

# CHARTER FOR THE CITY OF CRYSTAL FALLS MICHIGAN

Approved by Governor Engler March 23, 1998.

Approved by voters at a Special Election on May 5, 1998.

Effective upon adoption by voters.

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## **Preamble**

We, the people of the City of Crystal Falls, County of Iron, and State of Michigan, in order to perfect a municipal government which shall insure economical and efficient administration of city affairs; provide for the security of persons and property; promote the happiness and welfare of its people; conserve and utilize public values for public uses; encourage municipal cooperation among the cities of the state and preserve, by a proper use thereof, the privilege of local self-government by virtue of the State of Michigan and Public Act 279 of 1909, do hereby ordain and establish this home rule charter for the City of Crystal Falls, Michigan.

## **Article I POWERS OF THE CITY**

### **Section 1.01 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.

### **Section 1.02 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.

### **Section 1.03 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 any one or more states or any state civil division or agency, or the United States or any of its agencies.

### **Section 1.04 Organization of Government.**

The city shall have the Council/Manager form of government.

## **Article II CITY COUNCIL**

### **Section 2.01 General Powers and Duties.**

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

### **Section 2.02 Composition, Eligibility, Election and Terms.**

- (a) **Composition.** There shall be a city council composed of the mayor and four (4) members; the council members shall be elected by the voters of the city at large and the mayor shall be elected as provided in Section 2.03 of this charter.
- (b) **Eligibility.** Only registered voters residing in the city shall be eligible to hold the office of council member or mayor.
- (c) **Election and Terms.** The regular election of council members shall be held on the first Tuesday after the first Monday of November in each even numbered year, as resolved by the Council for the City of Crystal Falls on January 12, 1971 in compliance with Sec. 644(1) Sub Sec. 1, Act No. 239, Public Acts of 1970. The terms of the council members shall begin the day of the first council meeting after their election and be for a period of four years.

### **Section 2.03 Mayor.**

At a regular election a mayor shall be elected for a term of four (4) years. The mayor shall be a member of the city council and shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of citizen advisory boards and commissions, present an annual state of the city message, and perform other duties specified by the council. The". mayor shall be recognized as the Chief Executive officer of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative

duties. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term.

#### **Section 2.04 Compensation; expenses.**

The compensation of the city council shall be set by a compensation commission as provided by ordinance. The council members shall receive the actual necessary expenses incurred in the performance of their duties of office.

#### **Section 2.05 Prohibitions.**

- (a) **Holding Other Office.** Except where authorized by law, no council member shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the terms for which the member was elected to the council. No former council member shall hold any compensated appointive office or employment with the city until two years after the expiration of the term for which the member was elected to the council, Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the city on the governing board of any regional or other intergovernmental agency.
- (b) **Appointments and Removals.** Neither the city council 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 manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.
- (c) **Interference with Administration.** The council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

## **Section 2.06 Vacancies; Forfeiture of Office; Filling of Vacancies,**

- (a) **Vacancies.** The office of a council 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 council member shall forfeit that office if the council 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,
  - (3) Is convicted of a crime involving moral turpitude, or
  - (4) Fails to attend three consecutive regular meeting of the council without being excused by the council.
- (c) **Filling of Vacancies.** A vacancy in the city council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in §2.10, if at any time the membership of the council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to five (5).

## **Section 2.07 Judge of Qualifications.**

The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The council 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 council 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, notice of said hearing shall be given the official at least three (3) days in advance, and further, notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

### **Section 2.08 City Clerk.**

The city council shall appoint and fix the compensation of an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

### **Section 2.09 Independent Audit.**

The city council shall provide for an independent annual, or as often as dictated by state law, 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 council 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 no later than thirty (30) days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

### **Section 2.10 Procedure.**

- (a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of two (2) or more members and, whenever

practicable, upon no less than eighteen (18) hours notice to each member. Except as allowed by state law, all meetings shall be subject to the Open Meetings Act.

