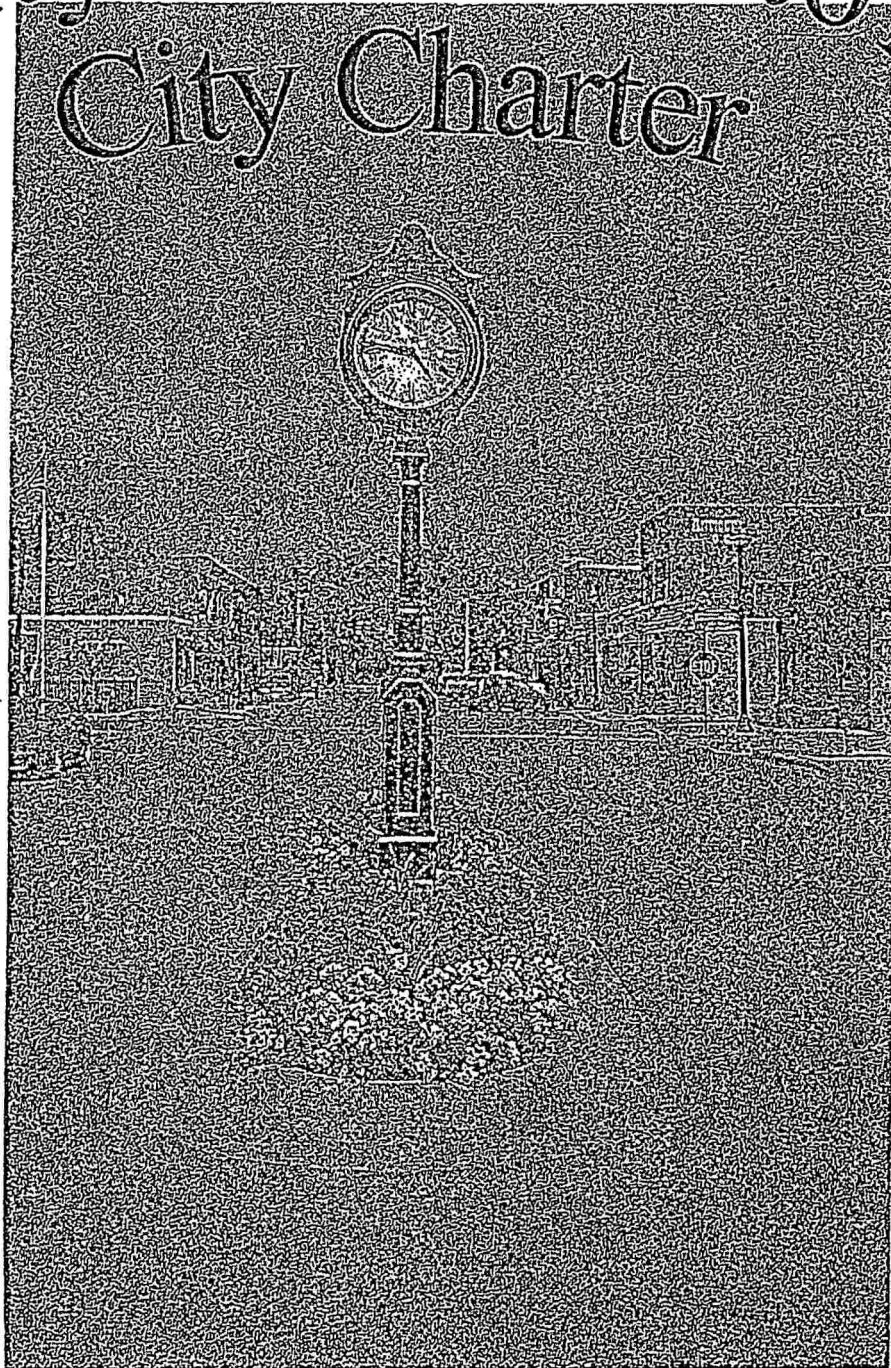


City of Beaverton City Charter



Adopted March 2, 2004

Amended August 3rd, 2010

**City of Beaverton
City Charter
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CITY OF BEAVERTON CHARTER

PREAMBLE

We, the people of the City of Beaverton establish this home rule Charter to enjoy to the fullest extent the advantages and benefits of local self-government as authorized by the Constitution and laws of the State of Michigan

NAME AND BOUNDARIES

This municipal corporation is known as the City of Beaverton and shall include all the territory constituting the City of Beaverton in Gladwin County, together with such territory as may from time to time be attached to it in accordance with state law. The Clerk shall maintain and keep available in his/her office for public inspection and distribution an official description and map of the current boundaries of the City.

CHAPTER 1 - MUNICIPAL POWERS

Section 1.1 Continuation of powers.

All powers, privileges and immunities not inconsistent with the provisions of this charter possessed by the City of Beaverton by virtue of its incorporation as such and expressly granted and fairly implied by law, are hereby expressly retained by the City and shall constitute a part of the powers of the City even though not expressly enumerated herein.

Section 1.2 General powers.

The City has the comprehensive home rule power conferred on it by the Michigan Constitution subject only to the limitations on the exercise of that power contained in the Constitution or this charter, or imposed by statute. The City has all other power, which a City may possess under the Constitution and laws of this state, even though not expressly enumerated herein.

Section 1.3 Construction.

