

# EATON RAPIDS CITY CHARTER

EFFECTIVE NOVEMBER 16, 1990



Printed by Flashes Shoppers Guide & News

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# CHAPTER 1 INCORPORATION, BOUNDARIES, AND GENERAL PROVISIONS

## Continuation of Existing Corporation

Section 1.1. The organized city, now existing in Eaton County as a Michigan Municipal Corporation known as the City of Eaton Rapids, shall be and continue a body corporate under the name of the "City of Eaton Rapids."

## Boundaries.

Section 1.2. (a) The boundaries of the City of Eaton Rapids, as they existed on the effective date of this charter, shall be and remain the boundaries of the city, until changed in accordance with the provisions of law.

(b) The Clerk shall maintain and keep available in the Clerk's office for public inspection and distribution an official description and maps of the current boundaries of the city.

## Definitions and Construction.

Section 1.3. Except as otherwise specifically provided or indicated by the context, for the purpose of this charter:

(a) "assessed value" or similar terms relating to the assessment of property for purposes of taxation, determining debt limits, and for other purposes, means the value as finally determined through the process of equalization, as provided by law;

(b) "board" includes the word "commission;"

(c) "city" means the City of Eaton Rapids and all of its departments and agencies;

(d) "Clerk" means the City Clerk or recorder of the city, as those terms may be used in any law;

(e) "Council" means the City Council of the City of Eaton Rapids, and shall be synonymous with any other term designating the legislative or governing body of any city, as used in any law;

(f) "employee" means any person employed by the city who is not designated as an officer by this charter or by ordinance;

(g) "law" denotes applicable federal law, the Constitution and statutes of Michigan, the applicable common law, and this charter;

(h) "officer" includes, but shall not be limited to, the Mayor, the members of the Council, the administrative officers named in this charter, their deputies, and members of city boards created by or pursuant to law, except such as are only advisory in nature or exercise only ministerial duties or functions;

(i) "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;

(j) "printed" and "printing" mean any method of producing written expression in mass or quantity and shall include printing, engraving, stencil duplicating, lithographing, typewriting, photo duplicating, or any similar method of reproducing written expression;

STATE OF MICHIGAN )

) ss

County of Eaton )

I, Marietta White, City Clerk of the City of Eaton Rapids, Eaton County, Michigan, being duly sworn, say that at a Regular Election held on November 7, 1989, the following named persons were elected to and comprised the Charter Commission for the said city as required by Act No. 279 of the Public Acts of 1909, as amended, namely: Tim Aben, Richard Hall, Donald Harris, Robert Hoffman, Keith Huntington, Robert Kirkpatrick, Robert Koyl, Leonard Peters, Robert Tubbs; that the said persons did meet as required by law and did qualify for and assume the office to which they were elected and chose Leonard Peters as Chairman, Keith Huntington as Vice-Chairman, and Robert Kirkpatrick as Secretary; that the City Clerk presided at such meeting; that the Charter Commission retained the services of Attorney Robert Warner of Eaton Rapids, Michigan, as its consultant and did meet as required by law to revise a charter for the City of Eaton Rapids.

Marietta White, City Clerk

Subscribed and sworn to before me this 2nd day of October, 1990

Kristy R. Reinecke

Notary Public, Eaton County, Michigan

My commission expires 1-30-93

## PREAMBLE

We, the people of the City of Eaton Rapids, grateful to God for the blessings of freedom, peace, health, safety, and justice, and desirous of further securing these blessings to ourselves and our posterity, and to provide for the public peace and health and for the safety of persons and property under the home rule principles and traditions of the State of Michigan, do hereby ordain and establish this charter for the City of Eaton Rapids.

(k) "publish" or "published" include publication of any matter required to be published in the manner provided by law, or, where there is no applicable law, at least once in one or more publications of general circulation in the city, qualified by law for the publication of legal notices, or by posting in at least one public place in each election precinct, if publication is not practicable;

(l) "Treasurer" means the City Treasurer as that term may be used in any law;

(m) "written" and "in writing," except in reference to signatures, shall include hand written script, printing, typewriting, teletype and telegraphic communications, and any other method of written communication which is understandable to normal literate persons, and facsimiles of signatures may be used when authorized by the Council;

(n) 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 to which the provision is applied;

(o) The singular shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

#### **Records to be Public.**

Section 1.4. All papers, books, or other records of any matter pertaining to the conduct of the affairs of the city shall be public records unless otherwise provided by law, shall be kept in city offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available at city offices for inspection, copying, or reproduction at all reasonable times. Such records, or copies, fully certified by the Clerk, shall be prima facie evidence of their contents. Such records may be photographed or microphotographed in the manner provided by law and reproduction thereof, when certified or authenticated by the Clerk, shall have the same force and effect as the originals thereof.

#### **Quorum.**

Section 1.5. 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 the number of its members, as established by this charter or by the ordinance creating such board.

#### **Sunday and Holidays.**

Section 1.6. 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 may be done or completed on the next succeeding day, which is not a Sunday or legal holiday. The Council may, by ordinance, include Saturday among the foregoing days.

#### **Penalties for Violation of Charter.**

Section 1.7. Any person found guilty of any violation of this charter may be punished by a fine and/or imprisonment as set by ordinance.

#### **Chapter and Section Headings.**

Section 1.8. The chapter and section headings used in this charter are for convenience only, and shall not be considered as part of this charter for the purpose of judicial construction, or otherwise.

#### **Severability or Charter Provisions.**

Section 1.9. 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.

#### **Liberal Construction.**

Section 1.10. It was the intent of the Charter Commission in drafting this charter and of the electors of the City of Eaton Rapids in adopting it that the provisions of this charter should be liberally construed so as to afford a maximum of local self government in accordance with the spirit and intent of the Michigan Constitution and with the home rule history and traditions of cities in Michigan.

## **CHAPTER 2 MUNICIPAL POWERS AND LIABILITIES**

#### **General Powers.**

Section 2.1. (a) Unless otherwise provided or limited by law, the City of Eaton Rapids shall possess and be vested with all the powers, functions, privileges, and immunities, expressed or implied, to which cities are, or hereafter may be, entitled under and in the spirit of the Constitution of Michigan and the home rule traditions of the State, and may exercise all legislative power not prohibited by or in contravention with law. The provisions of this charter concerning powers of the city shall be liberally construed in favor of the existence of such powers, and the exercise thereof. In the exercise of such powers, functions, and privileges, the city shall manage and control its finances, rights, interests, buildings, and property; enter into contracts; acquire by purchase, grant, lease, or condemnation; hold and utilize any property, both within and without the limits of the city; acquire, own, and operate any utility, unless the power to do so is denied by law; do any act to advance the interests, good government, and prosperity of the city and its inhabitants; and protect the public peace, morals, health, safety, and general welfare.

(b) The city may 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.

(c) The enumeration of particular powers, privileges, or immunities in this chapter or elsewhere in this charter shall not be held or interpreted to be exclusive.

**Permitted and Other Powers.**

Section 2.2. Under authority of Act No. 279 of the Public Acts of 1909, as amended, and other provisions of law, the power of the city shall include, but shall not be limited to, the following:

(a) To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including, but not limited to, the accumulation of rubbish and the growing of noxious weeds 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;

(b) To provide for the public welfare by:

- (1) Regulating trades, occupations, and amusements within the city, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;
- (2) Regulating the preparation, storage, transportation, and sale or other distribution of foods, drugs, and beverages for human consumption;
- (3) Regulating the collection and disposal of garbage and rubbish;
- (4) Regulating and restricting the locations of oil and gasoline stations;
- (5) Licensing and regulating the number of vehicles which car persons or property for hire; fixing the rates of fare and charges; and determining the location of stands for such vehicles;
- (6) Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;
- (7) 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;
- (8) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires;
- (9) Regulating and controlling the use in any manner of streams, waters, and water courses within the city in any manner consistent with provisions of law, including the prevention and control of the pollution and obstruction thereof in any manner and the development of the stream beds and banks;

(c) To establish and reasonably control streets, alleys, bridges, and city public places, and the space above and beneath them, and the use thereof by:

- (1) Creating and vacating the same and by acquiring land or any interest in land, which may be required therefor, which land may also be sold by the city to the extent it is not, or may no longer be, required for the purpose for which acquired, including any surplus land which may be incidental to or necessary for the purpose of land required;
- (2) Providing a plan of city streets and alleys;
- (3) Requiring the owners of real property to build public sidewalks in the area of streets immediately adjacent to such property, and, upon the failure of any owner to do so, construct such sidewalks and assessing the cost thereof against such property as a special assessment; Provided, That, in any case, when the main purpose of a sidewalk is to provide travel convenience for pedestrian traffic to and from a school, factory, or other institution, public or private, and not for the improvement or convenience of the property abutting such sidewalk, the city shall pay not less than one-half of the cost of such sidewalk;
- (4) Compelling all persons to care for the untraveled portions of streets lying between the curbs and property line which abut upon premises owned, controlled, or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety, and, upon the failure to do so, cutting and removing such weeds and removing such objects and assessing the cost thereof against such property as a special assessment;
- (5) Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them, free from anything which obstructs such sidewalks, or which make the same offensive or hazardous to the public health or safety, and upon failure to do so, to remove the same and assess the cost thereof against such property as a special assessment;
- (6) Providing for the grade of streets and sidewalks, or either of them, 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 to keep their tracks, and the street surface between their tracks and for a distance of one and one-half feet on each side of them, in a state of repair deemed reasonable by the Street Superintendent or other designated official;
- (7) Regulating the speed of vehicles, trains, and locomotives upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings;
- (8) Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property;
- (9) Preventing and abating the obstruction of streets and alleys or any part thereof;

(10) Regulating the location of buildings and structures and of trees and shrubbery near street corners and street intersections with alleys, so as to provide for the public safety and welfare in the use of streets and alleys;

(11) Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;

(12) Providing for the use, by others than the owners, of public utility property located on, above, or under the streets, alleys, and public places, upon the payment of a reasonable compensation therefor to the owner thereof;

(13) Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the city and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the city;

(14) Providing for the regulation of the planting of trees and shrubbery near streets insofar as the same is required to protect city sewers and to maintain clear vision at street intersections for vehicular traffic safety;

(d) To undertake any public work or make any public improvement, or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency;

(e) To construct, provide, maintain, extend, operate, and improve:

(1) Within the city: a city hall, city office building; community buildings, police stations, fire stations, civic auditoriums; public libraries, and polling places; and,

(2) Either within or without the corporate limits of the city: public parks, recreation grounds and stadiums; municipal camps, public grounds, zoological gardens, museums; airports and landing fields; cemeteries; public wharves and landings upon navigable waters; levees, embankments, and structures 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 plant and systems; waterworks and water treatment plants and systems; sewage disposal facilities; market houses and market places; facilities for the storage and parking of vehicles; hospitals; facilities for the landing of helicopters and air vehicles having like landing characteristics; and any other structure or facility which is devoted to or intended for public purposes within the scope of the powers of the city;

(f) To acquire by purchase, gift, condemnation, lease, or otherwise, real and personal property and interest in property, either within or without the corporate limits of the city, for any public-use or purpose within the scope of its powers including, but not by way of limitation, the uses and purposes set forth in this section;

(g) To receive and hold any property, whether real, personal, or intangible, for city hospital, library, park, cemetery, or any other municipal purpose.