- (b) Rules and Journal. The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record kept in the English language and available to the general public in compliance with the Freedom of Information Act.
- (c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Three (3) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in §2.06(c), shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the council.

### **Section 2.11 Action Requiring an Ordinance.**

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

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

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

## **Section 2.12 Ordinances in General.**

- (a) **Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Crystal Falls hereby ordains..." Any ordinance which amends or repeals an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing them in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.
- (b) **Procedure.** An ordinance may be introduced by any member at any regular or special meeting of the council. Ordinances may be enacted, amended or repealed by the affirmative vote of not less than three members of the council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each council member and to the city manager, shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate, and shall publish a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing may be held at a special or regular meeting of the council and all persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. Each ordinance shall be published as soon as practicable after its adoption in one of the following two methods:
- (1) The full text thereof may be published in a newspaper as prescribed in §2.12(d) or
  - (2) In cases of ordinances over five hundred (500) words in length a summary or statement of purpose of the

ordinance, and a notice approved by the council of the places where copies of it have been filed and the times when they are available for review, approved by the council, may be published in a newspaper as prescribed in §2.12(d)

- (c) **Effective Date.** Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.
- (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/or purchase at a reasonable price.
- (e) **Penalties for Violations of Ordinances.** Any ordinance may provide for the punishment of those who violate its provisions. The punishment shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both at the discretion of the court.

### **Section 2.13 Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in §5.07(b). 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 three (3) members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon publication or at such later time as it may specify. Every emergency ordinance except one made pursuant

to §5.07(b) 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 specified in this section for adoption of emergency ordinances.

### **Section 2.14 Codes of Technical Regulations.**

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

- (1) The requirements of §2.12 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 pursuant to §2.15(a).

### **Section 2.15 Authentication and Recording; Codification; Printing.**

- (a) **Authentication and Recording.** The city authenticate by signing and 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 council.
- (b) **Printing of Ordinances and Resolutions.** The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinance, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of Michigan, or the codes of technical regulations and other rules and regulations.

## **Section 2.16 Initiative and Referendum.**

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

- (a) **Initiative and Referendary Petitions.** An initiatory or referendary petition shall be signed by not less than ten per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within thirty days before the date of filing the petition with the clerk. Any such petition shall be addressed to the council. No such petition need be on one paper, but may be the aggregate of two or more petition papers identical as to contents and simultaneously filed by one person. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance or part thereof it proposes to have repealed. Each signer of a petition shall sign his name, date of signing, and street address of residence. To each petition there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers and attesting to the authenticity of each signature and that it was signed in the presence of the circulator. Such petition shall be filed with the Clerk who shall, within fifteen (15) days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of the registered electors of the city, the clerk shall notify immediately the person filing such petition and fifteen (15) days from such notification shall be allowed for the filing of supplemental petition papers, When a petition with sufficient signatures is filed within the time allowed by this section, the clerk shall present the petition to the council at its next regular meeting.
- (b) **Council procedure on Initiatory and Referendary Petitions.** Upon receiving an initiatory or referendary petition from the clerk, the council shall within thirty (30) days, unless otherwise stated by statute, either
- (1) Adopt the ordinance as submitted by an initiatory petition

- (2) Repeal the ordinance, or part thereof, referred to by a referendary petition; or
  - (3) Determine to submit the proposal provided for in the petition to the electors. Should this be the case the proposal shall be submitted at the next election held in the city for any other purpose, or at the discretion of the council, at a special election called for that specific purpose.
- (c) **Ordinance suspension.** Upon presentation to the council by the clerk of a valid and sufficient referendary petition the clerk shall automatically suspend the operation of the ordinance in question pending repeal by the council or final determination by the electors.
- (d) **Miscellaneous provisions on Initiatory & Referendary Petitions.** An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of one year after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of one year after the date of the election at which it was repealed. Any ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this chapter or if submitted to the electorate by the council on its own motion. If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

### **Section 2.17 Providing for Public Health and Safety.**

The council shall see that provision is made for the public peace and health, and for the safety of persons and property.