The powers of the City shall be construed liberally in favor of the City. The specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

Section 1.4 Intergovernmental Relations.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies.

Section 1.5 Public Records

All records of the City shall be made available to the general public in accordance with the Freedom of Information Act, 1976 P.A. Number 442, being MCL 15.231 to 15.246.

CHAPTER 2 - CITY COUNCIL

Section 2.1 General Powers and Duties

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 2.2 Composition

There shall be a City Council composed of the Mayor and six members elected by the voters of the City.

Section 2.3 Eligibility for Office, Judge of Qualifications, Related Powers

No person shall hold any elective office of the City unless the person is a qualified and registered elector of the City on the last day for filing petitions or at such time of appointment and throughout his or her tenure of office.

No person shall be eligible for any elective or appointive city office that is in default to the City. The holding of office by any person who is in such default shall create a vacancy unless such default shall be cured within thirty (30) days after written notice thereof by the council or unless such person shall be in good faith contesting the liability for such default.

Each candidate for elective office shall file with his or her petition an Affidavit of Identity as required under State law. Failure to file such an affidavit shall invalidate the petition.

The council shall be the sole judge of the election and qualifications of its own members and of the grounds for forfeiture of their office, as provided below. The council shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide

penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers and the council shall have the power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.4 Wards

The City of Beaverton shall consist of one ward. The elective officers of the City shall be six council members and one mayor, all of whom shall be nominated and elected from the City at large.

Section 2.5 Terms of office

At each regular City election there shall be elected three (3) council members, for terms of two years each. The office of Mayor shall be a two-year term.

Section 2.6 Mayor, Mayor Pro-Tem

(a) Mayor. The mayor shall be the President of the City Council and shall preside at meetings of the council, represent the City in intergovernmental relationships, appoint with the advice and consent of the council the members of advisory boards and commissions, present an annual state of the City message, and perform other duties specified by the council. The Mayor shall not vote on all issues therein, except in the case of a tie when he/she shall have the deciding vote. The Mayor shall be the Chief Executive Officer of the City and shall be recognized as the head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

(b) Mayor Pro-Tem. The council shall, at its first meeting following each regular City election, and after the newly elected members take office, elect one of its members to serve as Mayor Pro-Tem for a term to expire at the first City Council meeting following each regular election.

(c) In the event of absence or disability of both the mayor and the mayor pro-tem, the council may designate another of its members to service as acting mayor during such absence or disability.

Section 2.7 Compensation, Expenses

The City Council shall determine the annual salary of the mayor and council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. Payment of salary shall be made on a monthly basis. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of the office. ~~Payments will only be made if mayor and council members present expenses for payment five (5) days before the scheduled regular monthly meeting.~~ The City Council shall provide compensation for all other officers and employees by ordinance or resolution.

Section 2.8 Prohibitions

(a) Holding other office. Except where authorized by law, no council member shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other City office or employment during the terms for which the member was elected to the council. No former council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the council. Nothing in this section shall be construed to prohibit the council from selecting any current or

form er council member to represent the City on the governing board of any regional or intergovernmental agency.

(b) Appointments and removals. The City Council and its members shall not in any manner control the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purpose of inquiries and investigations under Section 2.10, the council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.9 Vacancies, Forfeiture of Office, Filling of Vacancies.

(a) Vacancies. The office of an elected official shall become vacant upon the member's death, resignation and removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. An elective official shall forfeit that office if the elective official:

- (1) If at any time during his or her term of office the member lacks any qualification for office prescribed by this Charter or by law;
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a felony;
- (4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) Filling of vacancies. A qualified person, upon the nomination of and approval by a majority vote of the council members then serving, shall fill a vacancy in an elected office for the remainder of the unexpired term. The qualified person shall submit a letter of interest to the City Council. The City Council shall review the letters of interest submitted and select a replacement to fill the vacancy from the letters received. The vacant seat shall be filled within 20 calendar days of the date when such vacancy occurs. If the City Council cannot select a replacement from the letters received, a special election will be scheduled within the 20 day period.

(d) Recall. A vacancy caused by a recall shall be filled in the manner provided by state law.

Section 2.10 Investigations

The City Council may make investigations into the affairs of the City and the conduct of any department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The council shall provide by ordinance that failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a misdemeanor punishable by a fine and/or imprisonment upon conviction by a court of competent jurisdiction.

Section 2.11 Procedure

(a) Meetings. The council shall meet regularly at least once in every month, at such times and places as the council may prescribe by rule. All business of the council shall be conducted at meetings held in compliance with the Open Meetings Act, being P.A. 1976 Number 267, MCL 15.261 to 15.275. Special meetings may be held on the call of the mayor or of three or more members subject to the notice requirements of the Open Meetings Act and, whenever practicable, upon no less than twelve (12) hours notice to each member.

(b) Rules and Journal. The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings in the English language. This journal shall be a public record except as provided in the Open Meetings Act.

(c) Voting, except on procedural motions shall be by roll call and the ayes and nays shall be recorded in the journal. Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, ~~except as provided in the preceding sentence and in Section 2.09 shall be binding or valid unless adopted by the affirmative vote of four (4) or more~~ members of council. All council members shall vote on all questions before the council except in the case of a conflict of interest.