## CHAPTER 3 OFFICERS

### City Officers.

Section 3.1. (a) The elective officers of the city are the Mayor, and the four Council Members.

(b) The appointive officers of the city are the Clerk, the Treasurer, the Assessor, the City Attorney, the Police Chief, the Fire Chief, and members of city boards. If a City Manager is appointed under the provisions of this charter, he shall be an appointive officer.

### Eligibility for Elective City Office.

Section 3.2. (a) To be eligible for election to a city office, a person shall have been continuously a registered voter of the city for a period of no less than nine months prior to the date of the election.

(b) A person appointed to fill a vacancy in an elective office must have the same qualifications at the time of his appointment.

### Persons Ineligible for City Office or Employment.

Section 3.3. A person who holds or had held an elective city office shall not be eligible for appointment to an office or for employment for which compensation is paid by the city, until six months have elapsed following the term for which that person was elected, or appointed in the case of filling a vacancy. The city shall not have power to give any official position to a person who has been convicted of a felony involving moral turpitude or of an act involving a violation of an oath of office. No person shall, at the same time, hold two city elective offices, or an elective and an appointive city office, or a city office and an elective school district office.

### Notice of Election or Appointment.

Section 3.4. The Clerk shall mail to each person elected or appointed to a city office a certificate of election or appointment within five days after the date of election or appointment.

### Compensation of Officers.

Section 3.5. (a) Except for members of the Council, including the Mayor, the compensation of all elective and appointive officers, shall be established by the Council. The compensation of a city officer, serving for a fixed term, shall not be increased or decreased in such a manner as to be effective during that term of office.

(b) All officers of the city shall be entitled to reimbursement for reasonable expenses which are actually incurred in connection with any activity related to that office, when the claim therefore has been audited by the Clerk

and approved by the Council.

#### **Oath of Office.**

Section 3.6. All officers of the city, before entering upon their duties, shall take the oath or affirmation required by the Constitution of the State of Michigan. The Council may require designated employees to take such oath before entering upon their employment. Oaths of office shall be filed with the Clerk.

#### **Surety Bonds.**

Section 3.7. In order to protect the city and the public, the Council may require appropriate surety bonds of officers and employees. All officers who receive, distribute, hold, or are responsible for city funds or investments shall be bonded. No bond shall be renewed upon its expiration. The premium of such bonds shall be paid by the city. Blanket bonds covering two or more officers or employees, or both, may be substituted for individual bonds. No bond shall be for a term exceeding three years, except in the case of an officer serving for a term of more than three years in which case the term of the bond shall be for the term for which that person has been elected or appointed.

#### **Giving of Surety by Officers and Employees Forbidden.**

Section 3.8. No officer or employee shall give or furnish any bail bond or recognizance, nor be the agent of any bondsman or insurer in connection with any bond or insurance, except such as was outstanding at the time that person assumed office or pertains to city property or liability, which may be required by ordinance or by the Council, or upon which action by the Council is required.

#### **Vacancies in Office.**

Section 3.9. (a) A city office shall become vacant upon the occurrence of any of the events stated by law as creating vacancies in office.

(b) In the case of the Mayor and each Council Member, a vacancy shall be created by the absence from four consecutive regular meetings of the Council, unless such absences, with reasons therefor stated at the time and appearing in the journal of the meeting from which the member was absent, be excused; or absence from twenty-five percent of such meetings in any calendar year.

(c) In the case of an officer of the city, except the Mayor and members of the Council, a vacancy shall be created by absence from the city or failure to perform the duties of that office for sixty consecutive days, unless such absence or failure to perform shall be excused by the Council prior to the expiration of that sixty-day period.

(d) A person who fails to qualify for an elective office or appointive office within ten days after such election or appointment, or within such extended time, not to exceed thirty days, as the Council may affix applicable to all city offices, shall be deemed to have refused such office, and a vacancy shall then exist.

#### **Resignations.**

Section 3.10. Resignations of officers shall be made in writing and filed with the Clerk, who shall promptly notify the appointing authority. Each resignation shall be effective upon acceptance by the appointing authority who or which shall act thereon as promptly as possible.

#### **Recall.**

Section 3.11. An elective officer may be recalled and the vacancy thereby created filled in the manner prescribed by law.

#### **Filling Vacancies.**

Section 3.12. (a) If a vacancy occurs in an elective office, except in the case of recall, the Council shall fill the vacancy by appointment within thirty days thereafter for a term ending on the Monday following the next regular city election, at which election it shall be filled for the balance of the term of the office in which the vacancy exists. If any such vacancy occurs within sixty days preceding a regular city election, it shall not be filled until after such election.

(b) If a vacancy occurs in an appointive office, such vacancy shall be filled within thirty days thereafter in the manner provided for making the original appointment. Such time may be extended, for not more than an additional sixty days, by Council resolution setting forth the reasons therefor.

#### **Delivery of Office to Successor.**

Section 3.13. Whenever an officer or employee leaves an office or employment for any reason, all property of the city, such as records, books, engineering data, drawings, money, and effects, which are in that person's custody, possession, or control shall be delivered forthwith to the successor, or to the Mayor.

## **CHAPTER 4 THE COUNCIL**

#### **The City Council.**

Section 4.1. There shall be a City Council of five members, consisting of the elected Council Members and the Mayor, who shall be deemed a member of the Council for all purposes. Except as otherwise provided in this charter, the term of office of the Mayor and of each Councilperson shall be for four years, commencing on and dating from the first day in January following election. The Council shall constitute the legislative and governing body of the city and shall have powers and authority, except as otherwise provided in this charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances, and resolutions as it shall deem proper in the exercise thereof.



#### **Election and Qualification of Council Members.**

Section 4.2. The Council shall be the judge of the election and qualifications of its own members, including the Mayor, subject only to review by a court of competent jurisdiction.

#### **Compensation of Mayor and Council Members.**

Section 4.3. (a) Each member of the Council, including the Mayor, shall receive as compensation an amount determined by a five-member Local Officers Compensation Commission established by ordinance. The Local Officers Compensation Commission shall act and be in Compliance with Act No. 8, Public Acts 1972, as amended. Said compensation shall be pro rated for fractions of months at the beginning and end of each term.

(b) Such compensation shall constitute the only remuneration which may be paid the Mayor or Council Members for the discharge of any official duty or employment for or on behalf of the city during their tenure of office. However, the Mayor and Council Members may, upon order of the Council, be paid such necessary bona fide actual expenses, incurred in or for any service on behalf of the city, as are itemized by the person incurring such expenses and audited by the Clerk.

#### **Functional Duties of the Mayor.**

Section 4.4. The Mayor, in addition to any other powers or duties provided by law shall:

- (a) be the ceremonial head and chief officer of the city;
- (b) be the presiding officer of the Council;
- (c) have all the powers and duties of a Council Member including the power and duty to vote, but shall not possess the veto power;
- (d) give the Council information concerning matters pertaining to the legislative and policy functions of the Council and give the Mayor's recommendations thereon;
- (e) in emergencies, have the powers conferred by law upon peace officers and shall exercise such powers to correlate the work of the city's officers and departments to prevent disorder, to preserve the public peace and health, and to provide for the safety of persons and property;
- (f) execute or authenticate by his signature such instruments of the city as the Council, this charter, or any State or Federal law may require;
- (g) make appointments of members of committees and boards of the city, subject to confirmation thereof by the Council; and
- (h) be privileged to participate in meetings of all committees of the Council, but without the right to vote.

#### **Organization of the Council.**

Section 4.5. The Council shall meet and organize at the first regular meeting in January following each regular city election. At such meeting, or within one week thereafter, the Council shall elect a Mayor Pro-Tempore and do such other acts as may be required for its organization and the conduct of its business.

#### **Mayor Pro-Tempore.**

Section 4.6. The Mayor Pro-Tempore shall succeed to the office of Mayor when a vacancy occurs in that office and shall have and exercise the powers and duties of the Mayor when the Mayor is absent or unable to perform the duties of that office. The Mayor Pro-tempore may resign from that office without resigning from the Council. If both the Mayor and Mayor Pro-tempore are absent the Council shall appoint one of its members to act.

#### **Meetings of the Council.**

Section 4.7. (a) The Council shall meet in the established Council Chamber, or in such other place as may be established by ordinance, and shall hold at least two regular meetings in each month. In emergency, the Council may meet at another public place with notice thereof posted at the established Council Chamber. Public notice of council meetings shall be given in the manner hereafter specified, and in accordance with other applicable law, Act No. 267, Public Acts 1976 as amended.

(b) Special meetings of the Council shall be held at the regular meeting place of the Council. Special meetings shall be called by the City Clerk on the written request of the Mayor or of any two members of the Council.

(c) At least eighteen hours written notice shall be given designating the time, location, and purpose of a special meeting. Such notice shall be given personally by the Clerk to each member of the Council or written notice may be left at the member's usual place of residence or business by the Clerk or by someone designated by the Clerk. Equal notice shall also be given to or delivered at the place of business of each publication of general circulation in the city, but this requirement shall not be jurisdictional to the holding of any such meeting.

(d) In an emergency, any special meeting shall be a legal meeting if all members are present, or, if there be a quorum present and all absent members, in writing, waive the required notice thereof. Waivers may be made either before or after the time of the meeting.

(e) An affidavit of the giving or service of any notice required by this section shall be made a part of the journal of a special meeting. All waivers of notice shall be attached to and made part of the journal of the meeting.