## **ARTICLE III CITY MANAGER**

### **Section 3.01 Appointment; Qualifications; Compensation.**

The city council by a majority vote of its total membership shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative

qualifications. The manager need not be a resident of the city or state at the time of appointment but must move into the city within six (6) months of hiring.

### **Section 3.02 Removal.**

The city manager may be suspended by a resolution approved by the majority of the total membership of the city council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen 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 council by a majority vote of its total membership may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

### **Section 3.03 Acting City Manager.**

By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns. Should the city manager be incapable of appointing an acting city manager, the city council shall make said appointment.

### **Section 3.04 Powers and Duties of the City Manager.**

The city manager shall be the chief administrative officer of the city, responsible to the Council for the administration of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and, when necessary for the good of service, 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 manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city;
- (10) Provide staff support services for the mayor and council members; and
- (11) Perform such other duties as are specified in this charter or may be required by the city council.

## **ARTICLE IV DEPARTMENTS, OFFICES AND AGENCIES.**

### **Section 4.01 General Provisions.**

- (a) **Creation of Departments.** The city council 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 Manager.** All departments, offices and agencies, except those designated elsewhere in this charter, under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager 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.

#### **Section 4.02 Personnel System.**

All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

#### **Section 4.03 Legal Officer.**

The city council shall appoint and fix the compensation of a legal officer. The legal officer shall serve as chief legal adviser to the council, the manager and all city departments, offices and agencies, and shall perform any other duties prescribed by state law, by this charter or by ordinance.

#### **Section 4.04 Clerk: Functions and Duties**

The following are the duties of the clerk:

- (a) The clerk shall be the clerk of the council as per section 2.08 and shall attend all meetings of the council and shall keep a permanent journal of its proceedings;
- (b) Shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same;
- (c) Shall be custodian of all papers, documents and records pertaining to the city the custody of which is not otherwise provided;

- (d) Shall certify by signature all ordinances and resolutions enacted or passed by the council;
- (e) Shall provide and maintain a supply of forms for all petitions required to be filed for any purpose by provisions of this charter;
- (f) Shall have power to administer oaths of office;
- (g) Shall perform such other duties as may be prescribed by this charter, by the City Manager, or by resolution or ordinance of the council.

#### **Section 4.05 Treasurer: Functions and Duties**

The Council shall appoint and fix the compensation of a treasurer. The following are the duties of the treasurer:

- (a) The treasurer shall have the custody of all monies of the city and of bonds pertaining solely to the clerk and all evidences of indebtedness belonging to the city or held in trust by the city;
- (b) Shall collect all monies of the city which are not provided for elsewhere by charter or ordinance. These shall include monies from other officers and employees of the city belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the treasurer upon collection or receipt;
- (c) Shall keep and deposit all monies or funds in such manner and only in such places as the council may determine;
- (d) Shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the council.
- (e) Shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, city and other taxes as are conferred by statute;
- (f) Shall keep a record of the city's accounts in accordance with the Uniform System of Accounting as prescribed by statute;
- (g) Shall perform such other duties as may be prescribed by this charter, by the City Manager or by resolution or ordinance of the council.

#### **Section 4.06 Assessor: Functions and Duties**

The council shall appoint and fix the compensation of an assessor upon recommendation of the city manager. The assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter in §6.05, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the City Manager or by resolution or ordinance of the council.

#### **Section 4.07 Board of Review.**

The Board of Review shall be composed of the following:

- (a) Three property owners, who are qualified registered electors of the city and who shall be appointed by the council for an indefinite term, and shall serve until successors are duly appointed and qualified.
- (b) The assessor, who shall act as clerk of the board.

The property owners, during their term of office shall not be a city officer or employee, or be candidate for elective office. The filing, while a member of the Board of Review, of a petition for an elective city office, or filing of consent thereto, shall constitute a resignation from the Board of Review.

The Board of Review shall annually in February select its own chairman for the ensuing year. The assessor shall be entitled to be heard at its sessions but shall have no vote. The City Attorney, shall upon request act in an advisory capacity only. The compensation of each member of said Board shall be a per diem rate fixed by the council.

