

PART I - CHARTER^[1]

THE CHARTER OF THE CITY OF EAST JORDAN

Footnotes:

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Editor's note— Printed herein is the city Charter, as adopted by the city commission on April 24, 1995, and effective 30 days after such date. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, subcatchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets. MSA cites have been deleted since they are obsolete.

State Law reference— Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22; home rule act, MCL 117.1 et seq.

PREAMBLE

We, the people of the City of East Jordan, pursuant to the authority granted by the constitution and laws of the State of Michigan, under the divine guidance of God, in order to procure the fullest and most efficient benefits of local self-government and to promote our common welfare, do hereby, by the people and for the people adopt, ordain and establish this Charter.

ARTICLE 1. - INCORPORATION AND BOUNDARIES^[2]

Footnotes:

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

Sec. 1.01. - Incorporation.

The municipal corporation known as the City of East Jordan, Michigan, continues to be a municipal corporation and body politic under the same name.

Sec. 1.02. - Boundaries.

The territory constituting the City and subject to its government is described in the records of the Charlevoix County Register of Deeds. This territory is continued. The boundaries may be amended according to state law.

Sec. 1.03. - Water and watercourses.

The territory and jurisdiction of the City includes all waters within its boundaries.

ARTICLE 2. - POWERS OF THE CITY^[3]

Footnotes:

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

Sec. 2.01. - Powers of the City.

The City shall have all powers possible for a City to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter and all such powers are hereby incorporated. The City shall provide for the public peace and health and for the safety of persons and property as provided herein. Any future powers or rights allowed to cities or public corporations by the state are also hereby incorporated.

Sec. 2.02. - Construction.

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

Sec. 2.03. - 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 the state or any state agency, local unit of government, or the United States or any of its agencies.

State Law reference— Authority to enter into intergovernmental contracts, MCL 124.1 et seq.

Sec. 2.04. - Exercise of powers.

The City Commission shall determine the type and level of all services provided by the City unless otherwise provided by this Charter. Services may be provided directly by the City, through intergovernmental cooperation, or through contracting as provided by this Charter and state law.

Sec. 2.05. - Enumeration of powers.

In addition to all powers otherwise indicated by the charter, law and constitution, the City shall have all powers permissible for a city to have in its charter, including, but not limited to, the following:

- (a) The power to borrow money on the credit of the City and issue bonds therefor for any purpose within the scope of the City's power and the power to borrow money and issue bonds in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district and a general obligation of the city. MCL 117.4a.
- (b) The power to refund money advanced or paid on special assessments imposed for water main extensions; the power to borrow money through the city commission on the faith and credit of the city to provide for such refunding from time to time as building shall be connected with such water main extensions; and the power to issue bonds therefor due in not more than 30 years in an amount and at a rate of interest established by the commission. MCL 117.4b(1).
- (c) The power to install and connect sewers and water works on and to property within the city; the power to assess the cost thereof to the several properties and make the same a lien thereon; the power to borrow money and issue bonds in anticipation of the collection of such special assessments. MCL 117.4b(2).
- (d) The power to install and connect conduits for the service of municipally owned and operated electric lighting plants, and to borrow money and issue the bonds therefor, for the purpose of providing the first cost of such installation and connection. MCL 117.4b(3).

- (e) The power to issue mortgage bonds beyond the general limit of bonded indebtedness for the purposes of acquiring, owning, purchasing, constructing, and operating a public utility, including the creation of a sinking fund therefor. MCL 117.4c.
- (f) The power to assess and reassess the costs or any portion thereof of any public improvement to a special district, including the installation of a boulevard lighting system on any street. MCL 117.4d.
- (g) The power to acquire by purchase, gift, condemnation, lease, construction or otherwise, either within or without the corporate limits of the city, and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary land, viz; city hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees, embankments, watchhouses, city prisons and workhouses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, water works plants and systems, sewage disposal plants and systems market houses and market places, office buildings for city officers and employees, public works, and public buildings of all kinds; and the power to incur the cost and expenses thereof. MCL 117.4e(1).
- (h) The power to acquire private property by purchase, gift, condemnation, lease or otherwise, either within or without the corporate limits of the city, and either within or without the corporate limits of the county in which the city is located, for any public use or purpose within the scope of its powers, whether or not herein specifically its property, and upon the discontinuance thereof to lease, sell or dispose of the same subject to any restrictions placed thereupon by law. MCL 117.4e(2), (3).
- (i) The power to purchase or condemn franchises and the property used in the operation of companies or by individuals engaged in the plank road, cemetery, hospital, almshouse, electric light, gas, heat, water, and power business; and the power to contract upon the terms and conditions and, in the manner deemed proper, the power to purchase, operate, and maintain any existing public utility property for supplying water, heat, light, power, telecommunications or transportation to the city and the inhabitants thereof. MCL 117.4f(1).
- (j) The power to own, construct, and operate transportation facilities within the city limits and within a distance of ten miles from any portion of the city limits. MCL 117.4f(2).
- (k) The power to purchase and condemn private property for any public use or purpose within the scope of its powers, the power to acquire, own, establish, construct, and operate, either within or without its corporate limits, public utilities for supplying water, light, heat, power, and transportation to the city and the inhabitants thereof for domestic, commercial, and municipal purposes; the power to sell and deliver heat, power and light without its corporate limits at wholesale or other than wholesale in an amount as determined by the governing body of the utility supplying the heat, power, or light, and subject to state law. MCL 117.4f(3).
- (l) The power to acquire, establish, operate, extend, and maintain sewage disposal systems, sewers, and plants, either within or without its corporate limits, as a utility, including acquiring property necessary by purchase, gift, or condemnation, and to fix and collect charges for service covering the cost of such service which may include a return on the fair value of the property devoted to this service excluding the portions of this system as may have been paid for by special assessment, and which charge may be made a lien upon the property served and if not paid when due, to be collected in the same manner as other city taxes. MCL 117.4f(4).
- (m) The power to acquire by construction, condemnation, or purchase, and to own, equip, possess, lease, operate and maintain a rapid transit system consisting of a tunnel, subway, service or elevated system or any combination and qualification of these, in and through the city, and for a distance of not more than ten miles beyond its limit, for the purpose of furnishing transportation facilities to the city and to the people thereof; the power to prepare and publish plans for such construction, equipment and maintenance as determined by the City Commission the power to operate such facilities or transportation system, owned, operated or controlled by

the city or existing within the city, or in the territory in which any such rapid transit system is established; the power to designate such facilities; the power to take the fee of or easement or right-of-way on, under, above and through any property for the purposes thereof, by gift, grant and purchase, and by condemnation proceedings in accordance with state law; the power to manage such facilities, for the purposes for which the same are or may be acquired or constructed; the power under procedures established by the City Commission to execute contracts incidental to the carrying out of the purposes hereby contemplated; and the power to properly finance such system as deemed suitable by the City Commission and as allowable by law. MCL 117.4g(1).