(f) No business shall be transacted at any special meeting of the Council except that stated or given in the notice of the meeting.

(g) All regular and special meetings of the Council shall be public meetings and the public shall have a reasonable opportunity to be heard.

(h) Three members of the Council shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn a meeting to a later date.

(i) The Council shall determine its own rules and order of business and keep a journal of all its proceedings, in the English language. Votes taken at each meeting of the Council shall be recorded by roll call "yes" or "no" and shall be entered upon the Journal of the meeting, except that when a vote is unanimous, it may be simply so stated.

(j) The Council may compel the attendance at its meetings of its members and of any officers or employees of the city. It may punish for non-attendance in such manner as it may prescribe by its rules.

(k) No member of the Council may vote on any question upon which that member has a direct or indirect financial interest. Otherwise each member of the Council shall vote on each question before the Council for determination, unless excused therefrom by the affirmative vote of all remaining members able to vote on the question. If a question is raised under this section at any Council meeting, such question shall be voted on before the question to which it applies is voted upon, but the Council members affected may not vote on such determination.

(l) The concurring vote of at least three members shall be required for official action by the Council, unless a larger majority is required by law.

(m) The Clerk shall prepare an agenda of the business to be considered at each regular Council meeting. No business shall be considered by the Council at a regular meeting, unless placed upon the agenda for the meeting not later than 12:00 o'clock noon, on the Friday preceding the meeting, except upon the approval of four or more members of the Council. This section shall not apply to matters presented to the Council by the public present at any meeting.

Section 4.8. The business which the Council may perform shall be conducted at a public meeting of the Council held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting of the Council shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

Section 4.9. All records of the City of Eaton Rapids shall be made available to the general public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws [Freedom of Information Act, MCL 15.231 et seq; MSA 4.1801(1), et seq.]

## CHAPTER 5 CITY LEGISLATION

### City Code.

Section 5.1. With the effective date of this charter, all previous ordinances, codes, and amendments shall remain in effect and parts thereof shall be amended or repealed only by ordinance.

### Introduction, Consideration, Style, and Recording of Ordinances.

Section 5.2. (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances adopted by the Council on the effective date of this charter shall continue as and be ordinances of the city. When this charter requires the Council to adopt or provide any ordinance, any existing ordinance which meets such requirements shall suffice.

(b) Unless declared to be emergency in nature by a vote of not less than four members of the Council, no ordinance shall be adopted by the Council, except at a regular Council meeting held not less than one week subsequent to its introduction. An emergency ordinance may be adopted at any regular or special meeting of the Council.

(c) The amendment or repeal of any ordinance or part thereof shall be by ordinance. In the case of amendments, each section as amended shall be set forth in full in the amending ordinance. This requirement shall not apply to schedules of one-way streets, stop-streets, and of parking limitations contained in any traffic ordinance. In the ordinance code of the city, each paragraph thereof which contains one or more sentences shall be deemed to constitute a separate section for the purpose of this requirement. In case of repeals, it shall only be necessary to cite the ordinance number and title, and section if any section is to be repealed, of the ordinance to be repealed.

(d) Each ordinance shall be recorded by the Clerk in the Ordinance Book and such recording shall be prima facie evidence of the due and proper adoption thereof.

(e) All ordinances, resolutions, and official proceedings of the city may be placed in evidence in all courts and tribunals by a copy thereof certified as true by the Clerk, under the seal of the city, as an alternate to other methods provided or permitted by law.

### Publication of Ordinances.

Section 5.3. Each ordinance shall be published in a manner provided by the Council and permitted by law before it shall become operative. If publication is made by posting, a notice of the places of posting and a brief statement of the purpose of the ordinance shall be published in one or more publications of general circulation in the city within ten days after posting.

### Council Procedure - Effective Date.

Section 5.4. (a) The Council may provide in its rules for the procedure of adopting ordinances, subject to the requirements of this charter.

(b) Unless declared to be an emergency ordinance as provided in Section 5.2 (b), no ordinance shall become operative until twenty days after adoption by the Council, or, in the case of an ordinance adopted through initiatory procedures, by the electors of the city.

(c) No ordinance which provides for or establishes a tax shall become operative less than thirty days after adoption by the council, or, in the case of an ordinance adopted through initiatory procedures, by the electors of the city.

### Penalties.

Section 5.5. The Council shall provide for the punishment of violations of the ordinances of the city.

### Time Limit for Prosecution of Ordinance Violations.

Section 5.6. No prosecution for the violation of any ordinance shall be



commenced after the expiration of two years after the commission of the offense.

#### **Initiative and Referendum.**

Section 5.7. The electors of the city may initiate any ordinance or secure a referendum on any ordinance by petition.

#### **Initiative or Referendary Petitions.**

Section 5.8. An initiative or a referendary petition shall be signed by registered electors of the city equal to not less than fifteen percent of the number of registered electors of the city according to the records of the Clerk on the date of the last previous regular city election. No referendum shall be permitted respecting any ordinance required to be passed by the Council by any law, except in the manner provided by such law. Each signer of a petition shall place thereon the date and place of residence by street and number following the signature. To each signature sheet of a petition there shall be attached a sworn affidavit by the circulator thereof, stating the nature of the petition to which it pertains, that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed 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 sixty 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, or to be improper as to form or compliance with the requirements 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.

#### **Same - Council Procedures.**

Section 5.9. Upon receiving an initiatory or referendary petition from the Clerk, the Council shall:

- (a) If it be an initiatory petition, adopt the ordinance as submitted in the petition within thirty days after the receipt thereof, or determine to submit the proposal to the electors; or
- (b) If it be a referendary petition, repeal the ordinance to which the petition refers within thirty days after the receipt thereof, or determine to submit the proposal to the electors.
- (c) 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 at which such proposal may be submitted, 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 law.

#### **Same - Status of Ordinances Adopted.**

Section 5.10. An ordinance adopted by the electorate through initiatory

proceedings may 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 be adopted at the same election which have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

#### **Same - Ordinance Suspended.**

Section 5.11. 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 the final determination of the electors thereon.

## **CHAPTER 6 THE ADMINISTRATIVE SERVICE**

#### **The Administrative Officers.**

Section 6.1. (a) The administrative officers of the city shall be the appointive officers named in Section 3.1 of this charter. The Council may, by ordinance, upon the recommendation of the Mayor, create additional administrative officers, or combine any administrative offices, in any manner not inconsistent with law, and prescribe the duties thereof as it may deem necessary for the proper operation of the city government.

(b) In making any appointment of administrative officers, the appointing authority shall consider only the good of the public service and the fitness and ability of the appointee to discharge the duties of the office.

(c) In making appointments of administrative officers, first consideration shall at all times be given to electors of the city.

#### **Administrative Officers - Appointment and Terms.**

Section 6.2. (a) All administrative officers, except the City Attorney, shall be appointed by the Mayor, subject to the confirmation of the Council before any such appointment shall be final. If a vacancy in any such office is not filled within sixty days after the vacancy occurs, or ninety days if approved by the Council, the Council shall appoint a committee of two or more of its members to act in the stead of the Mayor in filling such vacancy.

(b) The term of office of each such officer shall be indefinite, and each such officer shall be subject to removal by the Mayor, upon approval of such action by the Council, or by a majority of the Council.

#### **City Clerk.**

Section 6.3. (a) The Clerk shall be clerk of the Council. The Clerk, or the Deputy Clerk, shall attend all meetings of the Council and shall keep a permanent journal of its proceedings, in the English language.

(b) The City Clerk:

- (1) shall be custodian of the city seal, and shall affix it to all

- documents and instruments requiring the seal, and shall attest the same, and shall also be custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided by law, and shall give to the proper officials ample notice of the expiration or termination of their terms of office and of any official bonds, franchises, contracts, or agreements to and of which the city is a party;
- (2) shall keep a record of all ordinances, resolutions, and actions of the Council and shall keep the Mayor and City Manager, if there be one, informed with respect thereto;
  - (3) shall have power to administer all oaths required by law and the ordinances of the city;
  - (4) shall certify all ordinances and resolutions enacted or passed by the Council and such certification shall be prima facie evidence of the due and proper action of the Council thereon;
  - (5) shall maintain an inventory of city-owned property, both real and personal;
  - (6) shall balance all the books of account of the city at the end of each calendar month, and shall make reports thereon as required by the Mayor or the Council, or both;
  - (7) shall, at any time, upon direction of the Mayor or the Council, examine and audit all books of account kept by any official or department of the city and shall examine and test check all books of account of the Treasurer at least once each month;
  - (8) shall perform such other duties in connection with the office as may be required by order of the Council and by law.

**City Attorney.**

Section 6.4. (a) The City Attorney shall be appointed by the Council and shall act as the legal advisor of and be responsible to the Council in all respects concerning the performance of official duties. The City Attorney shall advise the City Manager, if there be one, concerning legal problems affecting the city administration, and the Clerk, Treasurer, and Assessor concerning their statutory and charter duties when so required, and shall file with the Clerk a copy.

(b) The City Attorney also:

- (1) shall prosecute ordinance violations and shall represent the city in cases before court and other tribunals;
- (2) shall prepare or review all ordinances, regulations, contracts, bonds, and other instruments that may be required by this charter or by the Council, and shall promptly give an opinion as to the legality thereof;
- (3) shall attend the meetings of the Council;
- (4) shall be the attorney for the several boards of the city;
- (5) shall perform such other duties as may be prescribed by this charter or the Council.

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

assist the City Attorney in connection therewith.

**City Treasurer.**

Section 6.5. The City Treasurer:

- (a) shall have the custody of all moneys of the city and all evidences of value belonging to or held in trust by the city;
- (b) shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine or as may be required by law or ordinance of the city;
- (c) shall have such power, 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;
- (d) shall perform such other duties as may be prescribed by law or by the Council.

**Deputies of the Clerk and Treasurer.**

Section 6.6. The Clerk and the Treasurer, shall be entitled to one deputy, each, and shall appoint and remove their deputies, subject to the budget allowances therefor and the approval of the Council relative to appointments. Each deputy shall possess all the powers and authorities of the superior officer.

**Assessor.**

Section 6.7. The City Assessor:

- (a) shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by law;
- (b) shall make and prepare all regular and special assessment rolls in the manner prescribed by or under authority of law;
- (c) shall perform such other duties as may be prescribed by law or by the Council.