CHAPTER 3 - CITY ADMINISTRATIVE OFFICERS

Section 3.1 Administrative Service

The administrative officers of the City shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance or resolution. The council may by ordinance or resolution create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City.

Section 3.2 City Manager

(a) Appointment, Qualifications, Compensation.

The City Council shall appoint a City Manager by a majority vote of its total membership. The City Manager shall be appointed after the council has properly posted a job description with educational requirements to perform the duties of the office, and may be appointed for an indefinite term. The council shall fix the City Manager's salary and other compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. No member of the council shall be eligible to be appointed to the position of City Manager within two (2) years of the expiration of his last previous term on the council.

(b) Removal of City Manager.

The City Manager may be suspended with or without pay at the discretion of the City Council by a resolution approved by the majority of the total membership of the City Council that shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The City Manager shall have fifteen (15) days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, or a closed hearing if the City Manager requests and the Open Meetings Act will so permit, which hearing shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After the public hearing, if one be requested, and after full consideration, the City Council by a majority vote of its total membership may adopt a final resolution of removal.

(c) Powers and duties of the City Manager.

The City Manager shall be the chief administrative officer of the City, responsible to the council for the administration of all City affairs placed in the manager's charge by the council or this section. The City Manager shall:

(1) Appoint and when necessary for the good of the service, remove or suspend, with Council advice and consent, all City employees and appointive administrative officers provided for or by this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officers subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote.

(4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the manager's direction and supervision, are faithfully executed.

(5) Prepare and submit the annual budget and capital program to the City Council.

(6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) Make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision.

(8) Keep the City Council fully advised as to the financial condition and future needs of the City.

(9) Make recommendations to the City Council concerning the affairs of the City.

(10) Provide staff support services for the mayor and council members; and

(11) Perform other such duties as are specified in the Charter or may be required by the City Council.

Section 3.3 Acting City Manager

By letter filed with the City Clerk, the City Manager shall designate a City officer or employee to exercise the powers and perform the duties of City Manager during the Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.

CHAPTER 4 – LEGISLATION

Section 4.1 Prior City Legislation.

All valid bylaws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed and/or amended. Those provisions of any effective bylaw, ordinance, resolution, rule or regulations, which are inconsistent with this Charter, are hereby repealed.

Section 4.2 Form of Ordinances

All legislation of the City of Beaverton shall be by ordinance or resolution. Each ordinance shall be identified by number and a short title. The number of any ordinance shall be the year followed by the ordinance number for that year. Every ordinance shall be introduced in writing and in

the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinances, sections, subsections to be repealed or amended, and shall indicate matters to be omitted by brackets or strikeout type, and shall indicate new matters by underscoring or by italics. The style of all ordinances passed by the council shall be, "The City of Beaverton ordains:.."

Section 4.3 Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, the following acts shall be accomplished by ordinance only:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Grant, renew or extend a franchise;
- (4) Regulate the rate charged for its services by a public utility;
- (5) Authorize the borrowing of money;
- (6) Convey or lease or authorize the conveyance or lease of any lands of the City;
- (7) Regulate land use development; and
- (8) Amend or repeal any ordinance previously adopted.

Acts other than those listed in the preceding sentence may be done either by ordinance or resolution.

Section 4.4 Ordinances in General.

(a) Procedure. Any member at any regular or special meeting of the council may introduce an ordinance. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the council may designate and shall publish the ordinance, or a summary thereof, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable

after adoption, the clerk shall have the ordinance, or a summary thereof, and a notice of its adoption published and available at a reasonable price.

(b) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after its publication or at any later date specified therein.

(c) "Publish" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the City (1) the ordinance or a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 4.5 Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in Sections 6.14(b) and 9.03(2). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. After publication it shall become effective upon publication or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 4.6 Codes of Technical Regulations.

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

(a) The requirements of Section 4.6 concerning distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as the adopting ordinance; and

(b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Section 4.6.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or purchase at a reasonable price.

Section 4.7 Authentication and Recording; Codification; Printing

(a) Authentication and Recording. The City Clerk shall authenticate each ordinance and resolution adopted by City Council by signing it and shall record each in full in a properly indexed book kept for that purpose alone.

(b) Codification and Distribution. The City Council shall provide for the codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the City of Beaverton City Code. Copies of the code shall be furnished to officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) Printing of Ordinances and Resolutions. The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices fixed by the council. The ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements, as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Michigan, or the codes of technical regulations and other rules and regulations included in the code.

Section 4.8 Initiative and Referendum

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the council may be had by petition as hereinafter provided. There shall be no referenda or initiatives permitted on advisory issues.

Section 4.9 Initiatory and Referendary Petitions.

An initiatory or a referendary petition shall be signed by not less than ten (10) percent of the registered electors of the City, as of the date of the last City election, and all the signatures on said petition shall be obtained within twenty-one (21) days before the date of filing of the petition with the Clerk. Any such petition shall be addressed to the council, and may be the aggregate of two or more petition papers identical as to contents. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or code sections it proposes to have repealed.

Each signer of a petition shall sign his or her name, and shall place thereon, after his or her name, the date and his or her place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within fifteen (15) days canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the City, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the council at the next regular meeting.

Section 4.10 Council Procedure on Initiatory and Referendary Petitions.