- (n) The power to use, regulate, improve and control the surface of streets, alleys and public ways, and of the space above and beneath them, and the power to control the use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon payment of a reasonable compensation to the owner thereof. MCL 117.4h(1), (2).
- (o) The power to adopt a plan of streets and alleys in the city and for a distance of not more than three miles beyond the city limits; and the power to regulate streams, waters and watercourses within the city. MCL 117.4h(3), (4).
- (p) The power to secure by condemnation, agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable stream an elevated structure of one or more levels for use as a vehicular or pedestrian passage way or for any other municipal purposes. MCL 117.4h(5).
- (q) The power to acquire, establish, operate, extend and maintain facilities for the storage and parking of vehicles within its corporate limits, including affixing and collecting of charges for services and use thereof a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary. MCL 117.4h(6).
- (r) The power to acquire, construct, establish, operate, extend and maintain facilities for the docking of pleasure water craft and or hydroplanes within the corporate limits, including the fixing and collecting of charges for use thereof, and for such purpose or purposes to acquire by gift, purchase, condemnation or otherwise, the lands necessary therefor. MCL 117.4h(7).
- (s) The power to lay and collect rents, tolls, and excises. MCL 117.4i(a).
- (t) The power to establish districts or zones within the use of land and structures, height, areas, size and location of buildings and required open spaces for light and ventilation of such buildings, and density of population may be regulated by ordinance; and the power to regulate and restrict the locations of oil and gasoline stations. MCL 117.4i(b), (c).
- (u) The power to regulate trades, occupations and amusements within city boundaries, not inconsistent with state and federal laws; to prohibit trades, occupations and amusements as are detrimental to the health, morals and welfare of the inhabitants; and the power to license, regulate, restrict and eliminate the number and locations of billboards within the city. MCL 117.4j(d), (f).
- (v) The power to establish a system of civil service for its employees; and the power to compensate employees and their dependents in case of disability, injury, or death of such employees. MCL 117.41(h), (i).
- (w) The power to enforce all local, police, sanitary and other regulations not in conflict with state law; and the power to punish those who violate city laws or ordinances. MCL 117.4i(j), (k).
- (x) The power to exercise all municipal powers in the management and control of municipal property and in the administration of municipal government, whether such powers be expressly enumerated or not, to advance the interests of the city, good government and prosperity of the municipality and its inhabitants, and to pass laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state. MCL 117.4j(3).

- (y) The power to appropriate and allocate public funds to a public or non-profit institution engaged within the city in the provision of civic, artistic, and cultural activities, including but not limited to music, theater, dance, visual arts, literature and letter, architecture, architectural landscaping, and allied arts and crafts to the general public. MCL 117.4k.

ARTICLE 3. - CITY COMMISSION^[4]

Footnotes:

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State Law reference— Mandatory that charter provide for a legislative body, MCL 117.3(a).

Sec. 3.01. - Composition, election and terms.

- (a) *Composition.* There shall be a City Commission of seven members elected by the voters of the City at large.
- (b) *Election and terms.* The regular election of Commission members shall be held at the regular city election in each odd numbered year in the manner provided by law. Commission members shall be elected for four-year terms. The terms of Commission members shall begin the first Monday after their election at which time shall be held the annual organizational meeting.

Sec. 3.02. - Mayor.

Annually at the organization[al] meeting the City Commission shall elect from its members a Mayor and deputy Mayor of the City, each of whom shall serve for a term of one year. The Mayor shall preside at meetings of the Commission, represent the City in intergovernmental relationships, present an annual state of the City message, and other duties specified by the Commission. The Mayor shall be the chief executive officer of the City and shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The deputy Mayor shall act as Mayor during the absence or disability of the Mayor. The Mayor shall have served a minimum of one year on the Commission before being eligible for the position of Mayor. The Mayor shall be required to vote on all issues.

Sec. 3.03. - Compensation.

The City Commission may determine the annual salary of the Mayor and Commission members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Commission members elected at the next regular election. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 3.04. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Commission member shall hold any other elected public office during the term for which the member was elected to the Commission. No Commission member shall hold any other City office or employment during the term for which the member was elected to the Commission. No former Commission 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 Commission. Nothing in this section shall be construed to prohibit the Commission from selecting any current or former Commission member to represent the City on the governing board of any regional or other intergovernmental agency.

- (b) *Appointments and removals.* Neither the City Commission nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Administrator or any subordinate of the City Administrator is empowered to appoint, but the Commission may express its views and fully and freely discuss with the City Administrator anything pertaining to appointment and removal of such officers and employees.
- (c) *Interference with administration.* Except for the purpose of inquiries and investigations, the Commission or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately.

State Law reference— Incompatible offices, MCL 15.181 et seq.

Sec. 3.05. - Vacancies and forfeiture of office.

- (a) *Vacancies.* The office of a Commission member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) *Forfeiture of office.* A Commission member shall forfeit that office if the member:
 - (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;
 - (2) Violates any express prohibition of this Charter; or
 - (3) Is convicted of a crime involving moral turpitude.
- (c) *Filling of vacancies.* In the event of a vacancy on the City Commission the Commission by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the next regular election following not less than sixty (60) days upon the occurrence of the vacancy.