The duties and functions of the Board of Review are as follows:

- (a) To revise and correct assessments, the Board of Review shall have the same powers and perform like duties in all respects as are conferred by statute, except as otherwise provided in this charter;
- (b) It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any property has been wrongfully assessed or omitted

from the roll, the board shall correct the roll in such manner as it deems just;

- (c) In all cases the board shall review the roll according to the facts existing on the tax day. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any changes upon, or additions or corrections to, the assessment roll. It shall be the duty of the assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the board.

### **Section 4.08 Planning**

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

- (a) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (b) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (c) Adopt development regulations, to be specified by ordinance, to implement the plan.

## **ARTICLE V FINANCIAL PROCEDURES**

### **Section 5.01 Fiscal Year.**

The fiscal year of the city shall begin on the first day of October and end on the last day of September.

### **Section 5.02 Submission of Budget and Budget Message.**

On or before the 15th day of July of each year, the city manager shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

### **Section 5.03 Budget Message.**

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing

fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the city manager or city council deem desirable.

#### **Section 5.04 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 manager deems desirable or the city council 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 fiscal year for each utility or other enterprise fund operated by the city.

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

#### **Section 5.05 City Council Action on Budget.**

- (a) **Notice and hearing.** The city council shall publish in one or more newspapers of general circulation in the city 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 council 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 council shall adopt the budget on or before the 15th day of the month of August of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

### **Section 5.06 Appropriation and Revenue Resolution.**

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

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

### **Section 5.07 Amendments after Adoption.**

- (a) **Supplemental Appropriations.** If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by resolution may make supplemental appropriations for the year up to the amount of such excess.
- (b) **Emergency Appropriations.** To meet a public emergency affecting life, health, property or the public peace, the

city council may make emergency appropriations. Such appropriations may be made by emergency ordinance or resolution in accordance with the provisions of §2.13. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes to the extent provided by law.

- (c) **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may by resolution reduce one or more appropriations.
- (d) **Transfer of Appropriations.** At any time during the fiscal year the city council 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 manager may transfer part or all of any unencumbered appropriation balances among the programs within a department or organizational unit and shall report such transfers to the council 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 appointed or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

### **Section 5.08 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.

### **Section 5.09 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 manager or his appointee 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 resolution.

### **Section 5.10 Capital Program.**

- (a) Submission to City Council. The city manager shall prepare and submit to the city council a five 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 appropriate supporting 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.

### **Section 5.11 City Council Action on Capital Program.**

- (a) Notice and Hearing. The city council shall publish in one or more newspapers of general circulation in the city a notice stating:
  - (1) The time 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 council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 15th day of the month of August of the current fiscal year.

### **Section 5.12 Public Records.**

Copies of the budget, capital program and appropriation and revenue resolutions shall be public records and shall be made available to the public at suitable places in the city.

## **ARTICLE VI TAXATION**

### **Section 6.01 Power to Tax: Tax Limit**

The city shall have the Power to assess taxes and lay and collect rents, tolls and excises. The annual general property tax levy for municipal purposes shall not exceed two percent of the assessed value of all real and personal property on the current tax roll subject to taxation in the city exclusive of

any levies authorized by general statute to be made beyond charter tax rate limitations.

### **Section 6.02 Subject of Taxation**

The subjects of property taxation for municipal purposes shall be the same as for state, county and school purposes under statute. Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by statute.

### **Section 6.03 Exemption**

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

### **Section 6.04 Tax Day**

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the 31st day of December, which shall be deemed the tax day. No change in the status of any property after said day shall be considered by the board of review in making its decisions.

### **Section 6.05 Preparation of the Assessment Roll**

On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment and the method of estimating such values shall be as nearly uniform as possible. The assessor shall maintain records for all such property showing separate figures for the value of the land, of the building improvements and of personal property. On or before the first Monday in March the assessor shall give by first class mail, a notice of any increase in the assessed value of any property or of the addition of any property to the roll to the owner as shown by the assessment roll.