Upon receiving an initiatory or referendary petition from the Clerk, the council shall either:

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

Section 4.11 Submission of Initiatory and Referendary Ordinances to Electors.

Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose, or, at the discretion of the council, at a special election held for that specific purpose. In the case of an initiatory petition, if no election is to be held in the City for any other purpose within one hundred and fifty days (150) from the time the petition is presented to the council and the council does not adopt the ordinance, then the council shall call a special election within sixty (60) days from such time for the submission of the initiative proposal. The result shall

be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

Section 4.12 Ordinance Suspended: Miscellaneous Provisions on Initiative and Referendary Ordinance.

The presentation to the council by the Clerk of a valid and sufficient referendary petition containing a number of signatures equal to twenty-five (25) percent of the registered voters of the City as of the date of the last City election shall automatically suspend the operation of the ordinance in question pending repeal by the City Council or a final determination by the electors.

An ordinance adopted by the electorate through the initiatory process may not be amended or repealed for a period of six (6) months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six (6) months after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiatory procedure in accordance with the provisions of this chapter or if submitted to the electorate by the council on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

CHAPTER 5 - CITY TREASURER & CLERK ADDITIONAL CITY ADMINISTRATIVE OFFICERS

Section 5.1 City Clerk; Office Created, Duties

(a) The City Clerk shall be the clerk of the council and shall attend all meetings of the council and shall keep a permanent journal of its proceedings in the English language.

(b) The Clerk shall be the custodian of the seal of the City, and shall affix it to documents and instruments requiring the seal, and shall attest the same. The Clerk shall also be the custodian of all papers, documents, bonds, and records pertaining to the City, the custody of which is not otherwise provided for.

(c) The Clerk shall certify by his or her signature all ordinances and resolutions enacted or passed by the council.

(d) The Clerk shall provide and maintain in the Clerk's office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.

(e) The Clerk shall have the power to administer oaths of office.

(f) The Clerk shall perform all other such duties as may be prescribed by this charter, by the City Manager, by the council or Mayor, or by laws of the State of Michigan.

Section 5.2 City Treasurer; Office Created, Duties

(a) The Treasurer shall have the custody of all moneys of the City, any bond pertaining solely to the Clerk, and all evidences of indebtedness belonging to the City or held in trust by the City.

(b) The Treasurer shall collect all moneys of the City the collection of which is not provided for elsewhere by charter or ordinance. He or she shall receive from other officers and employees of the City all money belonging to and receivable by the City that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the Treasurer after collection or receipt, and he or she shall in all cases give a receipt therefore.

(c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the council may determine and shall report the same in detail to the City Manager and City Council as required by same, from time to time.

(d) The Treasurer shall disburse all City funds in accordance with the provisions of statute, this charter and procedures to be established by the council.

(e) The Treasurer shall have such duties, powers and prerogatives in regard to the collection and custody of state, county, school district, and City taxes as are conferred by statute upon township treasurers in connection with state, county, and school district taxes upon real and personal property.

(f) The Treasurer shall perform such other duties as may be prescribed for him or her by this charter, the council, the City Manager, or by laws of the State of Michigan.

Section 5.3 Assessor; Office Created, Duties

The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. The Assessor shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He or she shall perform such other duties as may be prescribed by this charter, by the council, by the City Manager, or by the laws of the State of Michigan.

Section 5.4 Attorney; Office Created; Duties

(a) The Attorney shall act as legal advisor to and be attorney and counsel for the council and shall be responsible solely to the council. He or she shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given.

(b) The Attorney shall prosecute such ordinance violations and he shall conduct for the City such cases in court and before other legally constituted tribunals as the council may request. He or she shall file with the Clerk copies of such records and files relating thereto as the council may direct.

(c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments that are submitted to him or her by the council and shall promptly give his or her opinion as to the legality thereof.

(d) The Attorney shall call to the attention of the council all matters of law, and changes and developments therein, affecting the City.

(e) The Attorney shall perform other such duties as may be prescribed for him or her by this charter or the council.

(f) The City Attorney shall be appointed by the council and shall serve at its pleasure, and the council shall fix his or her compensation.

(g) Upon the recommendation of the Attorney, or upon its own initiative, the council may retain special legal counsel to handle any matter, in which the City has an interest, or to assist and counsel with the Attorney herein.

Section 5.5 Other Administrative Officers

Other administrative offices may be created by the council as the City's needs dictate, including but not limited to: City Health Officer, City Engineer, Chief of Police and Fire Chief, as the council may deem necessary.

Section 5.6 Appointment of Administrative Officers

All administrative officers including the Treasurer and Clerk with the exception of the City Attorney shall be appointed by the City Manager with the advice and consent of the council and shall serve at the pleasure of the City Manager. The City Manager shall set their wages or salaries in accordance with budget appropriations.

Section 5.7 Combination of Departments and Offices

The council may combine any administrative offices provided in this charter in any manner not inconsistent with state law, including the combination of the office of Clerk with that of Treasurer, or that of either the Clerk and/or the Treasurer with that of the City Manager or with any other office.

Section 5.8 General Provisions

(a) Creation of Departments. The City Council may by ordinance establish City departments, offices or agencies in addition to those created by this charter and may prescribe the function of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued, or unless this charter specifically so provides, assigned to any other.

(b) All departments, offices and agencies shall be under the direction and supervision of the City Manager except as otherwise provided by this charter.