If the Commission fails to do so within thirty (30) days following the occurrence of the vacancy, the election authority shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred and twenty (120) days following the occurrence of the vacancy, and be otherwise governed by law.

At the appropriate regular election or special election if necessary following the occurrence of the vacancy, a person shall be elected to fill the remainder of the unexpired term of the office.

Notwithstanding any quorum requirement, if at any time the membership of the Commission is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to a quorum. If all positions on the City Commission should become vacant at the same time, four (4) vacancies shall be filled by the Charlevoix County Board of Election Commissioners and thereafter those four (4) members shall appoint the remaining members. Such appointments shall serve until the next regular city election which occurs not less than sixty (60) days after the occurrence of the first vacancy.

State Law reference— Authority that charter prescribe method for filling vacancy in office, MCL 201.37.

Sec. 3.06. - Judge of qualifications.

The City Commission shall be the judge of the election and qualifications of its members, existence of a vacancy, and of the grounds for forfeiture of their office. The Commission shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Commission shall have 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 Commission under this section shall be subject to judicial review in circuit court as in the case of an appeal from a lower tribunal.

Sec. 3.07. - Investigations.

The City Commission may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Commission shall be a misdemeanor punishable by a fine of not more than \$500[.00] or by imprisonment for not more than 90 days or both.

Sec. 3.08. - Independent audit.

The City Commission shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Commission may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made not later than 30 days after the beginning of such fiscal year.

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

Sec. 3.09. - Procedure.

- (a) *Meetings.* The Commission shall meet regularly at least once in every month at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or of three or more members and, whenever practicable, upon no less than eighteen hours notice to each member. All meetings shall be subject to the Open Meetings Act. MCL 15.261 et seq.
- (b) *Rules and journal.* The City Commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings in the English language.
- (c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Commission 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 Commission. Except as otherwise provided, no action of the Commission shall be valid or binding unless adopted by the affirmative vote of four or more members of the Commission.

Sec. 3.10. - Ordinances.

- (a) *Form.* Every proposed ordinance shall be introduced in writing. The enacting clause shall be "The City of East Jordan hereby ordains" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended.
- (b) *Procedure.* An ordinance may be introduced at any meeting of the Commission and enacted 14 days thereafter. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Commission member and to the City Administrator, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Commission may designate. After introduction the Commission may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption but not later than 14 days, the Clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price.

- (c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective 7 days after publication or at any later date specified in the ordinance.
- (d) *"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.
- (e) *Penalty.* Unless otherwise provided, all violations of ordinances are misdemeanors punishable by a fine or imprisonment, or both, not exceeding that allowed by law. The City Commission may provide that violations of specific ordinances are civil infractions, subject to a civil fine and actual costs but not imprisonment.

State Law reference— General authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22; mandatory that charter provide for adopting, continuing, amending and repealing ordinances, MCL 117.3(k).

Sec. 3.11. - Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Commission may adopt one or more emergency ordinances. 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 six members shall be required for adoption. If six members are not eligible to vote on the matter, adoption shall require the unanimous approval of all eligible members. After its adoption the ordinance shall be published by posting in not less than three public places and then printed as prescribed for other adopted ordinances. It shall become effective upon posting or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 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 described in this section for adoption of emergency ordinances.

Sec. 3.12. - Codes of technical regulations.

The City Commission 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:

- (1) The requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) 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.

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

State Law reference— Authority for this section, MCL 117.3(k).

Sec. 3.13. - Authentication and recording.

The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Commission. Failure to sign shall not in any way invalidate an ordinance or resolution.

Sec. 3.14. - Codification.

Within three years after adoption of this Charter and at least every ten years thereafter, the City Commission shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Commission by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state, and such codes of technical regulations and other rules and regulations as the Commission may specify. This compilation shall be known and cited officially as the East Jordan City Code. Copies of the Code shall be furnished to City 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 Commission. The City may also make such codification available in electronic form.

State Law reference— Codification authority, MCL 117.5b.

Sec. 3.15. - Printing of ordinances and resolutions.

The City Commission shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed in the English language promptly following its adoption. Following publication of the first East Jordan City Code and at all times thereafter, 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 Commission 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 or the codes of technical regulations and other rules and regulations included in the code.

Sec. 3.16. - Zoning and master plan.

The City Commission shall enact a zoning ordinance in conformity with state law and shall appoint a Planning Commission. The Planning Commission shall adopt a comprehensive land use plan for the City in conformity with state law. The City Commission shall see that the Zoning Ordinance and the comprehensive land use plan is kept up to date and shall review that ordinance and direct the Planning Commission to review that plan not less than every five years.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

Sec. 3.17. - Committees.

The City Commission shall appoint a committee of not less than three of its members to seek and interview interested City residents who are willing to serve on voluntary boards and commissions of the City. The committee shall establish their own rules and qualifications in seeking interested volunteers. The committee shall make recommendations on appointments to the City Commission. Final appointment shall be made by majority vote of the City Commission unless a greater number are required by statute, Charter or ordinance.

ARTICLE 4. - CITY ADMINISTRATOR

Sec. 4.01. - Appointment.

The City Commission by a majority vote of its total membership shall appoint a City Administrator for an indefinite term and fix the Administrator's compensation. The City Administrator shall be appointed solely on the basis of executive and administrative qualifications and shall have training or experience in

public administration. The Administrator shall be a resident of the City within 90 days of the effective date of assuming duties or such longer time as determined by the City Commission.

Sec. 4.02. - Removal.

The City Administrator may be suspended by a resolution approved by the majority of the total membership of the City Commission which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Administrator. The City Administrator shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one be requested, and after full consideration, the City Commission by a majority vote of its total membership may remove the City Administrator.

Sec. 4.03. - Acting City Administrator.

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

Sec. 4.04. - Powers and duties of the City Administrator.