### **Section 6.06 Meeting of the Board of Review**

The Board of Review shall convene in its first session prior to the 15th day of March of each year at a time and place

designated by the council, and shall remain in session for at least six hours for at least three consecutive days for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the assessor, or any property is added to such roll by the board, or the board has resolved to consider at its second session an increase of an assessment or the addition of any property to such roll, the assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the day following the end of the first session of the board. Such notice shall state the date, time, place and purpose of the second session of the board.

The Board of Review shall convene in its second session prior to the last day in March of each year at a time and place designated by the council and shall continue in session for two consecutive days until all interested persons have had an opportunity to be heard, but in no case for less than six hours each day of said session. At the second session, the board may not increase any assessment or add any property to the rolls, except in those cases in which the board resolved at its first session to consider such increase or addition at its second session.

### **Section 6.07 Notice of Meetings**

Notice of the time and place of the sessions of the Board of Reviews shall be published by the clerk at least ten days prior to each session of the board.

### **Section 6.08 Endorsement of Roll**

After the Board of Review has completed its review of the assessment

roll and not later than the first Monday in April the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

### **Section 6.09 Clerk to Certify Tax Levy**

Within three days after the council has adopted the budget for the ensuing year the clerk shall certify to the assessor the total amount which the council determines shall be raised by general property tax. The Clerk shall also certify all amounts of current or delinquent special assessments and of all other amounts which the council requires to be assessed, reassessed or charged upon any property or against any person.

### **Section 6.10 City Tax Roll**

After the Board of Review has completed its review of the assessment roll the assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" and upon receiving the certification of the several amounts to be raised as provided in §6.11 the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the city's general property tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

### **Section 6.11 Tax Roll Certified for Collection**

After spreading the taxes the assessor shall certify the tax roll, and the mayor shall annex his warrant thereto directing and requiring the treasurer to collect prior to March first of the following year from the several persons named in said roll the several sums mentioned thereon opposite their respective names as a tax or assessment and granting to said treasurer, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On December first the roll shall be delivered to the treasurer for collection.

### **Section 6.12 Tax Lien on Property**

On December first, unless the date is changed by resolution of the city council, the taxes thus assessed shall become a debt due to the city from the persons to whom they are assessed and the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges, thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

### **Section 6.13 Taxes Due; Notification Thereof**

City taxes shall be due on December first of each year. The treasurer shall not be required to call upon the persons named in the city tax roll nor to make personal demand for the payment of taxes but he shall:

- (a) publish, between November fifteenth and December first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and
- (b) mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed.

Failure on the part of the treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or non-payment of the same.

### **Section 6.14 Collection Fees.**

On all taxes paid during the period of December first to February 15th there shall be no fee. The treasurer may add a collection fee on all taxes paid after February 15th in accordance with MCLA 211.44. Such collection fee shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectable in the same manner as the taxes to which they are added.

### **Section 6.15 Failure or Refusal to Pay Tax**

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

### **Section 6.16 Delinquent Tax Roll to County Treasurer**

All city, county, school or other taxes remaining uncollected by the treasurer on the first day of March following the date when said roll was received by him shall be turned over to the County Treasurer to the extent and in the same manner and with like effect as provided by statute. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amounts assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid.

### **Section 6.17 State, County, School and other taxes**

For the purpose of assessing and collecting taxes for state, county, school and other purposes, all provisions of statute relative to the collection of and accounting for such taxes shall apply. For the purpose of collecting taxes, the treasurer shall perform the same duties and have the same powers as township treasurers under statute.

