the Council of the problem and his action thereon, with his recommendation for corrective action by the Council;

(8) Attend all meetings of the Council, with the right to take part in all discussions, but without the right to vote;

(9) Recommend to the Council, from time to time, such measures as he deems necessary or appropriate for the improvement of the City or its services;

(10) Furnish the Council with information concerning City affairs and prepare and submit such reports as may be required, including an annual report, which shall consolidate the reports of the several

departments;

(11) Possess such further powers and perform such additional duties as may be granted to or required of him, from time to time, by the Council, so far as may be consistent with State law and this Charter; and

(12) Do everything necessary and proper to execute the foregoing powers.

Section 7.2 City Clerk.

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

(b) He shall have power to administer all oaths required by State law, this Charter and the ordinances of the City;

(c) He shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the City of Howell, the custody of which is not otherwise provided for by this Charter. All records of the City shall be public and the Clerk and other officers entrusted with such records shall so maintain and keep the same that they may be available to the public at all reasonable times. He shall give to the proper officials of the City ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements to which the City is a party;

(d) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council and perform any other duties required by him by State or Federal law, this Charter, or by the Council and ordinances of the City;

(e) He 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 the 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;

(f) He shall examine and audit all accounts and claims against the City. No withdrawal shall be made from any City fund which, after deducting all withdrawals therefrom, has not a sufficient amount therein to pay such proposed withdrawal;

(g) He shall, at least quarterly, and at any time upon direction of the City Manager, examine and audit all books of account kept by any official, board, or department of the City. He shall examine and audit all books of account of the Treasurer at least once each month;

(h) He shall balance all the books of account of the City at the end of each calendar month, and shall make a report thereon to the City Manager;

(i) He shall perform such other duties in connection with his office as may be required of him by State or Federal law, this Charter, the resolutions or ordinances of the Council, or by the Council.

Section 7.3 City Attorney.

(a) The Attorney shall act as legal advisor to, and be attorney and counsel for the Council and shall be responsible solely to the Council. He shall advise the City Manager concerning legal problems affecting the administration of the City government and the Clerk, Treasurer, and Assessor concerning their statutory and Charter duties, when so requested, and shall file with the Clerk a copy of all written opinions given by him.

(b) He shall prosecute ordinance violations and shall represent the City in cases before courts and other tribunals. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(c) He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments as may be required by this Charter or by the Council, and shall promptly give his opinion as to the legality thereof.

(d) He shall attend all meetings of the Council.

(e) He shall perform such other duties as may be prescribed for him by this Charter or the Council.

(f) Upon the 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 and counsel with the Attorney therein.

Section 7.4 City Treasurer.

(a) The Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value belonging to the City or held in trust by the City;

(b) He shall receive all moneys belonging to and receivable by the City, including license fees, taxes,

assessments, and all other charges belonging to and payable to the City and shall, in all cases, give a receipt therefor;

(c) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine. He shall report the same in detail to the Clerk;

(d) He 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 conferred by law to enforce the collection of State, County, Township, and school district taxes upon real and personal property.

(e) He shall perform such other duties as may be prescribed for him by State or Federal law, this Charter, or by the Council.

Section 7.5 Deputy Clerk or Treasurer.

The Clerk and the Treasurer may appoint their own deputies, subject to the written confirmation of the Council. The Clerk and the Treasurer may terminate the status of their respective deputies at pleasure, upon the filing of a statement of such termination with the Mayor. Each deputy shall possess all the powers and authorities of his superior officer except as the same may be from time to time limited by his superior or by the Council.

Section 7.6 Assessor.

(a) The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the State.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter and the general laws of the State.

(c) He shall perform such other duties as may be prescribed for him in this Charter or by the Council.

Section 7.7 Police Department.

(a) The Police Department shall be in the immediate charge of the Chief of Police, who shall be responsible directly to the City Manager.

(b) Police officers shall have all the powers, immunities, and privileges granted to peace officers by law for the making of arrests, the preservation of order, and the safety of persons and property in the City. Any person arrested shall be taken before the proper magistrate or court for examination or trial, without unnecessary delay. Police officers shall make and sign complaints to or before the proper officers and magistrates against any person known to be, or, upon complaint or information, believed to be guilty of any violation of this Charter or ordinances of the City, or of the penal laws of the State or of the United States. For the purposes of this section, violations of the Charter or of ordinances, for which a penalty is provided, shall be deemed to be misdemeanors.

Section 7.8 Fire Department.

(a) The Fire Department shall be in the immediate charge of the Fire Chief, who shall be responsible directly to the City Manager.

(b) The Fire Department shall be responsible for the prevention and extinguishment of fires and the protection of persons and property against damage and accident resulting therefrom. The Fire Chief shall be responsible for the use, care, and management of the City's fire fighting apparatus and property. He shall conduct supervisory and educational programs to diminish the risk of fires within the City. He, or any of his authorized subordinates, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of life or property. If any person willfully disobeys any such lawful requirement, he shall be deemed guilty of a violation of this Charter.

(c) The Fire Chief or any of his authorized subordinates, with the concurrence of the Mayor, or of the City Manager, or of any two Councilmen, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of a fire. In such case no action shall be maintained against the City or any person therefor. If any person having an interest in such a building shall apply to the Council, within three months after the fire, for damages or compensation for such building, the Council may pay him such compensation as it may deem just. The Council may ascertain the amount of such damage or compensation by agreement with the owner of the property or by the appraisal of a jury selected in the same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid on account of any loss which would probably have occurred to a building, if it had not been pulled down or destroyed under authority of this section.