The City Administrator shall be the chief administrative officer of the City, responsible to the Commission for the administration of all City affairs placed in the Administrator's charge by or under this Charter. The City Administrator shall:

- (1) Appoint, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The City Administrator may authorize any administrative officer subject to the Administrator'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 Commission meetings. The City Administrator 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 Commission, subject to enforcement by the City Administrator or by officers subject to the Administrator's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the City Commission;
- (6) Submit to the City Commission 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 Commission may require concerning the operations of City departments, offices and agencies subject to the City Administrator's direction and supervision;
- (8) Keep the City Commission fully advised as to the financial condition and future needs of the City;
- (9) Enforce all City ordinances[;]
- (10) Make recommendations to the City Commission concerning the affairs of the City;
- (11) Provide staff support services for the Mayor and Commission members; and
- (12) Perform such other duties as are specified in this Charter or may be required by the City Commission.

ARTICLE 5. - DEPARTMENTS, OFFICES AND AGENCIES

Sec. 5.01. - General provisions.

- (a) *Creation of departments.* The City Commission may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- (b) *Direction by City Administrator.* All departments, offices and agencies under the direction and supervision of the City Administrator shall be administered by an officer appointed by and subject to the direction and supervision of the Administrator. With the consent of Commission, the City Administrator may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.
- (c) *Contracting.* The City may exercise any of its administrative powers or perform any of its administrative functions by contracting with a natural or artificial person. The contract shall be in writing, shall conform to state law, shall include safeguards for the public health, safety and welfare, and shall be pursuant to procedures established by the City Commission.

Sec. 5.02. - Personnel system.

Consistent with all applicable federal and state laws the City Commission shall provide personnel policies necessary to effective administration of the employees of the City's departments, offices and agencies.

Sec. 5.03. - City Attorney.

There shall be a City Attorney of the City appointed by the City Commission. The City Attorney shall serve as chief legal adviser to the Commission, the City Administrator and all City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by state law, by this Charter or by ordinance, unless upon recommendation of the City Attorney another attorney is deemed advisable by the City Commission. The City Commission shall determine the City Attorney's compensation.

Sec. 5.04. - City Clerk.

The City Administrator shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Commission meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter, by the City Administrator or by state law. With the approval of the City Commission, the City Administrator shall determine the City Clerk's compensation.

Sec. 5.05. - City Treasurer.

There shall be a City Treasurer of the City appointed by the City Administrator and having such qualifications as required by the City Commission and City Administrator. The City Treasurer shall have such duties as determined by state law, this Charter, and the City Administrator. With the approval of the City Commission, the City Administrator shall determine the City Treasurer's compensation.

Sec. 5.06. - City Assessor.

There shall be a City Assessor of the City appointed by the City Administrator. The City Assessor shall have such qualifications and duties as determined by state law, this Charter, and the City Administrator. With the approval of the City Commission, the City Administrator shall determine the City Assessor's compensation.

Sec. 5.07. - Planning.

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

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance; and
- (2) Adopt a six year capital improvements plan.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

ARTICLE 6. - FINANCIAL PROCEDURES⁶¹

Footnotes:

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State Law reference— Revised municipal finance act, MCL 141.2101 et seq., uniform budgeting and accounting act, MCL 141.421 et seq.; fiscal stabilization act, MCL 141.1001 et seq.; city authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2).

Sec. 6.01. - Fiscal year.

The fiscal year of the City shall begin on the first day of July and end of the last day of June.

Sec. 6.02. - Submission of budget and budget message.

On or before the first day of April of each year, the City Administrator shall submit to the City Commission a budget for the ensuing fiscal year and an accompanying message.

Sec. 6.03. - Budget message.

The City Administrator'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 Administrator deems desirable.

Sec. 6.04. - Budget.

The budget shall provide a complete financial plan of 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 Administrator deems desirable or the City Commission may require. The budget shall begin with a clear general 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.

State Law reference— Uniform budgeting and accounting act, MCL 141.421 et seq.

Sec. 6.05. - Action on budget.

- (a) *Notice and hearing.* The City Commission shall publish in a newspaper of general circulation in the City the general summary of the budget and a notice stating:
 - (1) The times and places where copies of the message and budget are available for inspection by the public[;] and
 - (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.
- (b) *Amendment before adoption.* After the public hearing, the City Commission may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.
- (c) *Adoption.* The City Commission shall adopt the budget on or before the fifteenth day of the eleventh month of the fiscal year currently ending.

Sec. 6.06. - Appropriation and revenue ordinances.

To implement the adopted budget, the City Commission shall adopt, prior to the beginning of the ensuing fiscal year:

- (a) An appropriation ordinance making appropriations by department or major organizational unit and authorizing a single appropriation for each program or activity;
- (b) A tax levy authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) Any other actions required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

State Law reference— Mandatory that charter provide for annual appropriation of money for municipal purposes, MCL 117.3(h).

Sec. 6.07. - Amendments after adoption.

- (a) *Supplemental appropriations.* If during the fiscal year the City Administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Commission may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the City Commission may make emergency appropriations. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, and to the extent allowed by law, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.

- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the City Administrator that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Administrator shall report to the City Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by the Administrator and recommendations as to any other steps to be taken. The Commission shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- (d) *Transfer of appropriations.* At any time during the fiscal year the City Commission may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The Administrator may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the Commission in writing in a timely manner.
- (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.

Sec. 6.08. - 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. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Sec. 6.09. - Overspending of appropriations prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Administrator or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom 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 ordinance.

Sec. 6.10. - Expenditures and bidding.

The City Administrator shall have authority to expend up to \$10,000[.00] if in accordance with an approved appropriation ordinance. Expenditures above that amount shall be approved by the City Commission in accordance with an approved appropriations ordinance. Monthly reports of payment of all bills shall be available to the City Commission. A competitive bidding process shall be conducted for any contract for goods or services exceeding \$10,000[.00]. However, competitive bidding shall not be required for professional services, emergency situations, or situations where it is determined by the City Commission to be in the best interest of the City to not seek competitive bids. The procedures for the competitive bidding process shall be determined by the City Commission by ordinance.

Sec. 6.11. - Capital program.

- (a) *Submission to the City Commission.* The City Administrator shall prepare and submit to the City Commission a six-year capital program no later than the final date for submission of the budget.
- (b) *Contents.* The capital program shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
 - (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
 - (4) Method of financing, upon which each capital expenditure is to be reliant; and
 - (5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 6.12. - Action on capital program.