Section 5.9 Personnel system

Merit principle. Except as provided in this charter for specific officers, all appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

Section 5.10 Planning

Consistent with all applicable federal and state laws with respect to land use, development and environmental protection, the City Council shall:

(a) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;

(b) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and

(c) Adopt development regulations, to be specified by ordinance, to implement the plan.

CHAPTER 6 - FINANCIAL PROCEDURES

Section 6.1 Fiscal Year

The fiscal year of the City shall begin on the first day of July and end on the last day of June. The Council may elect to observe a shorter or longer fiscal year during the year in which this Charter is adopted in order to accomplish the transition from the prior fiscal period and budget period to that established by this Charter.

Section 6.2 Power

The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed two percent of the assessed value of all real and personal property subject to taxation in the City. Should the council elect to observe a shorter or longer fiscal year in the year in which this Charter is adopted, consistent with section 6.1 above, the council may make and levy ad valorem taxes consistent with its budget during the longer or shorter fiscal and budget year, subject to limitations imposed by this section and state law.

Section 6.3 Subjects of Taxation

The subjects of taxation shall be the same as for State, County and School purposes under the general law, in accordance with the laws of the State of Michigan.

Section 6.4 Exemptions

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

Section 6.5 Tax Day

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the thirty-first (31st) day of December, which shall be deemed the tax day. Tax day may be changed by the Treasurer acting together with the council, as permitted by the laws of the State of Michigan.

Section 6.6 Preparation of the Assessment Roll

On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of personal

property; and the method of estimating all such values shall be as nearly uniform as possible.

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

Section 6.7 Board of Review

The Board of Review shall be composed of three electors of the City who shall meet the eligibility requirements for elective officers contained in Section 2.3 and who, during their term of office, shall not be City officers or employees or be nominees or candidates for elective City office. The filing by a member of a Board of Review of his nomination petition for an elective City office or the filing of consent thereto shall constitute resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. One member of the Board shall be appointed by the council in each January for a term of three years, such that each year that appointment replaces the member whose term expires that year. The council shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year, and the Assessor shall be clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote. The City Council shall fill any vacancies on the Board of Review. In the year in which this Charter is adopted the Council may make such provisions as are necessary for the orderly transition to the requirements of this Section, to the extent permitted by law.

Section 6.8 Board of Review, Powers

The Board of Review shall convene its first session on the second Monday in March of each year at such time and place as shall be designated by the council and shall remain in session for the purpose of considering and correcting the roll. Two members of the Board of Review shall constitute a quorum for the purpose of conducting business.

The Board shall correct errors in the names of persons, in the descriptions of property upon the roll, and in the assessment and valuation of property. The Board shall add to the roll the names of persons, the value of personal property and the description of real property liable to assessment in the City, upon sufficient cause being shown. The Board shall do whatever else is necessary to make the roll comply with the general property tax laws of the State of Michigan.

The roll shall be reviewed according to the facts existing on the tax day. The Board shall not add to the roll property not subject to taxation on the tax day, and the Board shall not remove from the roll property subject to taxation on that day regardless of a change in the taxable status of the property since that day.

The Board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by the Board in a separate column. The roll as prepared by the Assessor shall stand as approved and adopted as act of the Board of Review, except as changed by a vote of the board.

In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereon.

The Board of Review may convene its second session on the fourth Monday in March of each year at such time of day and place as shall be designated by the council and shall continue in session until all interested persons have had an opportunity to be heard.

Section 6.9 Endorsement of the Roll

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

Section 6.10 Submission of Budget and Budget Message

On or before the regular monthly meeting in May of each year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message. The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the

reasons for such changes, summarize the City's debt position and include such other material as the City Manager deems desirable.

Section 6.11 Budget

The budget shall provide a complete financial plan for all City funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the City Manager deems desirable or the City Council may require. The budget shall begin with a clear summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and

(3) The anticipated income and expense and profit and loss for the ensuing year for each utility or other enterprise fund operated by the City.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance, exclusive of reserves.

Section 6.12 City Council Action on Budget

A public hearing on the budget shall be held before its final adoption at such time and place as the council shall direct, and notice of such public hearing shall be published at least one week in advance by the Clerk in a publication of general circulation. A copy of the proposed budget shall be on file and available to the public for inspection during the office hours at the office of the Clerk for a period of not less than one week prior to such public hearing.

Section 6.13 Budget Adoption

Not later than the first regular monthly meeting in June, the council shall by resolution adopt the budget for the next fiscal year and shall in such resolution provide for a levy of the amount necessary to be raised by tax upon real and personal property for municipal purposes.

Section 6.14 Overspending; Amendments After Adoption

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his or her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by resolution.

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by resolution may make supplemental appropriations for the year up the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the City Council may make emergency appropriations in accordance with state law.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the Manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to eliminate any deficit and for that purpose it may, by resolution, reduce one or more appropriations.

(d) Transfer of Appropriation. At any time during the fiscal year the City Council may by resolution transfer all or part of the unencumbered appropriation balance from one department, fund, or agency to another.

(e) Limitation, Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 6.15 Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Section 6.16 Independent Audit

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits, as it deems necessary. A certified public accountant or firm of such accountants shall make such audits experienced in municipal accounting, and who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers.