Section 7.9 Nepotism.

Except and unless relatives by blood or marriage of the Mayor, any Councilman, or the City Manager,

within the second degree of consanguinity or affinity, are bona fide appointive officers or employees of the City at the time of election of such officers or appointment of such City Manager, such relatives shall be disqualified from holding any appointive office or from being employed by the City, during the term for which such Mayor or Councilman was elected, or during the tenure of office of such City Manager. If the status of relationship between any employee of the City and any officer of the City changes to a relationship prohibited hereby following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

Section 7.10 Civil Service.

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

Section 7.11 Pension Plan.

The City may participate in any Statewide or Federal pension plan available to Municipal employees.

Section 7.12 Employee Welfare Benefits.

The Council shall have power to make available to the administrative officers and employees of the City and its departments and boards, any recognized standard plan of group, life, hospital, health, or accident insurance, either independently of, or as a supplement to, any pension plan provided by the City for its employees.

CHAPTER 8 MUNICIPAL COURT

Section 8.1 Municipal Court.

[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but is omitted due to being superseded by Michigan State Legislative Action. Copies of that portion of the Charter are available in the City Clerk's office, including a Charter Amendment in 1960.

CHAPTER 9 SUPERVISORS

Section 9.1 Supervisors.

[Editor's Note] The provision for Supervisors still remains a part of this Charter but is omitted due to being superseded by Michigan State Legislative Action. Copies of that portion of the Charter are available in the City Clerk's office.

CHAPTER 10 ELECTIONS

Section 10.1 Qualifications of Electors.

Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next ensuing regular or special City election, shall be entitled to register as an elector of the City of Howell in the voting district in which he resides.

Section 10.2 Election Procedure.

The general election laws of the State shall apply to and control, as near as may be, all procedures relating to registration and City elections, except as such general laws relate to political parties or partisan procedure, or require more than one publication of notice, and except as otherwise provided by this Charter.

Section 10.3 Primary Election.

A non-partisan City primary election shall be held on the date prescribed by State law for the holding of general spring primary elections. If, upon the expiration of the time for filing nomination petitions for the officers of the City with respect to which elections are to be held at the next regular City election, it appears that petitions have been filed for no more than twice the number of candidates for such office, then no primary election shall be held and the Clerk shall publish notice of such fact. It is the intent of this section that if a primary is required for any office, it shall be held for all offices which are to be filled at the next regular City election. The candidates for nomination for each City office to be filled at the next City election, in number equal to twice the number of persons to be elected to such City office, receiving the highest number of votes at any such City primary election shall be declared the nominees for election to the respective offices for which they are candidates for election and their names, or the names of persons filing petitions, or in whose behalf petitions have been filed, in cases where no primary election was held, shall be certified to the Election Commission to be placed upon the ballot for the next subsequent regular City

election. No person whose name is not printed on the primary election ballot, but whose name is written on or appears on the ballot on a sticker pasted thereon by the voter at such election, shall be nominated for election to any office unless he shall receive at least twenty-five votes nominating him for such office. To the extent that voting machines are used in City elections, the provisions of law pertaining to voting on voting machines shall apply to and govern the conduct of such elections.

[Editor's Note] The provision for a spring election has been superseded by Michigan State Legislative Action.

Section 10.4 Regular City Elections.

Except as otherwise provided in the Charter, a non-partisan regular City election shall be held on the first Tuesday following the first Monday in April in each odd numbered year.

[Editor's Note] The provision for an April election has been superseded by Michigan State Legislative Action. Currently such elections are in November.

Section 10.5 Special Elections.

Special City elections shall be held when called by resolution of the Council at least forty-five days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more than two special City elections shall be held in any one calendar year.

[Editor's Note] The provision for the time for notice for special City elections has been superseded by Michigan State Legislative Action.

Section 10.6 Election Commission.

An Election Commission is hereby created, consisting of the Clerk, Treasurer, and City Attorney. The Clerk shall be Chairman. The Commission shall have charge of all activities and duties required of it by State law and this Charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

Section 10.7 Notice of Election.

Notice of the time and place of holding any City primary or election and of the officers to be elected and the questions to be voted upon, shall be given by the Clerk by publication at least once in some newspaper published or of general circulation in the City and, if deemed advisable by the Council, by posting in five or more conspicuous places in the City not less than ten days prior to such election. Notice of all other elections in the City shall be given in the same manner and at the same times as provided in the State election laws for the giving of notices in State elections.

Section 10.8 Voting Hours.

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

Section 10.9 Nomination Petition.

Persons desiring to qualify as candidates for any elective office under this Charter shall file a petition therefor with the Clerk, signed by not less than twenty-five nor more than fifty registered electors of the City, accompanied by the sworn affidavit of the circulator thereof as to the genuineness of the signatures thereon, not later than 5:00 o'clock p. m., on the seventh Friday prior to the date of the regular City primary. Official blank petitions in substantially the same form as required by State law for State and County officers, except for references to party, shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petitions to any person, he shall place his initials thereon and enter thereon in ink or typewriter the name of the person in whose behalf the petition is to be circulated, and the name of the office for which he is to be a candidate. The Clerk shall keep a record of all petitions issued from his office. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one week before, and not more than three weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

[Editor's Note] The provision for the time for filing the Nominating Petition and the date for filing Nominating Petition has been superseded by Michigan State Legislative Action.

Section 10.10 Approval of Petitions.