**City Manager.**

Section 6.8. (a) The Council may, by ordinance, create the office of City Manager and assign thereto such of the duties and functions set forth in subsection (b) hereof as it deems fit. Such City Manager shall be appointed by the Council, shall be the administrative agent of the Council, shall be vested with the administrative powers of the city granted by the ordinance creating the office, and shall perform the duties of that office under authority of and be accountable at all times to the Council. To be eligible for appointment as City Manager, a person must have had training for or previous experience in city, public, or business administration.

(b) The Council may assign to the office of City Manager all or so much as it sees fit of the power and duty to:

- (1) Appoint such of the administrative officers, except the Chief of Police and the Fire Chief, as the Council shall designate, notwithstanding Section 6.2 (a) of this charter, subject to confirmation by the Council before any such appointment shall be effective;

- (2) Supervise and coordinate the work of the administrative officers and departments of the city placed under the control and direction of the City Manager;
- (3) Perform the duties of the Budget Committee and prepare and submit to the Council the annual budget proposal of the city, together with supporting information in explanation thereof;
- (4) Establish and maintain a central purchasing service for the city;
- (5) Supervise and coordinate the personnel policies and practices of the city;
- (6) Keep informed and report to the Council concerning the work of the several administrative officers and departments of the city, insofar as such work is not prescribed and directed by law, and, to that end, may secure from the administrative officers and department heads such information and periodic or special reports as the City Manager or the Council may deem necessary;
- (7) In case of conflict of authority between officers and administrative departments, or in case 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 and the ordinances of the city, and direct the necessary action to be taken in conformance therewith; making a full report to the Council at its next meeting.

(c) Council shall add or delete powers and provisions as the need arises.

(d) Insofar as the ordinance authorized by subsection (a) of this section is in conformity with this section, the provisions of such ordinance shall constitute a valid delegation of the powers granted to the City Manager, who shall exercise such powers as the administrative agent of the Council under its authority and supervision.

#### **Police Department.**

Section 6.9. (a) The Police Department shall be under the direction of the Chief of Police, who shall be appointed by and be directly responsible to the Council for the conduct of the department, and shall not be responsible to any other person, board, or committee, except in case the Mayor exercises his powers under Section 4.4 (e) of this charter.

(b) Police officers of the city 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 the ordinances of the city, or of the penal laws of the state. For purposes of making arrests, violations of this charter and of city ordinances shall be deemed to be misdemeanors.

#### **Fire Department.**

Section 6.10. (a) The Fire Department shall be under the direction of the Fire Chief, who shall be appointed by and be directly responsible to the Council for the conduct of the department and to no other person, board, or committee, except in case the Mayor exercise his powers under Section 4.4 (e) of this charter.

(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; shall conduct supervisory and educational programs to diminish the risk of fires within the city.

#### **Citizen Participation.**

Section 6.11. (a) To afford citizen participation in the affairs of the city government for the purpose of determining community needs and means of meeting such needs through the government of the city, citizen advisory boards may be established by ordinance.

(b) Each such board shall be comprised of citizens of the city who have the qualifications required by this charter for elective officers of the city. When the scope of interest of any board may extend beyond the limits of the city, one member of the board may be a nonresident of the city. The members of such board shall be appointed by the Council and shall receive no compensation for their services to the city, but shall be allowed reasonable and actual expenses when incurred on behalf of the city and approved by the Council.

#### **Additional Administrative Powers and Duties.**

Section 6.12. From time to time, upon the recommendation of the Mayor, the Council may, by ordinance, prescribe additional powers and duties, not inconsistent with this charter, to be exercised and administered by appropriate officers and departments of the city.

#### **Library.**

Section 6.13. (a) The Eaton Rapids Public Library existing on the effective date of this charter shall continue with its organization and management by a board of five directors, unchanged by this charter and with all rights possessed by it under law and, especially, Act No. 164, Public Acts, 1877, as amended. One of such directors shall be appointed in the month of January of each year and shall assume office on the first day of February, following.

(b) The Library Board shall submit to the Clerk an estimate in detail of the anticipated revenue and expenditures of the Board for the ensuing fiscal year of the city for inclusion in the budget proposal to be presented to the Council no later than the first day of March of each year.

(c) The Council shall provide in each annual budget for the operation and conduct of the Eaton Rapids Public Library, and shall appropriate therefor such amounts which, in addition to revenues received from the State

of Michigan and other sources, will assure the conduct of the library in a manner consistent with the needs of the community.

(d) In the conduct of the Eaton Rapids Public Library, the Library Directors shall be subject to the same accounting procedures and controls in the administration of the affairs of the library and the annual budget therefor as are other departments of the city.

#### **Employee Benefits.**

Section 6.14. The Council shall have power to make available to the administrative officers and employees of the city, other than members of city boards, any recognized standard plan of group life, hospital, health, and accident insurance, or any or all of them.

#### **Employee Pension Plan.**

Section 6.15. The Council may provide a pension plan for officers and employees of the city, other than elected officers and members of city boards, either independent of, or combined with, or supplemental to the Federal Social Security program. The city pension plan shall be based on actuarial principles similar to those upon which the pension plan for employees of the State of Michigan is based, but the benefits of the city plan need not be limited to or bound by such plan. The rights of a city officer or employee in a city pension plan which have accrued for a period of ten years or more shall be vested rights of the beneficiary to the extent that they may not be terminated or abrogated because of any act of the city.

## **CHAPTER 7 GENERAL FINANCE**

#### **Fiscal Year.**

Section 7.1. The fiscal and budget year of the city shall begin on the first day of January of each year.

#### **Budget Procedure.**

Section 7.2. There is hereby created a Budget Committee to be comprised of the Mayor; one member of the Council, appointed by the Council during the month of January of each year; and the Clerk. Not later than the first day of March of each year, each officer, department, and board of the city shall submit to the Budget Committee an itemized estimate of its expected income and expenditures during the next fiscal year for the department or activities under its control. The Budget Committee shall compile such information and list the same upon a budget proposal form. It shall review such budget requests, and, in a column parallel to and adjacent to that containing such budget requests, shall enter its budgetary recommendations for each item requested by the several officers and departments, with such additions thereto and deletions therefrom as it shall deem proper. Not later than the first meeting of the Council in April of each year, the Committee shall submit to the Council a recommended budget

for the next fiscal year which, considering any anticipated unexpended balance or deficit at the end of the current fiscal year, shall be within the tax limit and other anticipated revenue of the city.

#### **Public Inspection of Budget Proposal.**

Section 7.3. The proposal of the Budget Committee, together with its recommendations and its supporting schedules and information, shall be available for public inspection in the office of the Clerk.

#### **Budget Hearing.**

Section 7.4. A public hearing on the budget proposal shall be held not less than one week before its final adoption, at such time as the Council shall direct. Notice of the Public hearing shall be published by the Clerk at least one week in advance thereof and the budget proposal shall be available in the office of the Clerk and in the public library of the city during such week.

#### **Adoption of Budget.**

Section 7.5. (a) At a regular meeting held not later than the third Monday in May of each year, the Council shall, by resolution, adopt a budget for the ensuing fiscal year and make an appropriation of the money needed therefor. Such resolution shall designate the sum to be raised by taxation for the general purposes of the city in accordance with such budget and make an appropriation of the money needed therefor and for the payment of principal and interest on its indebtedness. Should the Council fail to adopt such resolution within the time herein set, the recommended budget of the Budget Committee shall constitute a de facto budget for the city, until such time as the Council shall adopt a budget and an appropriation for all expenditures made thereunder shall exist as though made by the Council.

(b) Money raised by taxation for the general purposes of the city under the resolution herein required therefor shall be held in escrow by the Treasurer until the commencement of the ensuing fiscal year and shall not be spent or disbursed in any manner except in accordance with the budget for which it is raised.

#### **Budget Control.**

Section 7.6. (a) Except for purposes which are to be financed by the issuance of bonds or by special assessments, no money shall be drawn from the treasury of the city, except in accordance with the budget in effect and the appropriation for such purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation during the fiscal year. The Council, upon the written recommendation of the Mayor, or the City Manager if there be one, and by the affirmative vote of not less than four of its members, may appropriate unappropriated funds or transfer any unencumbered appropriation balance of any portion thereof, from any budget item or account, department, or agency to another.

(b) Expenditures shall not be charged directly to any contingent or general account. Instead, any necessary amount of the appropriation from such account shall be transferred to the appropriate budget item or account and the

expenditure then charged thereto. The Clerk shall be responsible for the administration of the foregoing requirements in subsections (a) and (b) of this section.

(c) During each month, the Clerk shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to the end of the preceding month, and the Council shall by resolution reduce appropriations and amend its appropriations act as soon as it becomes apparent that a deviation from the original general appropriations act is necessary and the amount of deviation can be determined, all in accordance with state law. [MCL 141.437; MSA 5.3228(37).]

(d) Within thirty days following the end of each fiscal year, the Clerk shall file with the Council a schedule of all encumbrances upon the budget appropriations existing at the end of the fiscal year, with recommendations thereon, and the Council shall provide for the payment of such thereof as constitute valid claims against the city from corresponding budget items from the then current fiscal year.

#### **System of Accounts.**

Section 7.7. A system of accounts shall be maintained which conforms to a unified system of accounts as required by state law. [MCLA 117.3(n); MSA 5.2973(n).]

#### **Special Accounts.**

Section 7.8. (a) The Council may, by ordinance, establish and maintain accounts for accumulating moneys to be used for acquiring, extending, altering, constructing, or repairing public improvements and for the purchase of equipment of any type. In each case such accounts may be established and maintained either for a specific item or items or for future unspecified public improvements or equipment, or both.

(b) Appropriations to such accounts may be made by the Council either in the annual appropriation resolution or, from time to time during the fiscal year from available funds, from whatever source derived, which are not required for other appropriations or obligations of the city. Such accounts shall be continuing accounts and the balances therein at the end of each fiscal year shall remain a part thereof.

(c) At the end of each fiscal year, the Council may transfer any unencumbered balance or any part thereof into one or more of the accounts authorized to be created by this section.

(d) Moneys which are accumulated for the purpose of public improvements, as set forth in subsection (a) hereof, shall be used only at the direction of the Council, and only for the purpose provided in the original ordinance establishing such account, unless their use for some other municipal purpose be authorized by a majority vote of the electors of the city who vote on the proposition to amend such ordinance to provide for a change in the use of the moneys in such account. After the purpose of any such account has been fulfilled, any balance remaining therein may be transferred by the Council to any other special account or to the general fund of the city.