## ARTICLE VII ELECTIONS

### Section 7.01 City Elections.

- (a) **Regular Elections.** The regular city election shall be held at the time established by state law and as provided for in §2.02(c).
- (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 of Michigan 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. The election of all city officials shall be on a non-partisan basis.
- (d) **Special Elections.** Special city election shall be held when called by resolution of the council at least forty five (45) days in advance of such election, or when required by this charter or the general laws of this state. Said resolution shall set forth the purpose of such election. No more special city elections shall be called in any one year than the number permitted by statute.
- (e) **Method of Nomination.** Candidates for elective offices shall be nominated by petition. Such petition for each candidate shall be signed by not less than 25 nor more than 50 qualified electors of the city and shall be filed with the clerk not later than the Tuesday prior to the State Primary in each even number year. Each petition shall contain the name of one candidate and no more. No elector shall sign more than one petition for each elective office to be voted upon. In case a qualified elector shall sign petitions for candidates in excess of the number that are to be elected to the several offices, his name shall be counted only on the petition or petitions first filed and shall be stricken by the Board of Election Commissioners from all other petitions for that office. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A

supply of official petition forms shall be provided and maintained by the clerk.

- (f) **Approval of petitions.** The Clerk shall accept only nomination petitions which conform with the forms provided and maintained by said clerk, and which, considered together, contain the required number of valid signatures for candidates having those qualifications which are required for the respective elective city offices by this charter. All petitions shall be accompanied by the affidavit of identity provided for by law. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. Within three days after the last date for filing petitions the clerk shall determine the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for his respective elective city office by this charter and shall write his determinations thereof on the face of the petition. No petition shall be determined to be valid unless the affidavit of identity as provided by law shall be filed with such petition.

### **Section 7.02 Voting Wards/Precincts.**

There shall be one ward in the city with the boundaries of said ward to be the same as the boundaries of the corporate city. The division of the ward into precincts shall be determined by the election commission.

### **Section 7.03 Election Commission.**

An Election Commission is hereby created consisting of the City Manager, the City Attorney, and the City Clerk. The Election Commission shall appoint a Board of Election Inspectors for each election and shall perform such duties relative to the preparation of voting equipment and or the printing and distribution of official ballots, to be used at special and general city elections and shall have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city.

## **ARTICLE VIII GENERAL PROVISIONS**

### **Section 8.01 Conflicts of Interest; Board of Ethics.**

- (a) **Conflicts of Interest.** The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance or resolution. Regulations to this end shall include but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official, the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. This resolution shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations. Further, the elected officials of the city will sign a "Conflict of Interest Declaration".
- (b) **Board of Ethics.** The city council may establish an independent board of ethics to administer and enforce the conflict of interest and financial disclosure policies if deemed necessary. The city council may appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

## **ARTICLE IX CHARTER AMENDMENT**

### **Section 9.01 Amendments.**

Amendments to this charter may be framed and proposed in the manner provided by law.

## **ARTICLE X TRANSITION /SEPARABILITY PROVISION**

### **Section 10.01 Officers and Employees. Rights and Privileges Preserved.**

Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption. The elected officials holding office at the time of the adoption of this charter shall continue to serve out their terms as under the previous charter.

### **Section 10.02 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.

### **Section 10.03 State and Municipal Laws.**

All city ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and laws of the State of Michigan permit, all laws relating to or affecting this city or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

### **Section 10.04 Schedule.**

The charter shall be in full effect for all purposes upon approval by the voters.

### **Section 10.05 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.

## **ARTICLE XI MUNICIPAL UTILITIES**

### **Section 11.01 General Powers Respecting Utilities**

The city shall possess and hereby reserves to itself all the powers granted to cities by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, communications, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof and also to sell and deliver water, light, heat, power, gas and other public utility services without its Corporate limits to an amount and to a territory not exceeding the limitation set by statute and constitution.

### **Section 11.02 Management of Municipally Owned or Operated Utilities**

Each municipally owned or operated utility shall be administered as a regular department of the city government under the management and supervision of the City Manager.

### **Section 11.03 Rates**

The council shall have the power to fix from time to time just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. The rates and charges of a municipal public utility for the furnishing of water, light, heat, communications, power or gas shall be so fixed as to at least meet all the costs of such utility. There shall be no discrimination in such rates within

any classification of users thereof, nor shall free service be permitted, but higher rates may be charged for service outside the city limits.