The Clerk shall accept for filing only nomination petitions on official blanks which were initialed by him at the time of issuance from his office and which contain the required number of signatures for candidates having those qualifications required for elective City officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, within five days after receipt thereof, determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition.

Section 10.11 Public Inspection of Petitions.

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

Section 10.12 Form of Ballots.

The form of the ballot used in any City primary or election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any City ballot. In all other respects, the printing and numbering of ballots shall conform to the general laws of the State relating to elections.

Section 10.13 Canvass of Votes.

The Election Commission shall be the board of canvassers to canvass the votes cast at all primaries and elections under this charter. The Election Commission shall meet at 7:30 o'clock p.m., in the city hall on the day next following each city primary and election and publicly canvass the returns of such election, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been nominated for election or elected at such primary or election. The candidate, or candidates, where more than one are to be elected to the same office, who shall receive the greatest number of votes, shall be declared to be nominated or elected, as the case may be.

[Editor's Note] This section was eliminated per Public Act 65 of 1968.

Section 10.14 Tie Vote.

If, at any City primary or election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Council shall name a time and place for the appearance of such persons for the purpose of determining the nomination or election of such candidate by lot as provided by State law. Such determination shall be final.

Section 10.15 Recount.

A recount of the votes cast at any City primary or election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

Section 10.16 Recall.

Any elective official may be removed from office by the electors of the City in the manner provided by the general laws of the State. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

CHAPTER 11 GENERAL FINANCE; BUDGET PROCEDURE

Section 11.1 Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the 30th day of June of the following year. Such year shall constitute the budget year of the City government.

Section 11.2 Budget Procedure.

On or before the second Monday in February, each City officer shall submit to the City Manager an itemized estimate of the expenditures for the next fiscal year, for the department or activities under his control. The City Manager shall prepare a complete itemized budget for the next fiscal year and shall submit it to the Council on or before the second Monday in April.

Section 11.3 Budget Document.

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

(a) Detailed estimates of all proposed expenditures for each department and office of the City, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current year;

(b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years;

(d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues, which, together with income from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting schedules as the Council may deem necessary.

Section 11.4 Adoption of Budget; Tax Limit.

Not later than the third Monday in May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution appropriate the money required for such budget and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for Municipal purposes, which levy shall not exceed two per cent of the assessed valuation of all real and personal property subject to taxation in the City.

Section 11.5 Transfer of Appropriations.

After the budget has been adopted, no money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation. The Council may transfer any unencumbered appropriation balance, or any portion thereof, from one department fund, or agency to another. The balance in any appropriation, which has not been encumbered, at the end of the fiscal year shall revert to the General Fund and be reappropriated during the next fiscal year.

Section 11.6 Budget Control.

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 income and expenses to date, and if it shall appear that the income is 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 cash income.

Section 11.7 Depository.

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

Section 11.8 Contractual Claims Against City.

(a) All contractual claims against the City shall be filed with the Clerk, who shall transmit them to the Council.

(b) The Clerk shall verify the correctness of each claim and, subject to further procedures established by the Council for auditing and approving claims, he shall approve for payment each claim so verified, if a sufficient appropriation is available for the purpose, and, upon the approval of the payment thereof by the Council, shall draw and sign a check therefor. Each such check shall be countersigned by the Treasurer, who shall make a proper entry thereof in his books of accounts. Any officer who signs or countersigns a check on any funds of the City, except as herein provided, shall be deemed guilty of a violation of this Charter.

Section 11.9 Notice to City of Claims for Injuries.

The City shall not be liable in damages for injury to persons or property by reason of negligence of the City, its officers, or employees, or by reason of any defective highway, public work, public service improvement, or facility of the City, or by reason of any obstruction, ice, snow, or other encumbrance thereon, unless, within sixty days after such injury occurred, the person damaged or his representative causes to be served upon the Clerk a written notice, stating that such person intends to hold the City liable for such damages. Such notice shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. No person shall bring action against the City for damages to person or property arising out of any of the reasons or circumstances aforesaid, unless brought within the period prescribed by law, nor unless he has first presented to the Clerk a claim in writing and

under oath, setting forth specifically the nature and extent of the injury and the amount of damages claimed. Such claim shall be presented to the Council for action. It shall be a sufficient bar to any such claim that the notice of injury and the verified proof of claim required by this section were not filed within the time and in the manner herein provided.

Section 11.10 Independent Audit.

The Council shall provide for an independent audit of all the City government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by auditors experienced in municipal accounting. The results of such audit shall be made public in such a manner as the Council may determine. An annual report of the City's business shall be made available to the public by the City Manager, either in pamphlet form or by publication in a newspaper, setting forth pertinent facts concerning the activities and finances of the City government, as determined by the Council.

CHAPTER 12 TAXATION

Section 12.1 Power to Tax.

In order to carry out its purposes, powers, and duties of the City government established by this Charter, the City may assess, levy, and collect ad valorem taxes, rents, tolls, and specific or excise taxes.

Section 12.2 Subjects of Taxation.

The subjects of ad valorem taxation for Municipal purposes shall be the same as for State, County, and school purposes under the general law.

Section 12.3 Tax Procedure.

Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by law. In the event of failure of any tax through the defective procedure of any assessment, collection, or sale, the Council may provide for its reassessment upon the property chargeable therewith in the first instance.

Section 12.4 Exemptions.

The power of taxation shall not be surrendered or suspended by any grant or contract to which the City shall be a party. No exemptions from ad valorem taxation shall be allowed, except such as are expressly required or permitted by law.