(e) Moneys which are accumulated for the purpose of purchasing equipment, as set forth in subsection (a) hereof, shall be expended only for the purpose provided in the ordinance, establishing any such account, or as such ordinance may be amended from time to time, and when no longer required for such purpose, such moneys or any part thereof may be transferred to the general fund by a resolution of the Council.

#### **Withdrawal of City Moneys.**

Section 7.9. (a) Unless otherwise provided by law or by ordinance, all moneys drawn from the treasury shall be drawn pursuant to the authority and appropriation of the Council. The Council, upon the recommendation of the Clerk, where necessary to expedite operating procedures, may authorize, by resolution, designated officers and employees of the city to make minor disbursements from petty cash accounts, which disbursements shall be accounted for and shall be audited by the Clerk.

(b) Checks for the disbursement of city funds shall be signed by the Clerk and countersigned by the Treasurer. If such offices be combined, checks shall be countersigned by the Mayor or some other officer designated by the Council.

(c) Checks may be issued prior to authorization by the Council for such purposes and up to such amounts as the Council shall provide by ordinance.

#### **Depositories.**

Section 7.10. The Council shall designate depositories for city funds in accordance with law, and shall provide for the regular deposit of all city moneys.

#### **Independent Audit.**

Section 7.11. An independent audit shall be made of all accounts of the city government at the close of each fiscal year, and shall be completed by the first day of May, thereafter. Special independent audits may be made at any time that the Council may designate. All such audits shall be made to the Council by a Certified Public Accountant designated by it. Each audit and reports supplemental thereto shall be made public in the manner that the Council determines and copies of the audit shall be placed in the office of the Clerk and the Eaton Rapids Library. Notice shall be published that audits may be inspected at such places. All records of the City of Eaton Rapids shall be made available to the general public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws [Freedom of Information Act, MCL 15.231 et seq; MSA 4.1801(1), et seq.]

#### **Annual Report.**

Section 7.12. The City Manager, if there be one, shall prepare an Annual report of the affairs of the city, after the completion of the annual audit. In the absence of a City Manager, the Council shall authorize any other officer of the city to make such a report. The report shall include condensed financial statements, approved by the maker of the audit, showing the results

of all city operations, including statements for each public utility owned or operated by the city. Copies of such reports shall be made available for public inspection and distribution at the office of the Clerk and by such other method as the Council may determine.

## CHAPTER 8 TAXATION

### **Power to Tax - Tax Limit.**

Section 8.1. The city shall have the power to assess taxes and to lay and collect rents, tolls, and excises. The annual general ad valorem tax levy for municipal purposes shall not exceed one percent (10.0 mills) of the assessed value of all real and personal property in the city.

### **Subject of Taxation - Tax Procedure.**

Section 8.2. (a) The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law.

(b) Except as otherwise provided by this chapter, city taxes shall be assessed, levied, and collected in the manner provided by law.

### **Exemptions.**

Section 8.3. The power of taxation shall never be surrendered or suspended by any grant or contract to which the city shall be a party. No exemptions from taxation shall be allowed, except as are expressly required or permitted by law.

### **Tax Day.**

Section 8.4. Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day. Values on the assessment roll shall be determined according to the facts existing on the tax day for the year for which such roll is made, and no change in the status or location of any such property after that day shall be considered by the Assessor or the Board of Review.

### **Personal Property - Jeopardy Assessment.**

Section 8.5. If the Treasurer finds or reasonably believes 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 or has departed from the city; or to remove or has removed therefrom personal property which is or may be, liable for taxation; or to conceal or conceals self or property; or does any other act tending to prejudice or to render wholly or partly ineffectual the proceedings to collect such tax, the Treasurer shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

### **Preparation of the Assessment Roll.**

Section 8.6. (a) Prior to the date of the meeting of the Board of Review in each year, the Assessor shall prepare and certify an assessment roll of all property in the city. Such roll shall be prepared in accordance with the requirements of law, and may be divided into volumes, which the Assessor shall identify by number, for purposes of convenience in handling the assessment roll and for locating properties assessed therein. 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 are identified in such certificate or warrant. Values of property set forth in the assessment roll shall be determined according to recognized methods of systematic assessment.

### **Board of Review.**

Section 8.7. (a) A Board of Review is hereby created, composed of three members who have the qualification for holding elective city office, as set forth in Section 3.2 of this charter. The Council shall set the compensation of the members of the Board of Review, which compensation shall be on a per meeting attended basis.

(b) The members of the Board of Review shall be appointed by the Mayor, subject to confirmation by the Council, and may be removed for reasons of malfeasance, misteasance, or nonfeasance by a vote of four or more members of the Council. One member shall be appointed in the month of January of each year, for a term of three years commencing upon appointment.

(c) The Board shall, annually, on the first day of its meeting, select one of its members as chairperson for the ensuing year. The Assessor shall be Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

### **Duties and Functions of Board of Review.**

Section 8.8. For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are, by law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter. At the time, and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessments. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the Board of Review shall make any change upon, or addition or correction to, the assessment roll. The Assessor shall make a permanent record of all proceedings of the Board and enter therein all resolutions and decisions of the Board. Such record shall be filed with the Clerk on or before the first day of April following the meeting of the Board of Review.



#### **Meetings of Board of Review.**

Section 8.9. The Board of Review shall meet on the first Monday in March in each year for the purpose of considering the assessment roll of the city at a place designated by the Council; then shall continue in session for at least four days successively, and as much longer as may be necessary to complete the review, and at least six hours in each day, during said four days or more.

#### **Notice of Meetings and Hearings.**

Section 8.10. (a) Notice of the time and place of the annual meeting of the Board of Review shall be published by the Assessor not less than one week nor more than three weeks prior thereto in accordance with Act No. 267 Public Acts, 1976, as amended.

(b) The Board of Review may examine on oath or affirmation any person appearing before it respecting the assessment of property on the assessment roll.

(c) If the Board shall undertake or propose to make any change in the assessment of any property on the assessment roll as presented by the Assessor or to add any property thereto, it shall give notice thereof to the owner of such property by first-class mail with full postage prepaid thereon and addressed to such owner at the latest address shown in the records of the Assessor. Such notice shall be mailed not less than five days prior to the final adjournment of the Board and shall state the time when persons may be heard thereon. Such notice shall state the date on which and the place where the property owner notified may be heard on the assessment of his property. For such purpose, the Board shall meet for at least six hours on one or more days following the mailing of such notices. The Board shall not finally adjourn, until a reasonable opportunity is given for such persons to be heard.

#### **Certification of Roll.**

Section 8.11. After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, or such other date as may subsequently be required by law, the majority of its members shall sign a certificate to the effect that the same is the assessment roll of the city for the year in which it has been reviewed, as approved by the Board of Review, which certificate, when attached to any volume of the roll shall constitute a conclusive presumption of the validity of the entire roll, as provided in Section 8.6 of this chapter. In the event that the Board of Review shall fail or refuse to so review the assessment roll of the city, such roll, as prepared and presented to the Board of Review by the Assessor, shall be the assessment roll for the year as though it was reviewed, and shall stand as though it had been certified by the Board of Review, and the Assessor shall spread thereon the taxes, assessments, and lawful charges and amounts certified as required by Section 8.13 of this charter. [MCL 211.30; MSA 7.30(a).]

#### **Validity of Assessment Roll.**

Section 8.12. Upon the completion of the assessment roll, and from and after midnight ending the last day of the meeting of the Board of Review, it shall be the assessment roll of the city for county, school, and city taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all courts and tribunals to be valid, and shall not be set aside, except for cause set forth by law.

#### **Clerk to Certify Levy.**

Section 8.13. Within three days after the adoption of the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem taxation, together with such other assessments and lawful charges and amounts which the Council requires to be assessed, reassessed, or charged upon the city tax roll against property or persons.

#### **City Tax Roll.**

Section 8.14. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a tax roll, to be known as the "City Tax Roll." Upon receiving the certification of the several amounts to be raised, assessed, and charged on the city tax roll, as provided in the preceding section, the Assessor shall proceed forthwith, (1) to spread the amounts of the general ad valorem tax according to and in proportion to the several valuations set forth in said assessment roll, and (2) to place such other assessments and charges upon the roll as are required and authorized by Council. For convenience, the city tax roll may be divided into two or more volumes. The city tax roll may be, either, an independent tax roll, or may be a combination city tax roll and a tax roll for state, county, school, and other taxes, charges, and assessments.

#### **Taxes a Debt and Lien.**

Section 8.15. The taxes on real and personal property shall become a debt to the city from the owner or person otherwise to be assessed, on the tax day provided by law. The amounts assessed on any interest in real property shall become a lien upon such real property on the first day of July following the said tax day, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. All personal property taxes shall be a first lien, prior, superior, and paramount, on all personal property of persons so assessed on and after the first day of July following the said tax day and shall so remain until paid. Said tax liens on personal property shall take precedence over all other claims, encumbrances, and liens, upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgement, or otherwise. No transfer of personal property assessed for taxes shall operate to divest or destroy such lien, except where such property is actually sold in the regular course of retail trade.

#### **Tax Roll Certified for Collection.**

Section 8.16. After spreading the taxes and placing other assessments and charges upon the roll, the Assessor shall certify the tax roll, and attach a warrant thereto directing and requiring the treasurer to collect, prior to September fifteenth of that year, from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax, charge, or assessment. Said warrant shall grant to, and vest in the Treasurer all the statutory power and immunities possessed by township treasurers for the collection of taxes. The tax roll shall be delivered to the Treasurer on or before the fifteenth day of June.

#### **Tax Payment Date.**

Section 8.17. City taxes shall be due and payable on July first of each year.

#### **Taxes Due - Notification Thereof.**

Section 8.18. The Treasurer shall not be required to make personal demand for the payment of taxes but, upon receipt of the city tax roll, shall, forthwith, mail a tax statement to each person named in the tax roll, which mailed statement shall be a sufficient demand for the payment of all taxes assessed. Neither the failure on the part of the Treasurer to mail such statement, nor the failure of any person to receive the same, shall invalidate the taxes on the tax roll or release any person or property assessed from the liabilities provided in this charter in case of non-payment.