- (a) *Notice and hearing.* The City Commission shall publish in one or more newspapers of general circulation in the City the general summary of the capital program and a notice stating:
 - (1) The times and places where copies of the capital program are available for inspection by the public; and
 - (2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.
- (b) *Adoption.* The City Commission by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the fifteenth day of the eleventh month of the current fiscal year.

Sec. 6.13. - Financial records.

The City Administrator and City Treasurer shall keep such financial records as conform to a uniform system of accounts as may be required by state law.

State Law reference— Uniform budgeting and accounting act, MCL 141.421 et seq.

ARTICLE 7. - TAXATION^[6]

Footnotes:

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State Law reference— Mandatory that charter provide for levying and collecting of taxes, tax limitation, MCL 117.3(g); local tax restrictions, Mich. Const. 1963, Art. IX, § 31; general property tax act, MCL 211.1 et seq.; provisions of general property tax act shall apply except where inconsistent with the charter, MCL 211.107; property tax limitation act, MCL 211.201 et seq.

Sec. 7.01. - Assessment.

An assessment of all taxable property in the City shall be made annually by the Assessor who shall complete the assessment before the first Tuesday in March. Except as otherwise provided by state law, the subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general law.

Sec. 7.02. - Procedure.

Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by state law. The City shall have all the rights, liens, powers, and remedies accorded by state law to all political subdivisions in connection with the collection of taxes.

Sec. 7.03. - Board of Review.

The City Commission shall appoint a Board of Review consisting of three (3) electors of the City. Members of the Board of Review shall be appointed by the City Commission for two (2) year terms beginning at noon on January 1 of each odd-numbered year. The City Commission shall fix the compensation of the Board of Review.

State Law reference— Mandatory that charter provide for a board of review, MCL 117.3(a); board of review, MCL 211.28 et seq.

Sec. 7.04. - Meeting of the Board of Review.

The Board of Review shall convene in the City office building at 9:00 in the morning on the Tuesday after the first Monday in March to review and correct the assessment roll. The Board of Review shall remain in session not less than six (6) hours each day and for a schedule to be determined by City Commission and in accordance with statutory requirements for township boards of review.

State Law reference— Meetings of board of review, MCL 211.30.

Sec. 7.05. - Organization and powers of the Board of Review.

The Board of Review shall choose one of its members to act as Chairman. The City Assessor shall be the secretary. In the event the Assessor is absent, the Board shall appoint one of its members to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board of Review shall have the same powers and duties as are conferred upon township boards of review by state law.

Sec. 7.06. - Notice and records of meetings of the Board of Review.

Notice of the time and place of the sessions of the Board of Review shall be published in the official newspaper by the City Clerk at least two (2) weeks prior to the first meeting and shall be posted in the City office building. The Assessor shall prepare a record of the proceedings following each meeting of the Board of Review, a copy of which shall be filed with the City Clerk on or before the 15th day of July.

Sec. 7.07. - Certification of tax levy.

Within three (3) days after adoption of the next fiscal year's budget by the City Commission, the City Clerk shall certify to the Assessor the amount of the tax levy fixed by the Commission. The Assessor shall assess the amount of the tax levy to each person and piece of property on the assessment roll, together with all special assessments and other amounts which the City Commission may require.

Sec. 7.08. - Tax limit.

The tax levy for general municipal purposes shall not exceed two percent of the assessed value of all real and personal property in the City.

State Law reference— Limitation on tax rate, MCL 117.3(g), 117.5.

Sec. 7.09. - Collection by Treasurer.

After extending the taxes on the assessment roll and certifying to such roll in the manner required of assessing officers by state law, the Assessor shall, on or before the 30th day of June, deliver the assessment roll and one copy to the City Treasurer. The City Assessor shall annex a warrant to the original roll directing and requiring the City Treasurer to collect from the several persons named in the roll the several sums, or the total thereof, opposite their respective names. The taxes thus assessed shall become at once a debt to the City from the persons to whom they are assessed; and the amount assessed, together with all charges thereon, shall on the first day of July become a lien until paid on the property of the taxpayer of the same character and effect as the lien created by state law for state and county taxes. The City Treasurer shall have the same power and duty to collect City taxes as is granted to or required of township treasurers in the collection of state and county taxes.

Sec. 7.10. - Tax due date.

City taxes shall be due and payable on the first day of July of each year. All taxes paid on or before the 31st day of July of the same year shall be collected without additional charge. From and after said 31st day of July, there shall be added monthly interest at the rate determined by ordinance of the City Commission. In addition, there shall be imposed upon late payment of taxes a penalty in an amount to be determined by ordinance of the City Commission.

Sec. 7.11. - Partial payment of taxes.

The City Commission may, by resolution, authorize the City Treasurer, for a period not extending beyond the next March 1st, to accept partial payment of taxes and special assessments, together with interest and penalties, in such manner as the City Commission may determine.

Sec. 7.12. - Return to County Treasurer.

If the City Treasurer has been unable to collect any of the City taxes on said roll on real property before the first day of March following the date when said roll was received by the Treasurer, then it shall be the Treasurer's duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as similar returns made by township treasurers. Such returns shall include all additional interest, penalties, and other charges, which amounts shall in such returns be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner and with same interest and charges as are other taxes returned to such County Treasurer under the provisions of the general tax laws of the state. All delinquent taxes shall be and remain a lien until paid. At the time of making the return, the City Treasurer shall file in his or her office a copy upon which shall be recorded subsequent collections or reassessments as returned by the County Treasurer. The City shall have the power to purchase any premises within the City at any tax or other public sale that may hereafter be held when such purchase is necessary to protect the lien of the City.

Sec. 7.13. - Non-city taxes.

For the purpose of assessing and levying taxes in the City for state, county, library, school, or other non-city purposes, the City shall be considered the same as a township. Except as otherwise provided in this Charter, all provisions of state law relative to the collection of such taxes, the accounting thereof to the appropriate taxing units, and the returning of property to the County Treasurer for non-payment thereof shall apply to the City Treasurer who shall perform the same duties and powers as township treasurers.