Section 12.5 Personal Property; Jeopardy Assessment.

If the Treasurer finds that any person, who is or may be, liable for taxes upon personal property, the taxable situs of which was in the City on tax day, intends to depart from the City or to remove therefrom personal property, which is, or may be, liable for taxation, or intends to conceal himself or his property, or intends to do any other act tending to prejudice, or to render wholly or partly ineffectual, the proceedings to collect the tax, unless proceedings therefor cannot be brought without delay, he shall cause notice of his finding to be given such person, together with a demand for the immediate payment of the tax. Thereupon, the tax shall become immediately due and payable and the Treasurer shall have and exercise all the powers granted by law to township and city treasurers for the collection thereof. If the exact amount of any such tax has not, at the time of such finding, been determined because the same has not been spread upon the tax roll, the Treasurer shall estimate the amount of the tax upon such personal property and the estimate shall be presumed to be the amount of tax upon such property which, together with other taxes which have accrued thereon, shall become payable as hereinabove provided. The tax so estimated by the Treasurer shall, upon the giving of the notice herein provided, become a lien upon the property liable for the tax. The lien shall be of the same type and legal effect as the lien upon personal property provided in Section 12.18 of this chapter. If the estimate of the Treasurer is in excess of the amount of tax spread against such property upon the tax roll, he shall refund the excess upon the demand of the person from whom it was collected or his legal representative. If such person furnishes evidence, satisfactory to the Treasurer, by bond or otherwise, that he will duly pay the tax or taxes to which the Treasurer's finding relates, then such tax or taxes shall not be payable prior to the time otherwise fixed for payment thereof.

Section 12.6 Assessment.

The Assessor shall, annually, prepare an assessment roll of all property in the City and shall place a value, in accordance with law, upon all taxable property, both real and personal, in the City. The value shall be determined by the Assessor in accordance with established assessment rules, techniques, and procedures. The value shall be determined according to the facts existing of the date fixed by law as tax day, for the

assessment of property throughout the State, for the year for which the roll is made, and no change of the status or of the location of any such property, after that day, shall be considered by the Assessor or the Board of Review.

Section 12.7 Assessment Procedure.

The process of assessment of property within the City for the purpose of taxation shall be continuous, but all assessments, as the same shall appear on the annual assessment and tax rolls of the City, shall be corrected by the Assessor to and shall stand as of the tax day of the year to which they apply.

Section 12.8 Time for Making Assessment Rolls.

On or before the first day of the meeting of the Board of Review in each year, the Assessor shall complete and certify an assessment roll in the manner and form required by law. In making such assessment roll, the Assessor shall possess all the powers and immunities vested in, and shall be charged with all the duties imposed upon, assessing officers by law. On the date and at the time of convening of the Board of Review in each year the Assessor shall deliver the completed assessment roll to the Board of Review. Such roll may be divided into two or more volumes, which shall be identified by the Assessor, for the purpose of convenience. The attachment of any certificate or warrant, required by this chapter, to any volume of the roll, either as an assessment roll or as a tax roll, shall constitute the attachment thereof to the entire roll, provided the several volumes thereof are identified in such certificate or warrant.

Section 12.9 Notice of Change of Assessments.

The Assessor shall give notice by first class mail to each owner of property which has been added to the assessment roll or the value of which has been increased or decreased on such roll. The notice shall be addressed to the owner according to the records of the Assessor's office and mailed not less than ten days before the date of the convening of the Board of Review. Neither the failure of the Assessor to give notice nor the failure of a person to receive notice shall invalidate any assessment roll or any assessment thereon.

Section 12.10 Board of Review.

(a) The Board of Review shall be composed of three members as provided for in Section 4.1 of this Charter. The terms of office of each member of the Board of Review shall be for four years. At each City election held in a year following a presidential election year, two members of the Board of Review shall be elected. At each other regular City election, one member of the Board of Review shall be elected. The Council shall fix the compensation of the members of the Board of Review.

(b) The Board of Review shall convene at nine o'clock in the forenoon on the third Monday in March in each year at the Council Chambers and shall continue in session for six hours during that day and each of the following three days for the purpose of examining and reviewing the assessment roll of the City. The Council may, by appropriate action, extend this period. On the first day of its meeting in each year, the Board shall elect one of its members Chairman. The Board shall have all powers vested in and be charged with all duties imposed by law upon boards of review in townships.

Section 12.11 Notice of Meetings of Board of Review.

The Council shall provide for giving notice to the public of the time and place of the meeting of the Board of Review. Such notice shall be given not less than ten days before the convening of the Board and as often thereafter as the Council deems fit. If, for any reason, the meetings of the Board are not held, as in this chapter required, the Council shall give such further notice as time and circumstances warrant.

Section 12.12 Notice of Assessment Changes.

The Board of Review shall give notice, prior to adjournment, to each owner of property according to the records of the Assessor's office, whose property is added to the assessment roll by it, or the value of whose property is increased or decreased thereon by it. Neither the failure on the part of the Board of Review to so give notice in any particular case, nor the failure of a person to receive notice, shall invalidate the assessment roll or any assessment thereon.

Section 12.13 Confirmation of Assessment Roll.