Section 6.17 State, County, and School Taxes

State, county and school taxes shall be levied, collected and returned in conformity with the laws of the State of Michigan.

Section 6.18 Uniform System of Accounts.

The City shall utilize a uniform system of accounts as required by law.

CHAPTER 7 - ELECTIONS

Section 7.1 Qualification of Electors

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

Section 7.2 Election Procedure

The election of all City officers shall be on a nonpartisan basis. The general election statutes shall apply to and control, as near as may be, all

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procedures relating to registration and City elections except as such statutes relate to political parties or partisan procedure, and except as elsewhere provided in this charter.

Section 7.3 Regular Elections

The regular City election shall be held annually on the Tuesday succeeding the first Monday in November.

Section 7.4 Nominating Petitions.

Candidates for nomination to an elective City office shall file with the City Clerk a non-partisan nominating petition consisting of one or more petition forms and containing not less than twenty-five (25) signatures of qualified electors. The last day for accepting nominating petitions shall be thirteen (13) weeks before election day.

Section 7.5 Officers Terms

The term of office of all elected City officials shall begin on the first regular meeting in December after the County Clerk certifies the results of the November election.

Section 7.6 Election Commission

An Election Commission is hereby created, consisting of the Clerk and two qualified and registered electors of the City who, during their term of office, shall not be City officers, employees, candidates, or nominees for elective City office. These two members shall be appointed by the City Council in January for a term of two years. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the City Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

Section 7.7 Recount

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.

Section 7.8 Recall

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

CHAPTER 8 - GENERAL PROVISIONS

Section 8.1 Conflicts of Interest; Board of Ethics

(a) Conflicts of Interest, Ethics Generally. Except as otherwise provided by law, a local elected or appointed official shall not use his or her public position, or take or fail to take action, in order to obtain anything of value, for himself or herself or another person or entity. Public office is a public trust to be used solely to advance the public interest. Public officials should be accountable for their actions.

Section 8.2 Anti-Nepotism

Unless the council shall by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the City shall be served, the following relatives of an elective or appointive officers are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relative and their spouses who are bona fide appointive officers or employees of the City at the time of their election or appointment of said official.

Section 8.3 Resignations

Resignations of elective officers shall be made in writing and filed with the clerk and shall be acted upon by the council at its next regular meeting following receipt thereof by the clerk.

Section 8.4 Change in Term of Office or Compensation

The terms of officers of the City may not be shortened, or extended beyond the period for which any such officer was elected, except that an elective officer of the City shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The council shall not grant or authorize extra compensation to any City officer, or to any agent, or contractor after the service has been rendered or the contract entered into.

Section 8.5 Board of Ethics

The City Council may establish an independent board of ethics to administer and enforce the conflict of interest, pecuniary interest, and financial disclosure provisions of this charter or any ordinance enacted hereunder. No member of this board may hold elective or appointive office under the City or any other government, or hold any political party office. Insofar as is possible under state law, the City Council shall authorize the board to conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, to hire independent counsel, and to issue advisory opinions. The City Council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

Section 8.6 Preemption.

Nothing in this Chapter shall be deemed to conflict with or regulate any transaction, contract or situation governed by the state law entitled Conflicts of Interest as to Contracts, being 1968 P.A. Number 317 or MCL 15.321 *et seq.*

CHAPTER 9 - BORROWING

Section 9.1 General Power.

The City may borrow money for any purpose within the scope of its powers, may issue bonds or other evidence of indebtedness therefore, and may, when permitted by law, pledge the full faith, credit and resources of the City for payment of those obligations, to the extent permitted by law.

Section 9.2 Limitations of Borrowing

The net bonded indebtedness incurred annually by the City shall not exceed the limit permitted by law. No obligations shall be sold to obtain funds for any purpose or purposes other than that for which those obligations were specifically authorized.

Section 9.3 Specific Kinds of Borrowing.

Included within the City's general power are the following specific kinds of borrowing:

(1) Bonds to Finance Local Public Improvement. The City may borrow money and issue bonds in anticipation of the payment of special assessments or any combination of special assessments levied under Chapter 10 of this Charter. Special assessment bonds may be an obligation of the special

assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City.

The City may also borrow money and issue bonds under Chapter 10 for its share of the cost of any local public improvement or, where the cost of that improvement is to be defrayed in part from the payment of special assessments and in part from other City revenues, for the entire cost of that improvement.

All collections on each special assessment roll or combination of rolls to the extent that those collections are pledged for the payment of the principal and interest on all bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of the principal and interest and may be used for no other purpose.

(2) Emergency Bonds. In case of fire, flood or other calamity, the City may, subject to law, authorize the issuance of emergency bonds which shall be general obligations of the City for the relief of residents of the City and for the preservation of City property.

Section 9.4 Use of Borrowed Funds

Each obligation shall contain on its face a statement of the purpose for which it is issued and no officer of the City may use the proceeds for any other purpose, except that whenever all or part of any of the proceeds of any issue remains unexpended and unencumbered for the purpose for which the issue was made, the City may use those unexpended and unencumbered funds in any manner permitted by law or for the retirement of the issue, or, if the issue shall have been fully retired or if any funds remain after retirement of the issue, then for the retirement of other obligations of the City.

Section 9.5 Execution of Obligation

All obligations issued by the City shall be executed with the facsimile signature of the Mayor and signed by the City Treasurer and shall bear the seal of the City. Interest coupons shall be executed with the facsimile signature of the Mayor and the City Treasurer.