ARTICLE 8. - SPECIAL ASSESSMENTS^[7]

Footnotes:

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State Law reference— Notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.; collection of unpaid special assessments, MCL 211.501 et seq.

Sec. 8.01. - Authority.

The City Commission may decide that all or part of the expense for any local public improvements, including boulevard lighting, repair, renovation, or operation of any local improvement, shall be defrayed by special assessments upon the property specially benefited and may so decide by resolution.

Sec. 8.02. - Resolution.

A resolution of special assessment shall state the estimated cost of the improvement, the proportion of the cost to be paid by special assessments and the proportion to be paid from the general funds of the City, the number of installments, the right of prepayment, interest rates, the districts or land and premises upon which the special assessment shall be levied, and such other matters as deemed advisable by the City Commission.

Sec. 8.03. - Board of Review.

The City Commission shall meet as a Board of Review to review the assessment roll and to hear complaints. Notice advising property owners of their right to file objections in writing at or prior to the meeting of such proposed special assessment shall be given each affected property owner by certified mail at least fifteen (15) days prior to the date of the meeting.

Sec. 8.04. - Objections.

If at or prior to the meeting of the Board of Review the owners of more than one-half ($\frac{1}{2}$) of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without the affirmative vote of six (6) members of the City Commission. An owner shall be presumed to be one whose name appears on the last local tax assessment record or who files as owner with the Assessor. If there is more than one (1) owner of a piece of property, an objection must be filed by all owners of that property. Every special assessment roll ratified and confirmed by the Board of Review shall be final and conclusive.

Sec. 8.05. - Other procedures.

The complete description of the special assessment procedure, including the time when special assessments may be levied, preparation of plans and specifications, and estimated costs shall be provided by ordinance. The ordinance shall authorize additional assessments if the prior assessment proves insufficient or is determined to be invalid, in whole or in part. It shall provide for the refund of excess assessments if such excess is more than five (5%) percent of the total cost as defined by the ordinance. Excess assessments in a lesser amount shall be placed in the general fund of the City.

Sec. 8.06. - Collection of special assessments.

Special assessments and all interest and charges thereon from the date of confirmation of the roll shall be and remain a lien upon the property assessed, and that amount shall also be a debt of the person to whom assessed until paid. In case of delinquency, the amounts unpaid may be collected as delinquent City property taxes or by suit against the person. The lien on the property shall be of the same character and effect as the lien created by general law for state and county taxes. The City Commission shall determine the interest rate to be collected on deferred installments. The City Commission shall determine the due date of special assessment taxes, after which date the same interest and penalty shall be paid on delinquent installments as are to be paid on delinquent general City taxes. If a delinquency is

continued for a period of six (6) months, on the first day of March after the six (6) month delinquency such delinquent special assessments shall be returned to the County Treasurer for collection in the same manner as are delinquent general City taxes.

Sec. 8.07. - Limitation of action.

An action contesting any special assessment shall not be instituted unless commenced within thirty (30) days after confirmation of the roll.

ARTICLE 9. - ELECTIONS¹⁸¹

Footnotes:

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State Law reference— Michigan election laws, MCL 168.1 et seq.; mandatory that charter provide for the time, manner and means of holding elections, MCL 117.3(c).

Sec. 9.01. - City elections.

- (a) *Regular elections.* The regular City election shall be held at the odd-year general election which is the Tuesday after the first Monday of November in odd numbered years.
- (b) *Registered voter defined.* All citizens legally registered under the constitution and laws of the state of Michigan to vote in the City shall be registered voters of the City within the meaning of this Charter.
- (c) *Conduct of elections.* The provisions of the general election laws of the state shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by law. Candidates shall run for office and appear on the ballot without party designation. For the conduct of City elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the City Commission shall adopt ordinances consistent with law and this Charter. The election authorities may adopt further regulations consistent with law and this Charter and the ordinances of the Commission. Such ordinances and regulations pertaining to elections shall be publicized in the manner of City ordinances generally.

Sec. 9.02. - Wards.

There shall be one ward in the City.

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

Sec. 9.03. - Primary.

A nonpartisan City primary election shall be held at the odd-year primary election which is the Tuesday after the first Monday of August in odd numbered years. Such primary election shall be held only if nominating petitions for eligible candidates shall have been filed in a number greater than one (1) more than twice the number of positions to be filled in an elected office. The primary ballot shall contain the names of all candidates whose nominating petitions meet the requirements of this Charter. The names of the candidates for any office at such primary election receiving the largest number of votes, in a number equal to twice the number of positions to be filled in such office at the next general City election shall be placed on the ballot at the next general City election.

Sec. 9.04. - Nominating petitions.

Candidates for any elected City office shall be nominated by petition. The petition shall be signed by registered and qualified electors of the City not less in number than thirty (30) and not more than forty-five (45). The petition shall be prepared by the City Clerk in substantially the same form as required by state law for county officers. If it is necessary to elect an officer to fill a vacancy for an unexpired term, such fact shall be stated in the petition filed for the purpose of nominating a candidate to fill such vacancy.

State Law reference— Mandatory that charter provide for nomination of elective officers by primary election, by petition or by convention, MCL 117.3(b).

Sec. 9.05. - Affidavit of eligibility.

The candidate named in a nominating petition shall file with the City Clerk at or prior to the deadline for filing petitions a sworn affidavit containing such information as may be required by the City Clerk to determine eligibility. Falsely stating any such information in the affidavit shall constitute a misdemeanor unless a greater penalty is provided by state law.

Sec. 9.06. - Filing and acceptance.

All papers comprising a nominating petition and the affidavit of eligibility shall be filed simultaneously with the City Clerk as one (1) document not later than 4:00 p.m. in the afternoon on the fifteenth Tuesday preceding the odd-year primary election. The City Clerk shall not receive any nominating petitions which are presented after that date and hour. The City Clerk shall forthwith, after the last day for receiving and filing nominating petitions, certify to the Election Commission the names and addresses of all candidates whose petitions meet the requirements of this Charter, together with the offices for which they are candidates.