#### **Tax Payment Schedule.**

Section 8.19. The Council shall provide by ordinance, a tax payment schedule and the amount of collection charges and interest to be added to taxes, charges, and assessments on the city tax roll. Such schedule may provide for the closing of the city tax roll on the first day of September of each year and the spreading of the taxes then delinquent upon the December tax roll upon which county and school taxes are collected, to be collected upon such roll with a four percent collection charge added thereto.

#### **Failure or Refusal to Pay Personal Property Tax.**

Section 8.20. If any persons shall neglect or refuse to pay any tax on personal property assessed to them, the Treasurer shall collect the same by seizing any personal property of such person, to an amount sufficient to pay such tax, together with any charges and interest added thereto, wherever the same may be found in the State. No property shall be exempt from such seizure. The Treasurer may sell the property seized, to an amount sufficient to pay the taxes and all charges, fees, penalties, and interest, in accordance with statutory provisions. The Treasurer may also sue the person to whom a personal property tax is assessed, in accordance with the powers granted by law.

#### **State, County, and School Taxes.**

Section 8.21. For the purpose of assessing and collecting taxes 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, and accounting for, such taxes and the penalties and interest thereon shall apply. For the purpose of collecting state, county, and school taxes, the Treasurer shall perform the same duties and have the same powers as township treasurer under state law. Tax moneys collected by the Treasurer for other units of government shall be kept in a separate bank account and no moneys of the city shall be commingled therewith.

#### **Protection of City Lien.**

Section 8.22. The city shall have power, insofar as the exercise thereof shall not conflict with or contravene the provisions of law, to acquire such interest in any premises within the city, by purchase at any tax or other public sale, or by direct purchase from or negotiation with the State of Michigan or the owner, as may be necessary to assure to the city the collection of its taxes, special assessments, charges, and any interest thereon which are levied against any lot or parcel of real property or to protect the lien of the city therefor, and may hold, lease, or sell the same. Any such procedure exercised by the city to assure the collection of its taxes or the protection of its tax or other liens shall be deemed to be for a public purpose. The Council may adopt any ordinance which may be necessary to make this section effective.

#### **Collection of Delinquent Taxes.**

Section 8.23. All city taxes, assessments, and charges upon real property on the city tax roll, together with collection charges and interest added thereto, remaining uncollected by the Treasurer on the first day of March following the date when the roll was received shall be subject to one of the following procedures:

(a) The real property against which such taxes, assessments, and charges are assessed or added shall be subject to disposition, sale, and redemption for the enforcement and collection of the tax lien against the same in the method and manner which may be provided by ordinance. The Council may provide by ordinance the procedure for the sale and redemption of real property for such unpaid taxes, assessments, and charges, together with collection charges and interest added thereto, by judicial sale on petition filed in behalf of the city. Such procedure shall correspond substantially to the procedure provided by law for the sale by the State of tax delinquent real property and redemption therefrom, except that the acts performed by state and county officers shall be performed by appropriate city officers and that city tax sales shall be held not less than thirty nor more than ninety days prior to the dates of corresponding tax sales under the general law;

(b) If no ordinance is in effect pursuant to subsection (a) of this section, such taxes, assessments, and charges, together with any collection charges and interest added thereto, shall be returned to the county treasurer, to the extent and in the same manner and with like effect as provided by law for returns by township treasurers of township, school, and county taxes.

The taxes, assessments, and charges, together with any collection charges and interest added thereto, thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

#### **Disposition of Real Property Held by City for Taxes.**

Section 8.24. When the city has acquired any interest in property to protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract, shall have the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, fees, penalties, interest, and costs and expenses paid by the city to acquire and protect its interest in such property. After the lapse of ninety days after the date the city has acquired title to any such property, the Council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the Council by the Assessor or by two competent real estate appraisers selected by the Council.

## **CHAPTER 9 SPECIAL ASSESSMENTS**

#### **General Power Relative to Special Assessments.**

Section 9.1. Pursuant to Act No. 215 Public Acts, 1895, as amended, the Council shall have the power to make public improvements within the city. As to public improvements which are of such a nature as to benefit especially any property or properties within a district, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon such property, in proportion to the benefits derived or to be derived.

#### **Detailed Procedure to be Fixed by Ordinance.**

Section 9.2. The Council shall prescribe by general ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings, making and confirming of assessment rolls in advance of starting the improvements, the correction of errors therein, collection of special assessments, and any other matters concerning making of improvements by the special assessment method.

#### **Hazards and Nuisances.**

Section 9.3. When any lot or premises, or building or structure within the city, because of age or dilapidation, the accumulation of refuse or debris,

the uncontrolled growing of noxious weeds, or because of any other condition or happening becomes, in the opinion of the Council, a public nuisance or hazard, which is dangerous to the health, safety, or welfare of the inhabitants of the city or of those residing or habitually going near such lot or premises or such building or structure, the Council may, after investigation, give notice to the owner or owners of the land upon which such nuisance or hazard exists or to the owner or occupant of the land or the building or structure itself, by posting notice upon the premises and by personal service, or by registered or certified mail addressed to the address set forth in the current assessment roll of the city, or the records of the assessor, specifying the nature of the nuisance or hazard and requiring such owner or occupant to alter, repair, tear down, abate, or remove the nuisance or hazard within a time to be specified by the Council which shall be commensurate with the nature of the nuisance or hazard. If, at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such nuisance or hazard to be abated by the proper department or agency of the city which is qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises, or description of real property upon which such nuisance or hazard is located, by special assessment which shall be due and payable at the direction of the Council.

#### **Limitation or Dedication of Streets.**

Section 9.4. The Council shall provide by ordinance for the orderly development of subdivisions within the city and for the laying out and improvement of streets, and utility easements, therein, including the establishment of street grades and the requirement for the making of street improvements therein at least consistent with those normally existing in other comparable portions of the city.

#### **Boulevard Lighting.**

Section 9.5. The Council may provide a system of boulevard lighting for the city or any part or parts thereof, and may assess the cost thereof on any street for which such lighting is provided against the lands abutting thereon if the property owners of a majority of the frontage on such streets, or part thereof so to be improved, shall petition therefor.

## **CHAPTER 10 BORROWING POWER**

#### **Municipal Borrowing Power.**

Section 10.1. (a) Subject to the applicable provisions of law and this charter, Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidence of indebtedness therefor. Such bonds or other evidences of indebtedness shall

include but shall not be limited to the following types:

- (1) General obligation bonds for the payment of which the full faith and credit of the City is pledged;
- (2) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the City;
- (3) Calamity bonds issued in case of fire, flood or other calamity for the relief of the inhabitants of the City and for the preservation of municipal property, which shall become due in not more than five years;
- (4) Mortgage bonds, as authorized by law, for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the City is authorized by law to finance in this manner; and
- (5) Tax anticipation notes which may be issued in anticipation of the collection of taxes for the current or next succeeding fiscal years of the City, or any other year permitted by law, in the manner and subject to any limitations provided by law.

#### **Limitations Upon Borrowing Power.**

Section 10.2. (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city: Provided, That, in computing such net bonded indebtedness, there shall be excluded money borrowed under the provisions of Section 10.1 (a), clauses (2), (3), and (4) of this chapter, and any other bonds which are not, by law, subject to the debt limitation of the city. The resources of any debt retirement or sinking fund pledged for the retirement of any outstanding bonds which are subject to the debt limitation here established, shall also be deducted from the amount of the bonded indebtedness.

(b) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within three years after authorization such authorization shall be null and void, except when delay is caused by litigation or when a bond issue has been authorized by the electors to be issued in two or more parts or series. In case of litigation, the three-year period shall start at the time of the filing of the final judgement or decree. In case of bonds authorized to be issued in two or more parts or series, the first part or series shall be sold within three years after authorization and the final part or series shall be sold within ten years after authorization.

## **CHAPTER 11 ELECTIONS**

#### **Regular City Elections.**

Section 11.1. (a) A regular city election shall be held on the first Tuesday succeeding the first Monday in November of each odd numbered year.

(b) At each regular city election which is held in a year following a year in which a President of the United States is elected, there shall be elected a Mayor and one Council Member from the city at-large.

(c) At each other regular city election, there shall be elected three Council Members, one from each of the three wards of the city.

(d) The Wards of the city shall be established by Council so that the members of the Council representing those wards are elected on the basis of equal representation as required by law.

#### **Special Elections.**

Section 11.2. Special city elections shall be held when called by resolution of the Council, adopted at least forty-five days in advance of such election. If a special election is to be held on the date of any State primary or general election, such election shall be called in ample time for the giving of notice to the County Clerk of questions to be voted thereat, as required by law. Any resolution calling a special election shall set forth the purpose of such election. Unless otherwise permitted by law, no more than two special city elections shall be held in any one calendar year.

#### **Qualifications of Electors.**

Section 11.3. Each resident of the city who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next election held in the city, shall be entitled to register as an elector of the city.

#### **Election Procedure.**

Section 11.4. All city elections for the election of officers shall be non-partisan. The general election laws of the State shall apply to and control, as nearly as may be, all procedures relating to notice for, to registrations for, and to the conduct of city elections, except as such general laws relate to political parties or partisan procedures, and except as otherwise provided by this charter. The compensation of all election personnel shall be determined by the Council.

#### **Election Commission.**

Section 11.5. An election commission, consisting of the Clerk, the City Attorney, and the Assessor is hereby created. The Clerk shall be chairperson. The Commission shall have charge of all activities and duties required of it by law relating to the conduct of elections in the city. In the absence of a quorum, the member present may create a quorum, as permitted by law. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to follow.

#### **Nominating Petitions.**

Section 11.6. A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk an official nomination petition therefor. Official blank nominating petitions, in substan-

tially the same form as required by law for non-partisan nominating petitions, shall be prepared and furnished by the Clerk. The Clerk shall issue not more than five petition forms, containing spaces for twenty signatures each, to or for any one candidate. Such petition shall be signed by not less than fifty nor more than one hundred of the registered electors of the city. Such petitions shall be filed with the Clerk not later than five o'clock in the afternoon on the seventh Monday preceding the election date. Before the Clerk shall furnish a form of nominating petition to any person, the Clerk shall enter thereon with typewriter or in ink the name of the candidate and the name of the office for which the person is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Clerk for filing. Nominating petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which they are to be used. Petitions for the nomination of a person who is to be nominated and elected by the electors of a ward of the city shall be signed by electors of that ward only. If any person signs a greater number of petitions for any office than there will be persons elected to that office, that person's signature shall be disregarded on all petitions for that office.