CHAPTER 10 - SPECIAL ASSESSMENTS

Section 10.1 Power to Assess

The City may determine that the whole or any part of the expense of any local public improvement or repair shall be defrayed by special assessment upon the property specially benefited and so declared by resolution.

Special assessments may be levied before, during or after the making of the improvement. However, where special assessments are not levied until after commencement of a local public improvement, the resolution levying those assessments shall not be effective unless approved by the two-thirds (2/3) majority of City Council members serving after all interested parties have been given an opportunity to be heard on all relevant issues, including necessity.

Section 10.2 Procedure Ordinance

The complete special assessment procedure to be used, including the preparing of plans and specifications; estimated costs; the preparation, hearing and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by the laws of the State of Michigan or by ordinance of the City. An ordinance of the City shall authorize additional assessments, if the prior assessment proves insufficient to pay for the improvement or is determined to be invalid, in whole or in part, and shall also provide for the refund of excess assessments; however, if the excess is less than five percent (5%) of the total cost as defined by the laws of the State of Michigan or ordinance of the City, it may be placed in the general fund of the City.

Section 10.3 Assessment Lien

From the date of confirmation of any roll levying any special assessment, the full amount of the assessment and all interest thereon shall constitute a lien on the property subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent City property taxes.

Section 10.4 Content of Assessment

No action of any kind may be instituted for the purpose of contesting or enjoining the collection of any special assessment unless, (a) the special assessment is first protested at the hearing held for the purpose of confirming the special assessment roll; (b) within thirty (30) days after the confirmation of the special assessment roll, written notice is given to City Council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and (c) the action is commenced within thirty (30) days after the final decision, ruling, determination or order confirming the roll. The City shall presume that any person who neglects or refuses to assert a claim within the thirty (30) day period has withheld his or her claim for the purpose of unjustly obtaining a special benefit to the property. If the City attorney submits a written opinion finding the roll illegal, in whole or in part,

the City Council may revoke its confirmation, correct the illegality, if possible, and reconfirm it, provided that no property shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

CHAPTER 11 - CONTRACTS

Section 11.1 Contracts

The authority to contract on behalf of the City is vested in the City Council and shall be exercised in accordance with the provisions of state statute and of this Charter.

Whenever it becomes desirable for the City to enter into a contract with a second party for any purpose whatever, such instrument shall be drawn or approved as to form by the City attorney and certified to by the City manager as to sufficiency of appropriated funds.

All contracts, except as otherwise provided for in this Charter, shall be approved by the City Council and shall be signed on behalf of the City by the mayor and the City Clerk. Copies of all contracts and agreements shall be filed in the office of the City Clerk.

Section 11.2 Purchasing and Contractual Procedure

The council shall provide, by ordinance, for a purchasing procedure to be followed in purchasing City supplies, materials, equipment, contractual services or other forms of personal property. Before making any such purchase or contract to purchase, competitive bids shall be obtained, except:

- (a) in the securing of professional services for the City or,
- (b) ~~when the purchasing officer for the City is exempted by the~~
purchasing ordinance because of value or when the City Council shall determine that no advantage to the City would result from competitive bidding.

Purchases shall be made from the lowest responsible bidder meeting specifications, unless the council shall determine that the public interest would be better served by accepting a higher bid or rejection of all submitted bids. All purchases shall be evidenced by a written purchase order or sales memorandum.

The council shall provide in the ordinance required by this Section the definition of "lowest responsible bidder," the dollar limit within which the purchasing officer of the City may make purchases without the necessity of

obtaining competitive bids, and the dollar limit with which purchases may be made without the necessity of the council approval.

The purchasing officer shall provide the council with all additional certifications required by law prior to council action on the contract and shall report to the council at an appropriate time on compliance with the terms of the contract.

Section 11.3 Modification in Contracts

When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the council. No such order shall be effective until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Clerk, upon authority of the council, and a copy of the modification documents filed in the City Clerk's office.

Section 11.4 Estoppel by Representation

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

Section 11.5 Regulatory Power

The City may, to the extent permitted by law, in exercise of its police power:

- (a) Regulate;
- (b) Prohibit; or
- (c) Prohibit except as authorized by permit, license or franchise any trade, occupation, amusement, business or other activity within the City.

Section 11.6 Limitation on a Franchise

An irrevocable franchise, for a period of up to 30 years, and all renewals, amendments and extensions of it, may be granted only by ordinance,

The City Council may approve such an ordinance only after a public hearing has been held on it and after the grantee named in it has filed with the City Clerk its unconditional acceptance of all the terms of the franchise.

The ordinance may not take effect unless it has been approved by the voters of the City, where State law so requires, or unless it has been approved by a two-third (2/3) majority of City Council members serving, where approval of the voters is not required by State law.

When approval of the voters of the City is required, the ordinance as approved by the City Council shall be published in a daily newspaper or equivalent of general circulation in the City not less than 30 days before the election at which it is submitted to the voters. The City Council may not call a special election unless the expense (as determined by the City Council) of holding the election has first been paid to the treasurer by the franchise grantee.

Section 11.7 City Liability

Any person having a claim against the City by reason of negligence for damages to person or property shall give the City written notice of the claim within 120 days. This notice shall be served on the City Clerk and shall contain the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the City liable for such damages as may have been sustained.