([Res. No. 111-2017, §§ 1, 2, 11-7-2017](#))

Note— The Charter language pertaining to filing nominating petitions for regular city elections is superseded by Michigan Election Law MCL 168.644e as amended under PA 276 of 2012. The candidate nomination petition filing deadline is 4:00 p.m. the 15th Tuesday prior to the November election.

Sec. 9.07. - Qualifications for City office.

To be eligible for any elected City office a person shall have been a registered and qualified elector of the City for the thirty (30) days immediately preceding the date of nomination and continuously thereafter. A person shall not be eligible for election who is in default to the City.

Sec. 9.08. - Elections Commission.

The City Clerk, City Administrator and City Attorney shall constitute the Elections Commission. The City Commission may appoint up to two additional qualified electors to the Elections Commission.

State Law reference— Board of city election commissioners, MCL 168.25.

ARTICLE 10. - INITIATIVE AND REFERENDUM^[9]

Footnotes:

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State Law reference— City authority relative to initiative and referendum on all matters within the scope of its powers, MCL 117.4i(g).

Sec. 10.01. - General authority.

- (a) *Initiative.* The registered voters of the City shall have power to propose ordinances within the lawful scope of the City's authority to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, but such power shall not extend to the budget or capital program or any ordinance relating to administrative matters, appropriation of money, levy of taxes or salaries of City officers or employees.
- (b) *Referendum.* The registered voters of the City shall have power to require consideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, but such power shall not extend to sales or purchases, the budget, the capital program, or administrative matter[s,] any emergency ordinance, or ordinance relating to appropriation of money or levy of taxes.

Sec. 10.02. - Commencement of proceeding.

Any five registered voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 10.03. - Petitions.

- (a) *Number of signatures.* Initiative and Referendum petitions must be signed by registered voters of the City equal in number to at least 15 percent of the total number of voters who voted for the highest vote getter for City Commission at the last regular City election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Referendum petitions must be filed within 60 days after adoption by the Commission of the ordinance sought to be reconsidered.

Sec. 10.04. - Procedure for filing.

- (a) *Certificate of Clerk; amendment.* Within twenty days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two days after receiving a copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of § 9.03 [10.03] and within five

days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under subsection (b) of this section within the time required, the Clerk shall promptly present his or her certificate to the Commission and the certificate shall then be a final determination as to the sufficiency of the petition.

- (b) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.
- (c) *Court review; new petition.* A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 10.05. - Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition; or
- (2) The petitioners' committee withdraws the petition; or
- (3) The Commission repeals the ordinance; or
- (4) Thirty days have elapsed after a vote of the City on the ordinance.

Sec. 10.06. - Action on petitions.

- (a) *Action by Commission.* When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance in the manner provided in Article II [2] or reconsider the referred ordinance by voting its repeal. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.
- (b) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final Commission vote thereon. If no regular City election is to be held within the period described in this subsection, the Commission shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Commission may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request[,] the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 10.07. - Results of election.

- (a) *Initiative.* If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Commission. If

conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

- (b) *Referendum*. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE 11. - UTILITY FRANCHISES^[10]

Footnotes:

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State Law reference— Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25; permissible that charter provide for operation of utilities, MCL 117.4c, 117.4f; permissible that charter provide for street and alley plan, MCL 117.4h(3).

Sec. 11.01. - Franchises.

All franchises heretofore granted by the City and now in operation shall continue until the expiration of such franchises. All franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the City, nor until a full public hearing has been held thereon. No such ordinance that is irrevocable shall become effective until it has been submitted to the electors and has been approved by three-fifths (3/5) of the electors voting thereon and, if it be submitted to a special election, unless the expense of holding the election shall have been paid by the grantee. No exclusive franchise shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No franchise shall be transferable, directly or indirectly, except with the approval of the City Commission expressed by ordinance.

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

Sec. 11.02. - Right of regulation.

All franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City: (a) to repeal the same for misuse, nonuse, or breach; (b) to require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standard of efficiency; (c) to establish reasonable standards of service and quality or products, and prevent unjust discrimination in service or rates; (d) to make independent audit and examination of accounts at any time, and to require reports annually; (e) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (f) to impose such other regulations as may be determined by the City to be conducive to the safety, welfare and accommodation of the public. All franchises shall provide for a franchise fee in an amount established in the franchise.

Sec. 11.03. - Regulation of rates.

All utility franchises shall make provision for fixing rates, fares and charges, and for readjustments thereof at periodic intervals of not more than five (5) years, either by mutual agreement of both parties, arbitration upon terms to be specifically set forth in the franchise, or by a State agency. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Sec. 11.04. - Purchase.

The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the State, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill or prospective profits.

Sec. 11.05. - Revocable franchises and permits.

Franchises of not more than ten years and temporary permits for public utilities, revocable at any time at the will of the City Commission, may be granted by the City Commission by resolution or ordinance on such terms and conditions as it shall determine. Any such resolution or ordinance shall be subject to the referendum provided for by this Charter.

Sec. 11.06. - Joint use.

Every utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and public places by the City or by other public utilities, insofar as such joint use may be reasonably practicable, upon payment of reasonable rental. If agreement as to joint use cannot be reached, the City Commission may require arbitration of the terms and conditions of such joint use and the compensation to be paid. The arbitration award shall be final and binding.

Sec. 11.07. - Use of streets and public places.

The right to use, control and regulate use of its streets, alleys, bridges, waterways and public places, and the space above and beneath them, is hereby reserved to the City, and every public utility franchise shall be subject thereto. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

ARTICLE 12. - MISCELLANEOUS

Sec. 12.01. - Ethics.