#### **Approval of Petitions.**

Section 11.7. The Clerk shall accept for filing only nominating petitions on official blanks issued by the Clerk containing the required number of signatures for candidates having those qualifications required for elective city officers by this charter. Within five days after the filing of a petition, the Clerk shall determine the sufficiency of the number of genuine signatures on the petition. If the Clerk finds that any petition does not contain the required number of genuine signatures, the filer shall be notified immediately in writing of the insufficiency of the petition. If the Clerk does not so notify the filer of the petition, it shall be deemed to be sufficient as to the number of signatures thereon and shall not be subject to challenge with regard thereto. No additional signatures on any petition shall be received by the Clerk after the final date and time fixed for filing nominating petitions.

#### **Affidavit of Qualification of Office.**

Section 11.8. On or before the third day after the last day for filing nominating petitions, each person for whom a valid nominating petition has been filed, or someone acting on that person's behalf, shall file with the Clerk an affidavit that the candidate is possessed of all of the qualifications set forth in this charter for an elective city office. Such affidavit shall be on a form provided by the Clerk. If such affidavit be not filed as herein required, the candidate shall be deemed to have withdrawn and that name shall not be placed on any election ballot.

#### **Form of Ballots.**

Section 11.9. The form, printing, and numbering of ballots used in any city election shall conform, as nearly as may be, to that prescribed by law, except that no party designation or emblem shall appear thereon. The names of

qualified nominees for each office shall be listed on the ballot under a separate heading for each office and shall be rotated on the ballots as required by law.

#### **Delivery of Registration Books and Supplies.**

Section 11.10. The Clerk shall be responsible for the custody and safe keeping of all registration books and supplies. On election day, the Clerk shall deliver them to the respective Boards of Inspectors of Election, taking their receipt therefor. For such purposes, the services of the Police Department shall be available under the direction of the Chief of Police, and for the return of election records to the office of the Clerk after the closing of the polls and the tallying of the votes cast thereat.

#### **Persons Elected - Tie Vote.**

Section 11.11. Candidates receiving the highest number of votes for election to an office shall be declared to have been elected to that office. If, at any City election, the outcome cannot be determined because two or more persons received an equal number of votes, the matter shall be referred to the county canvassers in accordance with MCLA 168.851; MSA 6.1851.

#### **Recount.**

Section 11.12. A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

## **CHAPTER 12 CONTRACTS**

#### **Contracting Authority of Council.**

Section 12.1. (a) The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law.

(b) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 12.2 hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the Clerk.

#### **Purchase and Sale of Personal Property.**

Section 12.2. The Council shall establish, by ordinance, the procedure for the purchase and sale of personal property. Such ordinance may provide for centralized purchasing on behalf of the city. The ordinance shall also provide the dollar limit within which purchases and sales of personal property may be made without the necessity of securing competitive bids, and the dollar limit and conditions within which purchases and sales of personal property may be made without the necessity of Council approval and signature



# CHAPTER 13 UTILITY FRANCHISES

by the Mayor and the Clerk. No purchase of personal property shall be made unless a sufficient unencumbered appropriation is available therefor, or for such part of the purchase price as shall be required to be paid during the city's current fiscal year.

## Limitations or Contractual Power.

Section 12.3. (a) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten years, unless such contracts shall first receive the approval of a majority of the qualified electors of the city voting thereon at a regular or special election. This limitation shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

(b) The city shall not have power to sell, lease, or dispose of any real estate, except for the purpose of burial in city cemeteries, unless:

- (1) The resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the Clerk for public inspection for twenty-eight days before the final adoption or passage thereof, with notice of intent to so sell, lease, or dispose of such property published not less than twenty days before the Council finally acts thereon, and unless,
- (2) Such action is approved by the affirmative vote by all five members of the Council,

(c) Except as provided by ordinance authorized by Section 12.2 of this chapter, each contract for the construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public in the Council room by the Clerk, or by the City Manager, at the time designated in the notice of letting, and shall be reported to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after two or more opportunities for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or may authorize the City Manager or other proper official of the city to negotiate for a contract in the open market. The second bid herein required may be waived by a vote of four or more members of the Council.

(d) No contract shall be made with any person who is in default to the city.

(e) No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

## Business Dealing with City.

Section 12.4. Contracts of Public Servants with Public Entities/Conflict of Interest. All contracts and other dealings of public servants of the City of Eaton Rapids with the City of Eaton Rapids shall be in accordance with state law (1968 P.A. 317 as amended, MCL 15.321, et seq; MSA 4.1700 (51)).

## Public Utility Franchises.

Section 13.1. (a) 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, or non-use, or for failure to comply with the provisions thereof;
- (2) To require proper and adequate extension of plant and service maintenance thereof at the highest practical 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 regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public;
- (6) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof, and to protect and save the city harmless from all damages arising from said use.

(b) Each public utility having a franchise to conduct its business in the city shall file with the city such drawings and maps of the location and nature of its facilities, as the Council may require or request.

## Limitations on the Granting of Franchises.

Section 13.2. No franchise shall be granted by the city for a term exceeding thirty years and no exclusive franchise shall ever be granted. Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it. A franchise which is not revocable at the will of the Council and any extension or amendment of such franchise may not be granted by the city, unless the ordinance granting such franchise has first received the affirmative vote of at least three-fifths of the electors of the city voting thereon at a regular or special city election. An irrevocable franchise ordinance may be approved by the Council, for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with the Clerk their unconditional acceptance of all the terms of the franchise. No special election for such purpose may be ordered by the Council, unless the expense of holding such election has first been paid to the Treasurer by the grantee.

## Procedure for Granting Franchises.

Section 13.3. Every ordinance granting a franchise, license, or right



to occupy or use streets, alleys, bridges, or public places shall remain on file with the Clerk for public inspection in its final form for at least thirty days before the final adoption thereof, or the approval thereof for referral to the electorate.

#### **Sale or Assignment of Franchises.**

Section 13.4. The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council gives its consent and approves the vendee, assignee, sublessee, or person using the franchise. In the case of utilities which supply electricity, gas, and communication services within the city, Council consent shall not be required in any case where the approval of the Michigan Public Service Commission is given. Nothing in this section shall limit the right of the grantee of any public utility franchise to, in good faith, mortgage its property or franchise nor shall it restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgage purchaser shall be subject to the terms of the franchise and provisions of this chapter.

## **CHAPTER 14 CITY OWNED UTILITIES**

#### **General Powers Respecting Municipal Utilities and Services.**

Section 14.1. 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 permitted by law to be acquired, owned and operated by cities, including, but not by way of limitation, public utilities for treating and supplying water, and for supplying light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the city and its inhabitants, 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 exceeding the limitations set by or in accordance with law. The power to supply, as herein possessed and reserved, shall include the power to extract and process water, electricity, or gas from natural sources, to manufacture the same, or to purchase the same from others.

#### **Administration and Operation of Municipal Utilities.**

Section 14.2. The Council shall be responsible for the care, protection, preservation, control, improvement, and extension of the utility plants and facilities of the city, and shall adopt such ordinances and resolutions as are required therefor. Such utility plants and facilities shall each be a department of the city; and the management thereof shall be the duty of such officer of the city as shall be designated by the Council. Each such public utility department shall be subject to the provisions of this charter relating to departments of the city, including such as relate to annual budgets and financial accounting, and to the provisions of this chapter.

#### **Utility Charges - Collections.**

Section 14.3. The Council shall fix the rates to be charged for all public utility services of the city. The Council shall provide, by ordinance, for the collection of public utility charges, and for such purpose shall have all the power granted to cities by Act No. 178 of the Public Acts of 1939 and Act No. 94 of the Public Acts of 1933, as amended in each case. When any person shall fail, or refuse to pay to the city any sum due on utility bills, the utility service or services upon which such delinquency exists may, in addition to other procedures for collecting such bills, be shut off or discontinued by the city, and suit may also be instituted by the city for the collection of the same in any court of competent jurisdiction. Except as limited by Section 14.4, the Council shall have full power to use the revenues of the several utility departments of the city in the best interests of such departments, respecting their maintenance, improvement, and extension and for the city as a whole.

#### **Electric Utility Reserves.**

Section 14.4. There is hereby created an electric utility reserve fund in the amount of not less than twenty percent of the last determined undepreciated original cost of the said utility as it existed on the effective date of this charter. Such cost shall be redetermined, reflecting additions to and deletions from the utility, on the first day of January of each fifth year thereafter, beginning with the year 1970. Such cost shall be determined by the Council through the services of competent appraisers. The reserve fund shall be accumulated during the five calendar years next succeeding the effective date of this charter. The fund shall be comprised of cash or assets convertible into cash and the face value of fire, wind, explosion, and other disaster type insurance carried on the utility and its facilities by the city, but the total of such insurance credited to the fund shall not exceed fifty percent thereof. The cash and assets convertible into cash in such fund shall be available when needed for the improvement, replacement, and extension of the utility and its facilities beyond normal maintenance and growth consistent with good practice for utilities of its type and size. All moneys expended from the fund shall be replaced therein within five calendar years following the expenditure thereof. One-half of such fund, including that part thereof in the form of disaster type insurance shall, at all times, be available for the replacement of utility facilities in the event of disaster or emergency. Moneys in the fund shall be used for no purpose, except as herein stated, unless the proposition to do so is approved by a majority of the electors of the city voting on such proposition at a regular or special election. The previous sentence shall not prohibit the investment and reinvestment of the moneys in such fund in any manner permitted by law.

#### **Annual Reports.**

Section 14.5. The annual audit of such public utility of the city shall show, as nearly as possible, the financial results of the city ownership and operation of the public service works of the city.

**Annual Audit.**

Section 14.6. Unless otherwise provided by the Council, the cost of making the annual audit of the accounts of each public utility of the city shall be defrayed from the funds of the utility.

**Disposal of Plants.**

Section 14.7. Except for purposes permitted by law, the city shall not sell, exchange, lease, or in any other way alien or dispose of the property, easements, income, or other equipment, privileges, or assets belonging to and appertaining to any utility which it may own or acquire, unless and except such proposition shall first have been submitted at an election held for that purpose in the manner provided in this charter to the electors of the city and approved by them at a regular or special city election by a three-fifths majority vote of the electors voting thereon. All contracts, negotiations, leases, grants, 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 article or equipment that is obsolete, worn out, or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

**CHAPTER 15  
CHARTER AMENDMENT**

**Proposal of Amendment.**

Section 15.1. The Charter can be amended only by a majority of those voting in the City of Eaton Rapids.