#### **Section 11.04 Utility Rates and Charges - Collections**

The council shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least;

- (a) That the city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinances and subject to the provisions of MCLA 123.165 and MCLA 141.121.
- (b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges;
- (c) That suit may be instituted by the city in any competent tribunal for the collection of such rates or charges. With respect to the collection of rates charged for water the city shall have all the powers granted to cities by Act 178 of the Public Acts of 1939.

#### **Section 11.05 Disposal of Utility Plants and Property**

Unless approved by a three-fifths majority vote of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue the operation of such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restriction of this section shall not apply to the sale or exchange of articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the

operation of the utility, or to the exchange of property or easements for other needed property or easements.

### **Section 11.06 Utility Finances**

Separate accounts shall be kept for each public utility owned or operated by the city. Such accounts for utilities for the furnishing of water, light, heat, communications, power or gas shall be designed to show the financial results of city ownership, or operation in the same manner as the financial results of a corresponding privately-owned utility would be shown, except that taxes need not be accounted for. To that end the accounts: shall show all assets, liabilities, revenues, expenses, reserves and surplus.

The rates and charges for any municipal public utility for the furnishing of water, light, heat, communications, power or gas shall be so fixed as to at least meet all the costs of such utility.

### **Section 11.07 Power Plant Reserve Fund**

There is hereby established a fund to be known and designated as the "Electric Utility Reserve and Contingency Fund" (hereinafter referred to in this section as the "Fund") to which transfers shall be made as set forth herein. Funds transferred shall be expended only on capital replacement or expansion or major repairs and improvements to the utility costing more than \$25,000.00 and necessitated by deterioration or obsolescence of existing utility facilities and equipment and for major repairs and replacements necessitated because of damage by the elements or any other accidental cause.

- (a) The City Council shall allocate to said Fund a sum total ten per cent (10%) of the Electric Utility's net earnings during the previous fiscal year but not less than \$10,000.00. The net earnings of the utility shall be that sum remaining after the expenses of operation and normal maintenance are met, and before transfers are made to other city funds for other than charges outstanding against the utility.
- (b) The annual transfer to the fund hereby established shall continue until said Fund shall reach the sum of Two Hundred

Fifty Thousand Dollars (\$250,000.00). Provided, however, that when expenditures are authorized under the provisions hereinbefore described, and the Fund is wholly or partially depleted, the annual transfers from utility revenues will be resumed until the full fund maximum is restored.

- (c) The Fund shall be invested, within statutory limits, in u. s. Government Bonds or other securities of equal safety. Accrued interest shall remain in the Fund until the Fund maximum is reached, after which the interest shall revert to the General Fund.
- (d) The Council for the City shall have the authority to increase, but not to decrease, the above noted dollar amounts as they deem necessary.

## **ARTICLE 12 PUBLIC UTILITY FRANCHISES**

### **Section 12.01 Franchises Remain in Effect**

All franchises to which the city is a party when this charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

### **Section 12.02 Granting of Public Utility Franchises**

Public Utility franchises and all renewals, extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years. No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same shall have first been referred to the people at the regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty days after application therefor has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered by the council unless the expense of holding such election, as determined by the council, shall have first been paid to the treasurer by the grantee. A franchise ordinance or renewal or

extension thereof or amendment thereto which is subject to revocation at the will of the council may be enacted by the council without referral to the voters, but shall not be enacted unless it shall have been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that such ordinance is so on file.

### **Section 12.03 Conditions of Public Utility Franchise**

All public utility franchises granted after the adoption of this charter. Whether it be so provided in the granting ordinance or not shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the council to insert in such franchise any provision within the power of the city to impose or require:

- (a) To repeal the same for misuse, non-use or failure to comply with the provisions thereof:
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency,
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates:
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the: franchise throughout the entire period thereof:
- (e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them:
- (f) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare and accommodation of the public.

### **Section 12.04 Regulation of Rates**

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

## **Section 12.05 Use of Public Places by Utilities**

Every public utility whether it has a franchise or not shall pay such 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. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city by the city and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.