- (a) *Financial conflict of interest.* An official or employee who has a financial interest, direct or indirect, in any matter to be decided by the City, other than with respect to a contract, shall make that interest known and shall refrain from voting upon or otherwise participating in the making of the decision. Violation of this subsection with the knowledge, express or implied, of the person or corporation dealing with the City shall render the decision voidable by the City Administrator or the City Commission. Any official or employee violating the provisions of this subsection shall be deemed guilty of a misdemeanor, and upon conviction shall forfeit office. Unless otherwise provided by law or ordinance, a financial conflict of interest may be waived by the City Commission after full disclosures of such conflict to the Commission, if the remaining members of the Commission in an unanimous vote rule that the best interests of the City are to be served by removing the prohibition on voting and participating in the matter.
- (b) *Dual fiduciary duties.* A City Commissioner having a dual fiduciary duty, which is not a financial conflict of interest as defined by law or this Charter, shall vote unless, upon request of that Commissioner a majority of the remaining eligible Commissioners allows abstention.
- (c) *Contractual conflicts of interest.* The conduct of City officials and employees in relation to conflicts of interest involving contracts shall be as established by state law.

State Law reference— Standards of conduct and ethics, MCL 15.341 et seq.

Sec. 12.02. - Delivery of property to successor.

If an elected or appointed official vacates a City office, upon demand by the official's successor or by the Mayor, the official shall deliver to the successor or the City Clerk all of the books, papers, money, and

effects in the officials' custody which in any way appertain to the City office. A willful violation of this section shall be a misdemeanor.

Sec. 12.03. - Notice of damage claim.

The City shall not be liable for unliquidated damages for injuries to persons or property unless the person claiming such damages, or someone in his, her or their behalf, shall file a claim in writing with the City Clerk within one hundred twenty (120) days after such claim for damages shall have accrued. Such claim shall be verified by the claimant, or some person having knowledge of the facts, and shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the specific grounds upon which the claim of liability on the part of the City shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amounts claimed. Upon filing such claim, the City shall have a reasonable time in which to investigate the same and may require the claimant to produce all witnesses for examination under oath.

Failure to file claim or produce witnesses in the manner required in this section shall forever bar any action or proceeding in any court for the collection of such claim. No action shall be maintained in any case unless the same be brought within the statutory period after such injury or damage shall have been received. On trial or action on such claim, no witness shall be competent to testify for the claimant who was known and not named in the claim filed with the City, or not produced upon demand. If such claim shall arise from or its claimed to have been received by reason of any defect in any city building, sidewalk, crosswalk, pavement, alley, street, or other city property the claimant who alleged such injury shall, in said written notice, and [give] the character and detailed description of the alleged defect claimed to have existed.

State Law reference— Governmental liability for negligence, MCL 691.1401 et seq.

Sec. 12.04. - Prohibitions.

The following activities are prohibited:

- (a) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, handicap, religion, country of origin or political affiliation.
- (b) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (c) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- (d) Any person convicted of a violation of this section shall be ineligible for a period of five years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit that office or position. The City Commission shall establish by ordinance such further penalties for violation of this Article as it may deem appropriate.

Sec. 12.05. - Charter review.

On or before January 1, 2006, and every ten years thereafter the City Commission shall appoint an advisory Charter Review Committee composed of not less than five or more than ten qualified electors of the City to review the City Charter and make a report to the City Commission within six months of the member's appointment as to whether all or a part of the City Charter needs to be revised or amended.

Sec. 12.06. - Public records.

The records of the City of East Jordan shall be public pursuant to the Freedom of Information Act,
MCL 15.231 et seq.

ARTICLE 13. - TRANSITION/SEPARABILITY PROVISION

Sec. 13.01. - Officers and employees.

- (a) *Rights and privileges preserved.* Except as otherwise specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- (b) *Continuance of office or employment.* Except as specifically provided by this Charter, if at the time this Charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position.
- (c) *Annual appointments.* All annual appointments under the provisions of the prior City Charter shall continue as scheduled, but the City Commission or other appointing authority should consider extending them until the first Monday in November 1995, following the City Commission election.
- (d) *Mayor and Commissioners.* In order to provide a transition schedule from the election provisions of [the] 1911 City Charter and the current East Jordan Code the following shall occur:
 - (1) The term of the Mayor filled at the even year election in November of 1994 shall expire as scheduled under the current East Jordan Code at noon on January 1, 1996, and at the next regular City Commission meeting thereafter the Commission shall select a Mayor pursuant to Section 3.02 of this Charter to serve until the next organizational meeting of the Commission in November 1996.
 - (2) The terms of the three alderman filled at the even year election in November 1994 shall expire as scheduled under the current East Jordan Code at noon on January 1, 1997, and the three Commissioners elected at the even year election in November 1996 shall thereupon take office for an approximate five (5) year term expiring at the organizational meeting of November, 2001.
 - (3) At the odd year election in November of 1995, there shall be four (4) City Commissioners elected for four (4) year terms pursuant to this Charter but who shall not take office until noon on January 1, 1996, and whose terms shall expire at the organizational meeting of November, 1999.
 - (4) At a special election to be held in November of 1996, at the even year election, there shall be three (3) City Commissioners elected for approximate five (5) year terms who shall take office at noon on January 1, 1997, for a term expiring at the organizational meeting of November, 2001.
- (d) [(e)] *Budget.* After adoption of this Charter the City shall continue under the fiscal year of April 1, 1995, to March 31, 1996, and the budget and financial schedule as provided in the 1911 Charter. By December 31, 1995, the City Commission shall adopt a budget for the period between April 1, 1996, and June 30, 1996.

Sec. 13.02. - Departments, offices and agencies.

- (a) *Transfer of powers.* If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the City Commission.
- (b) *Property and records.* All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property,

records or equipment shall be transferred to one or more departments, offices or agencies designated by the City Commission in accordance with this Charter.

Sec. 13.03. - Pending matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

Sec. 13.04. - Ordinances continued.

All ordinances in effect at the time of the adoption of this Charter shall be continued until otherwise amended or repealed. Any ordinance which has been introduced prior to the effective date of this Charter, but not yet enacted, may be enacted pursuant to the procedures outlined in this Charter.

Sec. 13.05. - Effective date.

The Charter shall be in full effect for all purposes on 30 days after the election at which it is approved, unless a different schedule is provided by this Charter.

Sec. 13.06. - Separability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Legislation	Date	Section	Section this Charter
	4-24-1995(Ord.)	arts. 1—13	Arts. 1—13
111-2017(Res.)	11- 7-2017	1, 2	9.06