The Board of Review shall hold a meeting on the Monday following the date of its first session, and, at that meeting, shall complete the review of the assessment roll submitted to it by the Assessor and shall endorse and approve the same as provided and required by law. The omission of such endorsement shall not affect the validity of such assessment roll. If, for any cause, a quorum of the Board of Review does not assemble, or in the event that the Board fails or refuses to act during the days set for the meeting thereof, the roll as prepared by the Assessor shall stand as if approved by the Board of Review, without further formality. After the review of the assessment roll has been completed and the roll endorsed and signed, as required by law, the

Board of Review shall redeliver the roll to the Assessor.

Section 12.14 Records of the Board of Review.

The Assessor shall be the Secretary of the Board of Review, shall attend its meetings with the privilege of participating therein, but without the right to vote upon any decision made by the Board, shall give the Board information relating to matters under consideration by it, and shall keep a permanent record of all proceedings of the Board, which record shall be filed with the Clerk within thirty days after the adjournment of the Board.

Section 12.15 Validity of Assessment Roll.

Upon the completion of the roll and from and after midnight ending the last day of the meeting of the Board of Review, the same shall be the assessment roll of the City for County, school, and City taxes on real and personal property that may be authorized by law, and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the general laws of the State.

Section 12.16 Clerk to Certify 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 general tax, together with such assessments and other lawful charges as the Council shall authorize to be spread against or charged to property and persons appearing upon the roll.

Section 12.17 City Tax Roll.

Upon receiving the certification of the amount to be raised, as provided in the preceding section, the Assessor shall proceed to spread the amounts of the general City tax upon the assessment roll according to and in proportion to the several valuations set forth therein. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount permitted by law, which added amount when collected shall be credited to the General Fund of the City. Assessments and other lawful charges authorized by the Council to be spread against or charged to property or persons upon the roll shall also be spread and charged thereon as directed by the Council.

Section 12.18 Taxes Lien on Property.

The City taxes thus assessed against personal property shall become at once a debt due to the City from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall on the first day of July become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien, prior, superior, and paramount, upon all personal property of the person so assessed from and after the first day of July in each year and shall so remain until paid. Such tax liens shall take precedence over all other claims, encumbrances, and liens upon the said personal property, whether created by chattel mortgage, execution, levy, judgment, or otherwise, and whether arising before or after the assessment of said personal property taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy the lien, except where the personal property is actually sold in the regular course of retail trade.

Section 12.19 Tax Roll Certified for Collection.

(a) After extending the taxes aforesaid and not later than the second Monday in June in each year, the Assessor shall certify the tax roll, and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax, assessment, or charge, and granting to and vesting in him, for the purpose of collecting the taxes, assessments, and charges on the roll, all the power and immunities granted by law to township treasurers for the collection of taxes.

(b) The Assessor shall, at the same time, deliver to the Clerk a statement showing the amount of the taxes assessed upon the roll and the Clerk shall make an entry thereof in the books of his office and charge the gross amount thereof to the Treasurer.

Section 12.20 Notification of Taxes Due.

The Treasurer shall not be required to make personal demand for the payment of taxes, but, upon receipt of the City tax roll by him, he shall forthwith mail a tax statement to each person named in the tax roll and shall give at least six days' notice of the date upon which City taxes are due, by publication in a newspaper of the City, which notice shall be sufficient demand for the payment of all taxes assessed in the City tax roll. Neither the failure on the part of the Treasurer to give notice or to mail a tax statement, nor the failure of any person to receive the notice or the tax statement, shall invalidate the taxes on the tax roll or release any person or property assessed from the penalty provided in this chapter in case of nonpayment.

Section 12.21 Tax Payment Schedule.

The taxes, charges and assessments on each City tax roll shall be due and payable on the first day of July of the fiscal year in which levied. All such taxes, charges, and assessments which are paid on or before the thirty-first day of July of such year shall be collected by the Treasurer without the addition of any fee or charge for the collection thereof. There shall be added to all taxes, charges, and assessments on such tax roll which remain unpaid after the said thirty-first day of July a collection fee of one-half of one per cent during the month of August and an additional one-half of one per cent per month during each and every month or fraction of a month which shall elapse thereafter before the payment of such taxes, charges, or assessments is made, until the twentieth day of February next following the date that such taxes, charges or assessments became due and payable. All such collection charges, when paid, shall be paid into the City's treasury for the use and benefit of the City. Upon all City taxes, charges, and assessments returned to the County Treasurer upon any delinquent tax roll, a charge of three and one-half per cent shall be added and the same shall be collected by the County Treasurer in like manner as and together with the taxes, charges, and assessments so returned.

Section 12.22 Procedure for Collecting Taxes on Personal Property.

Respecting taxes levied against personal property, the Treasurer shall have power to levy upon and sell at public sale the personal property of a person refusing or neglecting to pay the tax, in the manner provided by law and shall have the same powers respecting the property assessed and the person who is the owner or custodian thereof as provided by law for the collection of such taxes.

Section 12.23 State, County, and School Taxes.

For the purpose of assessing and collecting taxes in the City for State, County, and school purposes, the City shall be considered the same as a township, and all provisions of law relative to the collection of such taxes, the accounting therefor to the appropriate taxing units, and the returning of taxes to the County Treasurer for nonpayment thereof shall apply to the performance thereof by the Treasurer, who shall perform the duties and have the powers granted to a township treasurer by law. Collection fees charged and collected for the collection of such taxes shall be paid into the General Fund of the City.

Section 12.24 Lien for Taxes, Assessments, and Charges.

All taxes, assessments, and charges spread on tax rolls shall, until paid, be a lien upon the property against which they were levied.

Section 12.25 Proportioning of Tax on Portion of Taxed Items.