**RESOLUTION OF ADOPTION**

At a meeting of the Charter Commission of the City of Eaton Rapids held on October 2, 1990, at the usual meeting place of the Commission, the following members of the Charter Commission were present: Commissioners -- Aben, Hall, Harris, Hoffman, Huntington, Kirkpatrick, Koyl, Peters and Tubbs.

At such meeting the following resolution was offered by Commissioner Harris and seconded by Commissioner Aben.

Resolved, That the Charter Commission of the City of Eaton Rapids does hereby adopt the foregoing instrument as the proposed charter of the City of Eaton Rapids and the Clerk of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act No. 279 of the Public Acts of 1909, as amended, for his approval.

The vote on the adoption of the resolution was as follows:

Ayes: 9 Nays: None Absent: None

Marietta White  
Clerk of the Charter Commission of  
the City of Eaton Rapids, Michigan.

The foregoing resolution and the copy of the charter to be submitted to the Governor of Michigan for his signature to which this resolution is attached, having been attested by the following Commissioners:

*Joseph Aben*  
*Richard Hall*  
*Donald Harris*  
*Robert A. Hoffman*  
*Robert Hoffman*  
*Robert Kirkpatrick*  
*Robert Koyl*  
*Robert Peters*  
*Robert Tubbs*  
Timothy Aben  
Richard Hall  
Richard Hall  
Donald Harris  
Robert Hoffman  
Robert Hoffman  
Robert Kirkpatrick, Secretary  
Robert Koyl  
Robert Koyl  
Robert Tubbs  
Leonard Peters, Chairman

the meeting was adjourned subject to the call of the chairman.

STATE OF MICHIGAN )  
 )  
COUNTY OF EATON )

I, Marietta White, City Clerk of the City of Eaton Rapids, Eaton County, Michigan, hereby certify that the attached document is the proposed charter of the City of Eaton Rapids as adopted by the Charter Commission of the City of Eaton Rapids by resolution of adoption dated October 2, 1990.

Marietta White  
City Clerk

Subscribed and sworn to before me  
this 2nd day of October,  
1990.

Kristy R. Reinecke

Notary Public  
Eaton County, Michigan  
My Comm. Expires: 1-30-93

I hereby approve the foregoing Charter of the City of Eaton Rapids, Michigan.

(s)

\_\_\_\_\_

Governor of the State of Michigan

Dated: \_\_\_\_\_



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

JAMES J. BLANCHARD  
GOVERNOR

October 22, 1990

Ms. Marietta White  
City Clerk  
City of Eaton Rapids  
200 South Main Street  
Eaton Rapids, Michigan 48827

Re: City of Eaton Rapids - Charter Revision

Dear Ms. White:

Notice is hereby given of my approval of the above-mentioned charter amendment for the City of Eaton Rapids to the vote of the people.

Pursuant to statute, charter amendments adopted by the electorate must be filed with the Secretary of State. For your convenience, I have enclosed a copy of this approval letter for inclusion in such filing.

Sincerely,

*James J. Blanchard*  
James J. Blanchard  
Governor

cc: Enclosure

cc: Attorney General  
Robert H. Warner  
City Attorney

COUNTY OF EATON)  
STATE OF MICHIGAN)

I, Marietta White, Clerk of the City of Eaton Rapids, being duly sworn, state that pursuant to the order of the Eaton Rapids Charter Commission, the foregoing Charter was presented to the qualified voters of the City of Eaton Rapids at an election held on November 6, 1990. I further certify that the results of the election on the ballot proposal were as follows:

"Should the City Charter proposed by the City Charter Commission elected on November 7, 1989 be adopted?"

Yes: 780  
No: 468

The above election was also certified by the Eaton County Board of Canvassers and was filed on November 6, 1990, declaring that the ballot proposal was passed.

As required by law, two copies of the Charter as passed are being filed with the office of the Secretary of State and two copies also are being filed with the office of the County Clerk and upon the new Charter being filed with both these offices the foregoing Charter shall become effective.

Dated: November 19, 1990

*Marietta White*  
Marietta White  
Clerk  
City of Eaton Rapids

Subscribed and sworn to before me this 19th day of November, 1990.

*Walter R. Reinbeck*

Notary Public  
Eaton County, Michigan  
My Commission Expires: 1-30-93

CERTIFICATE OF DETERMINATION

NOTE: USE FOLLOWING FORM ON PROPOSITIONS SUBMITTED AND AFFECTING YOUR COUNTY ONLY.

On the Proposition City Proposal - Charter Amendment-Charlotte that No received the largest number of votes and it is declared that said Proposition carry in said County. Did Not

On the Proposition City Revised Charter Proposal - Eaton Rapids that Yes received the largest number of votes and it is declared that said Proposition carry in said County. Did

On the Proposition City Referendum Proposal - Eaton Rapids that No received the largest number of votes and it is declared that said Proposition carry in said County. Did Not

On the Proposition Delta Charter Township Proposition that Yes received the largest number of votes and it is declared that said Proposition carry in said County. Did

In Witness Whereof, We have hereunto set our hands and affixed the Seal of the Circuit Court for the County of Eaton on November 16 1990.

ATTEST: Linda M. Ditchell Clerk of Board of County Canvassers  
Richard V. Crosby Chairman of Board of County Canvassers  
Marlene M. Givens  
Nicholas W. Johnson  
Ray E. B. Smith  
BOARD OF COUNTY CANVASSERS

STATE OF MICHIGAN, }  
COUNTY OF Eaton } ss  
We Do Herby Certify, That the foregoing is a correct statement of the votes given in the County of Eaton for the offices named in such statement and for the persons designated therein, and other matters submitted, at the General Election, held on November 6, 1990.

(SEAL) In Witness Whereof, We have hereunto set our hands and affixed the Seal of the Circuit Court for the County of Eaton on November 16 1990.  
Richard V. Crosby  
Marlene M. Givens  
Nicholas W. Johnson  
Ray E. B. Smith  
BOARD OF COUNTY CANVASSERS

ATTEST: Linda M. Ditchell Clerk of Board of County Canvassers  
STATE OF MICHIGAN, }  
COUNTY OF Eaton } ss

We Herby Certify, That the foregoing is a correct transcript of the statement of the Board of County Canvassers of the County of Eaton for the offices named in said statement and for the persons designated therein, and other matters submitted, at the General Election, held on November 6, 1990, so far as it relates to the votes cast for said office, as appears from the original statement on file in the office of the County Clerk.  
In Witness Whereof, We have hereunto set our hands and affixed the Seal of the Circuit Court for the County of Eaton on November 16 1990.

(SEAL) Richard V. Crosby COUNTY CLERK  
CHAIRMAN BOARD OF COUNTY CANVASSERS  
STATE OF MICHIGAN  
In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court and County, at the City of Eaton, this 16 day of Nov, A.D. 1990.  
By: Richard V. Crosby Clerk

## CHARTER AMENDMENTS

1. Amend Chapter 6, Section 6.4(b)(3), to change the requirement for attendance at meetings by the City Attorney. This was voted on by the citizens on November 4, 2008.

Old Language:

- (3) shall attend the meetings of the Council;

**New Language:**

- (3) shall attend meetings of the Council **and the various boards of the City as requested by the City Council, the Mayor or the City Manager;**

2. Amend Chapter 8, Section 8.9, to change the Board of Review Meeting Dates. This was voted on by the citizens on November 4, 2003.

Old Language:

- 8.9 The Board of Review shall meet on the **first** Monday in March in each year for the purpose of considering the assessment roll of the city at a place designated by the Council; then shall continue in session for at least **four** days successively, and as much longer as may be necessary to complete the review, and at least six hours in each day, during said **four** days or more.

**New Language:**

- 8.9 The Board of Review shall meet on the **second** Monday in March in each year for the purpose of considering the assessment roll of the city at a place designated by the Council; then shall continue in session for at least **two** days successively, and as much longer as may be necessary to complete the review, and at least six hours in each day, during said **two** days or more.



3. Amend Chapter 7, Section 7.1, to change the Fiscal Year of the Budget. This was voted on by the citizens on November 4, 2003.

Old Language:

- 7.1 The fiscal and budget year of the city shall begin on the first day of **January of each year.**

**New Language:**

- 7.1 The fiscal and budget year of the city shall begin on the first day of **July through June 30<sup>th</sup> of each year.**

4. Amend Chapter 7, Section 7.5(a), to change the Adoption of the Budget. This was changed by the State, in conjunction with Proposal A Language and the Headlee Amendment.

Old Language:

- 7.5(a) At a regular meeting held not later than the **third Monday in May** of each year, the Council shall, by resolution, adopt a budget for the ensuing fiscal year and make an appropriation of the money needed therefor.....

**New Language:**

- 7.5(a) At a regular meeting held not later than the **30<sup>th</sup> day of June** of each year, the Council shall, by resolution adopt a budget for the ensuing fiscal year and make an appropriation of the money needed therefor.....

5. Amend Chapter 11, Section 11.6, to change the Nominating Petitions Filing Deadline. This was changed by the State, Senate Bill Number 1095.

Old Language:

- 11.6 A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk an official nomination petition therefor. Official blank nominating petitions, in substantially the same form as required by law for non-partisan nominating petitions, shall be prepared and furnished by the Clerk. The Clerk shall issue not more than five petition forms, containing

spaces for twenty signatures each, to or for any one candidate. Such petition shall be signed by not less than fifty nor more than one hundred of the registered electors of the city. Such petitions shall be filed with the Clerk not later than **five o'clock** in the afternoon on the **seventh Monday** preceding the election date.....

**New Language:**

**11.6** A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk an official nomination petition therefor. Official blank nominating petitions, in substantially the same form as required by law for non-partisan nominating petitions, shall be prepared and furnished by the Clerk. The Clerk shall issue not more than five petition forms, containing spaces for twenty signatures each, to or for any one candidate. Such petition shall be signed by not less than fifty nor more than one hundred of the registered electors of the city. Such petitions shall be filed with the Clerk not later than **four o'clock** in the afternoon on the **twelfth Tuesday** preceding the election date.....