Failure to give notice as outlined in this Section may be reason to dismiss any claim for such injuries. The standard of review to dismiss the claim for failure to give required notice shall be the same as is outlined in State statute.

Upon receiving notice, the City shall respond promptly to each such claim under procedures established by the City Council. The claimant may be notified that the City is not liable because of immunity or some other defense. In addition to the defenses outlined in the City's response to the notice of claim, the City may allege other defenses if the claim is pursued in a forum such as a court of law.

If the City recognizes the possibility of liability, the response shall specify the appropriate procedure for the resolution of the issue of liability and adjustment of the amount of damages by mediation, arbitration or any other means chosen to protect the public interest. A claimant's failure to follow the reasonable procedures designed to allow the City to fairly investigate the circumstances of the claim, determine liability and fix damages must be brought to the attention of any body or official with discretionary authority over the award of costs.

The provisions of this Charter are not intended to waive any immunity from tort liability provided by statute or common law.

CHAPTER 12 – SCHEDULE

Section 12.1 Effect on Existing City Legislation

All ordinances and resolutions of the City and all orders, rules and regulations made by any officer or agency of the City, which are not inconsistent with this Charter, shall remain in effect, until changed by action taken under this Charter.

The City Attorney shall, within six (6) months after effective date of this Charter recommend to the City Council such changes as may be necessary to make provisions of any old or existing ordinances and resolutions to the City which have been continued in force as well as existing ordinances, resolutions, order, rules and regulations consistent with this charter.

Section 12.2 Continuation of Public and Private Rights

All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing when this Charter take effect shall continue unaffected except as modified in accordance with this Charter.

Section 12.3 Rights of Officers and Employees

No provision of this Charter shall affect or impair the rights or privileges of City officers or employees existing when this Charter takes effect with respect to appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights.

Section 12.4a Transition of Offices

(a) The Council members now serving and duly elected shall continue in the office so held for them for the balance of the term of office to which they were elected. At the general election in November 2010 and thereafter, all council positions, as they expire according to their own terms, shall be filled on an at large basis. Thereafter, their successors shall qualify for, assume and hold offices to which they have been elected or appointed in accordance with the provisions of this charter at large.

(b) This Charter shall not be deemed to or have the effect of lengthening or shortening any term of office contrary to law.

Section 12.5 Effective Date of Charter

This Charter shall be effective when filed in compliance with Section 24 of the Home Rule Cities Act, being MCL 117.24, if certified by the Board of Canvassers on the vote of the people to adopt the revised Charter.

Section 12.6 General Provision

If any question concerning transition from the Charter provided for the Fourth Class City Act to this Charter arises for which this Charter has not provided, the City may provide for a resolution of the question by ordinance.

Section 12.7 Submission of the Charter

This Charter shall be submitted for adoption at the City election to be held at a time specified by the Charter Commission by resolution, in the manner and with the effect prescribed by state law as follows:

Proposal A – Proposal to Adopt a New City Charter

Shall the Beaverton City Home Rule Charter proposed by the Beaverton City Charter Revision Commission on November 13, 2003 be adopted?

Yes
No

Approved _____

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Beaverton, held at 7:00 p.m. on the 13th day of November 2003 at the usual meeting place of the Commission, the following members of the Charter Commission were present:

Commissioners -Hooper, Blatt, Malosh, Allen, Bain, Murray, Patsey

At such meeting the following resolution was offered by Commissioner - Blatt and seconded by Commissioner Murray:

Resolved, that the Charter Commission of the City of Beaverton does hereby adopt the foregoing instrument as the proposed revised Charter of the City of Beaverton, 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, for her approval.

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


Ayes: Hooper, Blatt, Malosh, Allen, Bain, Murray, Patsey

Nays: None

Absent:: Asch, Wood

This Charter shall be submitted for adoption at the City election to be held on March 2nd 2004 in the manner and with the effect prescribed by state law.

The said Commissioners, being legal members and acting upon said Charter Commission, having adopted the above resolution, the meeting was adjourned subject to the call of the Chairman.


Clerk of Charter Commission
Of the City of Beaverton, Michigan

Proposal A – Proposal to Adopt a New City Charter

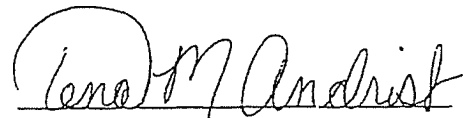
Shall the Beaverton City Home Rule Charter proposed by the Beaverton City Charter Revision Commission on November 13, 2003 be adopted?

Yes 44

No 21

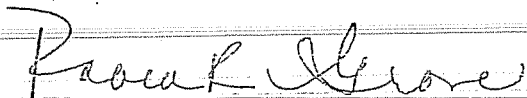
Approved: March 2, 2004

I, Tena Andrist, Clerk, of the City of Beaverton, certify that above is a true record of the results of the Charter adoption vote held on March 2, 2004



Tena Andrist, City Clerk

Signed this 3rd day of March 2004 in Beaverton, MI



Robin R. Grove, Notary

ROBIN R. GROVE, NOTARY PUBLIC
GLADWIN COUNTY, STATE OF MICHIGAN
MY COMMISSION EXPIRES 12-31-2006