Any person owning an undivided share or other part of any parcel of real property, assessed as one description, may pay the taxes assessed against such description or may pay the share or part owed by him by paying an amount having the same relation to the whole tax as the value of the part on which payment is made bears to the value of the whole description. The receipt given and the record of the Treasurer shall show the payment and the interest with respect to which it was made.

Section 12.26 Protection of City Lien.

Consistent with the provisions of law, the City shall have power to acquire any premises within the City, either by purchase at any tax or other public sale, or by purchase from the State or the fee owner, when the purchase of such property is necessary to protect the lien of the City for any City taxes, assessments, and charges. The City may hold, lease, or sell the property so acquired. Any such acquisition shall be deemed for a public purpose.

CHAPTER 13 BORROWING POWER

Section 13.1 General Borrowing.

Subject to the applicable provisions of law, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created thereby; provided, that the net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percentum of the assessed value, of all the real and personal property in the City. The provisions of this section shall include and be subject to the powers permitted and the limitations set forth in Sections 4(a), 4(b), 4(c), 4(d), and 5 of Act No. 279 of the Public Acts of 1909, as amended.

Section 13.2 Special Assessment Bonds.

The Council shall, subject to the applicable provisions of the general laws of the State, having authority to borrow money in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement or in anticipation of the payment of any combination of such special assessments and to issue bonds therefor. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose.

Section 13.3 Mortgage Bonds.

When the City is authorized to acquire, own, or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law in accordance with the provisions of law pertaining thereto.

Section 13.4 Other Bonds.

The City shall have power to issue revenue or other types of bonds in the manner and for the purposes permitted by the Constitution and general laws of the State of Michigan.

Section 13.5 Preparation and Record.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose except that whenever the proceeds of any bond issue, or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the affirmative vote of 5 members, authorize the use of such unexpended and unencumbered funds for the retirement of such bond issue, or, if such bond issue shall have been fully retired or if any of such funds remain after such retirement, then for the retirement of other bonds or obligations of the City. All bonds and 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 signatures of the Treasurer. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "cancelled." Any officer who shall violate the provisions of this section shall be deemed guilty of misconduct in office.

Section 13.6 Unissued Bonds.

No unissued bonds of the City shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not issued or sold within five years after authorization, such authorization shall, as to such bonds, be null and void.

CHAPTER 14 SPECIAL ASSESSMENTS

Section 14.1 General Powers Relative to Special Assessments.

The Council may determine the necessity for any public improvement, and determine that the whole or any part of the cost thereof shall be defrayed by special assessment upon the property especially benefited. The Council may authorize public improvements other than those for which petitions have been filed, whether the cost thereof is to be defrayed from the General Fund of the City or by special assessments upon the property especially benefited.

Section 14.2 Petitions for Public Improvements.

Petitions for making public improvements, any part of the expense of which is to be borne by special assessments, shall be filed with the Clerk. All such petitions filed during any calendar year shall be considered by the Council not later than January 31st of the next calendar year.

Section 14.3 Preliminary Resolution for Public Improvement.

No contract or expenditure, except for the necessary procedures of the Council and for the preparing of necessary profiles, plans, specifications, and estimates of cost, shall be made for any public improvement, the cost of which is to be paid by special assessment upon the property especially benefited thereby, until the Council has passed a resolution determining to proceed with such public improvement.

Section 14.4 Assessments on Single Lots.

When any expenditure is made on account of any separate or single lot, parcel of land, or lands, or

premises, which, by the provisions of this Charter or by law, the City is authorized to charge and collect as a special assessment against the same, and which assessment is not of that class of special assessment required to be made pro rata upon lots or parcels of land in a special assessment district, a statement of the labor or services for which such expenditure was incurred, verified by the City Manager, with a description of the lot and the name of the owner or person chargeable therewith, if known, shall be reported to the Council in the manner prescribed by it. The Council shall determine the part of such expenditure that shall be charged, and the person against whom, if known, and the premises upon which the same shall be levied, as a special assessment. As often as the Council deems expedient, the Clerk shall give notice of the several amounts so determined and reported to the several persons chargeable therewith. Such notice shall be sent by first class mail to the last known addresses of such persons as shown on the assessment roll of the City, or by publication. Such notice shall state the basis of the assessment, and the amount thereof, and shall give a reasonable time, not less than thirty days, within which payment shall be made to the Treasurer. In all cases where payment is not made within the time set, the fact shall be reported by the Treasurer to the Assessor, who shall charge such amounts, together with a penalty of ten per cent of such amounts, against the persons or real property chargeable therewith, on the next tax roll.

Section 14.5 Special Assessment Procedure by Ordinance.

The Council shall, by general ordinance, prescribe a complete special assessment procedure.

Section 14.6 Poverty Provisions.

In any instance where, in the opinion of the Council, the owner of any property which is assessed to defray any part of the cost of making any public improvement benefiting such property is unable to contribute toward the cost thereof because of poverty, the City may take from the owner a trust deed or assignment of the property so assessed, in lieu of the payment of such assessments in cash. Such trust deed shall not deprive the owner of such property of full right to use and occupy such property so long as he shall live and shall contain a clause to the effect that such deed shall cease to be effective upon the payment of the assessments which have accrued and become payable upon the property.

Section 14.7 Special Assessment Accounts.

Except as otherwise provided in this Charter, moneys raised by special assessment to defray the cost of any public improvement shall be held in a special fund to pay only such cost and, to the extent required, to repay any money borrowed or advanced therefor and the accrued interest thereon.

Section 14.8 Contested Assessments.

No suit or action shall be instituted or maintained for the purpose of contesting or enjoining the collection of a special assessment unless written notice, stating an intention to contest the collection thereof and setting forth the grounds of such contest, is filed with the Clerk. Such notice shall be filed within fifteen days after the date of the resolution of the Council confirming the assessment roll for such improvement, or, in the case of an assessment upon a single lot or premises, ordering the special assessment. Any such suit or action must be commenced within ninety days following the giving of notice.

Section 14.9 Reassessment for Benefits.

Whenever the Council deems any special assessment invalid or defective, or whenever a court adjudges an assessment to be illegal in whole or in part, the Council may cause a new assessment to be levied for the same purpose, whether or not the improvement or any part thereof has been completed, or any part of the special assessment collected. In reassessment proceedings hereunder, it shall not be necessary for the Council to redetermine the necessity of the improvement or to hold a hearing thereon. If any portion of the original special assessment is collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall, to the extent, be deemed satisfied. If more than the amount reassessed is collected, the balance shall be refunded to the person making such payment.

CHAPTER 15

CONTRACTS; FRANCHISES; PERMITS

Section 15.1 City May Perform Public Work.

The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. Where competitive bids are secured, the City, or any City department qualified to do the work, may, at the direction of the Council, enter a bid on an equal footing with other bidders. The Council, in its discretion, shall have

the power to reject any or all bids. On all jobs where the plans thereof are required by law to be prepared by a professional engineer, or the total cost thereof exceeds \$2000. 00, each contractor shall be required to file a performance bond, to be approved by the City Attorney, covering labor and material and for the proper completion of the work. Copies of all contracts shall be filed in the office of the Clerk. The Council shall also have power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or the State of Michigan, or which is wholly or in part financed by them or either of them.

Section 15.2 Plans and Specifications.

Except as otherwise provided in this Charter, the responsibility for the preparation of plans and specifications, estimating of the cost, advertising for bids, supervision and approval of the work upon or for any public work or public improvement is vested in the City Manager.

Section 15.3 Contracts.

The letting and making of contracts is hereby vested in the Council. Whenever it becomes desirable for the City to enter into a contract with a second party for any purpose whatever, such instrument shall be drawn or approved as to form by the City Attorney and certified to by the Clerk as to sufficiency of funds appropriated for the purpose thereof.

Section 15.4 Modifications in Contracts.

When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Council. No order for such alterations or modifications shall be effective until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Council, and a copy thereof and of the proceedings authorizing such alteration or modification certified by the Clerk, and attached by him to the original contract on file in his office.

Section 15.5 Franchises.

No franchise, license, right, or privilege which is not revocable at the will of the Council shall be granted or become operative until the same has been referred to the people at a regular or special election and has received the approval of three-fifths of the electors voting thereon at such election. All irrevocable public utility franchises and all renewals, extensions, and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall be submitted to the electors at an election to be held less than thirty days after the grantee named therein has filed with the Clerk its unconditional acceptance of all of the terms of such franchise, and it shall not be submitted to a special election, unless the expense of holding the election, as determined by the Council, shall have been paid to the Treasurer by the grantee. No exclusive franchise, license, right, or privilege shall ever be granted and no franchise shall be granted for a longer term than thirty years.

Section 15.6 Licenses and Franchises Remain in Effect.

All franchises, licenses, rights, and privileges granted by the City of Howell and in force within the City on the effective date of this Charter shall remain in full force and effect until the expiration of the time for which they were respectively granted, has lapsed under conditions contained in the franchise, license, right, or privilege granted, or until the same may have been taken over by the City by purchase, condemnation, grant, revocation, or otherwise.

Section 15.7 Right of Regulation.

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 right of the City:

- (1) To repeal the same for misuse, non-use, or for failure to comply with the provisions thereof;
- (2) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (4) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) To impose such other reasonable regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

Section 15.8 Regulation of Rates.

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

Section 15.9 Revocable Permits.

Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by ordinance on such terms and conditions as it shall determine.

Section 15.10 Use of Streets by Utility.

Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use; and may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, bridges, and public places of the City, by the City, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that, in the absence of agreement, 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, which award shall be final.

CHAPTER 16 MUNICIPAL UTILITIES

Section 16.1 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, public utilities, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, and sewage treatment, and garbage disposal facilities, or any of them, to the Municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas, and other public utilities and services, without its corporate limits to an amount not to exceed the limitations set by or under authority of law.

Section 16.2 Rates.

The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power and with such other utility services as the City may provide.

Section 16.3 Utility Charges; Collection.

The Council shall provide, by ordinance, for the collection of all public utility charges made by the City and, for such purpose, shall have all the power granted to cities by Act 178 of the Public Acts of 1939 or any other provision of law. When any person shall fail or refuse to pay to the City any sums due on utility bills, the utility service upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

Section 16.4 Accounts.

Separate accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts, and in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues, and expenses. They shall show, as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other City department. The Council shall annually cause to be made a report showing the financial results of such City ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient. Such report shall be on file in the office of the Clerk for public inspection.

Section 16.5 Disposal of Plants.

The City shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege, or asset belonging to and appertaining to any utility which it may own or acquire, unless and except the proposition for such purpose shall first have been submitted to the electors of the City who are qualified to vote on questions involving the direct expenditure of money or the issuance of bonds, at an election held for the purpose in the manner provided in this Charter, and approved by them by a

three-fifths majority vote of the electors voting thereon. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision, shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange of any articles of equipment of any City-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER 17 CITY LIBRARY

[Editor's Note] The provision for a City Library still remains a part of this Charter but is omitted due to being superseded by the establishment of the Howell District Library by the voters on October 4, 1988. See Resolution 88-24, passed September 26, 1988, which established a Board of Trustees for such District Library. Copies of that portion of the Charter are available in the City Clerk's office, including a Charter Amendment in 1960.

CHAPTER 18 MISCELLANEOUS

Section 18.1 Vested Rights and Liabilities Continued.

After the effective date of this Charter, the City shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of its previous Charter. No right or liability, contract, lease, or franchise, either in favor of or against the City, and no suit or prosecution of any character, shall be affected in any manner by any change resulting from the adoption of this Charter, but the same shall stand or proceed, as if no change had been made. All debts and liabilities of the City shall continue to be its debts and liabilities, and all debts to it and fines and penalties, imposed and existing at the time of such change, shall be collected by the City. All trusts, established for any Municipal purpose, shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

Section 18.2 City Records to be Public.

All records of the City shall be public, 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. No person shall dispose of, mutilate, or destroy any record of the City, except as provided by law, and any person who shall do so contrary to law shall be guilty of a violation of this Charter.

Section 18.3 Trusts.

The Council may, in its discretion, receive and hold any money or property in trust for any Municipal purpose and shall apply the same to the execution of such trust and for no other purpose, except in cases where the cy pres doctrine applies.

Section 18.4 Quorum.

Except as otherwise expressly provided in this Charter, a quorum of any board created by or under authority of this Charter shall consist of a majority of its members, and the concurring vote of a majority of the members of each such board shall be necessary for official action by it.

Section 18.5 Sundays and Holidays.

Except as otherwise expressly provided in this Charter, whenever the date fixed by law or ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day, which is not a Sunday or legal holiday.

Section 18.6 Penalties for Violations of Charter.

Any person found guilty of an act constituting misconduct in office or a violation of this Charter may be punished by a fine not exceeding five hundred dollars or by imprisonment for not to exceed ninety days, or both, in the discretion of the court. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

Section 18.7 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 18.8 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.

Section 18.9 Severability of Charter Provisions.

If any provision, section, or clause of this Charter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect 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.

SCHEDULE

Section 1. Election to Adopt Charter.

This Charter shall be submitted to a vote of the qualified electors of the City of Howell at a special City election to be held on Tuesday, November 8, 1955. If this Charter is adopted at such election, it shall take effect and become the Charter of the City of Howell on Sunday, January 1, 1956, at 12:00 o'clock noon.

Section 2. Form of Ballot.

The form of the ballot on submission of this Charter shall be as follows:

Instruction - A cross (X) in the square before the word "Yes" is in favor of the proposed charter, and a cross (X) in the square before the word "No" is against the proposed charter.

"Shall the proposed charter of the City of Howell, drafted by the Charter Commission which was elected on November 2, 1954, be adopted?"

Yes

No

Section 3. Officers of City Under Previous Charter.

The Mayor and each Councilman who held office on the effective date of this Charter shall be the Mayor and Councilmen of the City under this Charter and shall perform their duties under and otherwise be subject to its provisions. Each such officer shall hold and continue in the office held by him, until he or his successor is re-elected or elected or appointed in the case of a vacancy, under the provisions of this Charter. At the City election held in April, 1957, a Municipal Judge shall be elected for a six year term under the provisions of this Charter. The Municipal Judge who held office on the effective date of this Charter shall continue in office and his term shall terminate on the 1st day of January, 1958, at which time the office shall be filled by the person elected to that office at the April, 1957, regular City election. The terms of office specified in this section are for the purpose of bringing the transition from the schedule of terms of office in the former Charter of the City and those provided in this Charter.

Section 4. Administrative and Other Officers.

If this Charter is adopted at the election thereon, the terms of office of the City Clerk, City Treasurer, and City Assessor under the former Charter of the City, shall terminate on January 2, 1956, at 12:00 noon. The persons holding these offices under the former Charter of the City shall thereupon qualify for and assume the offices of Clerk, Treasurer, and Assessor, respectively, under this Charter and shall hold such offices on the same basis as though they had been appointed thereto in the manner provided in this Charter. All other administrative officers and employees of the City shall continue in the respective offices and employment held by them at the time this Charter becomes effective, and shall be subject to the provisions thereof.

Section 5. Board of Review.

A Board of Review shall be elected at the election on the adoption of this Charter. No primary shall be held in connection with these officers. Nomination petitions for such officers shall be filed with the City Clerk at or before 5:00 o'clock, p. m., on the 21st day of October 1955. Such nomination petitions shall conform to the requirements for the nomination of City officers contained in the Charter of the City which is in effect at the time of filing the petitions. The person receiving the highest number of votes for this office shall hold office from January 1, 1956, until the second Monday in April of 1959. The two persons elected to such office who do not receive the highest number of votes shall hold office from January 1, 1956, until the second Monday in April, 1957.

Section 6. Status of Schedule Chapter.

The purpose of this schedule chapter is to inaugurate the government of the City of Howell under this Charter and it shall constitute a part of this Charter to the extent and for the time required to accomplish that end.

Section 7. Council Action.

In all cases not covered by this Charter, the Council shall supply necessary details and procedures for the transition from the government of the City under the previous Charter to that under this Charter and may

adopt such rules, resolutions, and ordinances as may be required therefor.