TABLE OF CONTENTS

PREAMBLE/VISION STATEMENT **4**
CHAPTER 1. GENERAL PROVISIONS **5**
Sec. 1-1. Name and boundaries. 5
Sec. 1-2. General powers. 5
Sec. 1-3. Definitions and rules of construction. 5
Sec. 1-4. Chapter and section and subsection headings. 6
Sec. 1-5. Amendments. 6
Sec. 1-6. Sundays and holidays. 7
Sec. 1-7. Publication or mailing of notices. 7
Sec. 1-8. Records to be public. 7
Sec. 1-9. Form of government. 7
CHAPTER 2. CITY COMMISSION **8**
Sec. 2-1. Number of members; general authority. 8
Sec. 2-2. Election of mayor and mayor pro tem. 8
Sec. 2-3. Duties of mayor. 8
Sec. 2-4. Expenses. 9
Sec. 2-5. Meetings to be public. 9
Sec. 2-6. Regular meetings. 9
Sec. 2-7. Special meetings. 9
Sec. 2-8. Quorum; adjournment of meeting. 9
Sec. 2-9. Compulsory attendance and conduct at meetings. 10
Sec. 2-10. Organization and rules. 10
Sec. 2-11. Investigations. 11
Sec. 2-12. Providing for public health and safety. 11
Sec. 2-13. Planning and zoning. 11
Sec. 2-14. Recreation. 11
CHAPTER 3. LEGISLATION **12**
Sec. 3-1. Enactment, amendment, repeal and effective date of ordinances. 12
Sec. 3-2. Publication and recording of ordinances. 13
Sec. 3-3. Initiative and referendum. 13
CHAPTER 4. ELECTIONS **15**
Sec. 4-1. Wards and precincts. 15
Sec. 4-2. Regular election date. 15
Sec. 4-3. Qualified electors. 15
Sec. 4-4. Conduct of elections. 15
Sec. 4-5. Elective offices. 15
Sec. 4-6. Nominations. 16
Sec. 4-7. Primary elections. 17
Sec. 4-8. Special elections. 17
Sec. 4-9. Ballots. 17
Sec. 4-10. Electronic voting equipment. 18
Sec. 4-10. Election board. 18
Sec. 4-11. Board of canvassers. 18
CHAPTER 5. ADMINISTRATIVE SERVICE AND EMPLOYEES **19**
Sec. 5-1. Administrative officers designated; appointment functions

generally; employees designated. 19
Sec. 5-2. Performance review of city manager and city attorney..... 19
Sec. 5-3. Relationship of city commission to administrative service..... 19
Sec. 5-4. City manager. 20
Sec. 5-5. Acting city manager. 21
Sec. 5-6. City attorney and special council. 21
Sec. 5-7. City clerk. 22
Sec. 5-8. City treasurer. 22
Sec. 5-9. City assessor. 23
Sec. 5-10. Deputy administrative officers. 23
Sec. 5-11. Public library board. 23
Sec. 5-12. Independent boards and city commissions. 24
CHAPTER 6. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL..... 25
Sec. 6-1. Eligibility for elective office. 25
Sec. 6-2. Vacancies in office. 26
Sec. 6-3. Removals from office. 27
Sec. 6-4. Resignations. 27
Sec. 6-5. Filling vacancies in office. 27
Sec. 6-6. Terms of office. 28
Sec. 6-7. Oath of office and bond. 28
Sec. 6-8. Delivery of office. 29
Sec. 6-9. Compensation and employee benefits. 29
Sec. 6-10. Retirement system. 30
Sec. 6-11. Anti-nepotism. 30
Sec. 6-12. Merit system. 30
Sec. 6-13. Ethics, sexual harassment and bullying. 32
CHAPTER 7. GENERAL FINANCE..... 33
Sec. 7-1. Fiscal year. 33
Sec. 7-2. Budgets. 33
Sec. 7-3. Depository. 34
Sec. 7-4. System of accounts. 34
Sec. 7-5. Independent audit; annual report. 34
CHAPTER 8. TAXATION..... 35
Sec. 8-1. Power to tax; tax limit. 35
Sec. 8-2. Subjects of taxation. 35
Sec. 8-3. Exemptions. 35
Sec. 8-4. Board of review. 35
Sec. 8-5. City clerk to certify tax levy. 36
Sec. 8-6. City tax roll. 36
Sec. 8-7. Certification of tax roll for collection. 37
Sec. 8-9. Collection fees. 37
Sec. 8-10. Failure or refusal to pay tax. 38
Sec. 8-11. Delinquent tax roll to county treasurer. 38
Sec. 8-12. State, county and school taxes. 38
CHAPTER 9. BORROWING POWER..... 39
Sec. 9-1. Issuance of bonds. 39
Sec. 9-2. Proceeds of bonds. 39
Sec. 9-3. Emergency bonds. 39

Sec. 9-4. Special assessment bonds. 39
CHAPTER 10. PURCHASING; CONTRACTS ; LEASES 40
Sec. 10-1. Purchases and sales. 40
Sec. 10-2 Contracts. 41
Sec. 10-3. Restriction on powers to lease property. 42
Sec, 10-4. Installment payment contracts. 42
CHAPTER 11. MUNICIPAL UTILITIES AND BOARD OF LIGHT AND POWER 43
Sec. 11-1. General powers respecting utilities. 43
Sec. 11-2. Management of municipally owned or operated utilities. 43
Sec. 11-3. Rates. 43
Sec. 11-4. Collection of rates and charges. 43
Sec. 11-5. Disposal of utility plants and property. 44
Sec. 11-6. Utility finances. 44
Sec. 11-7. Board of light and power. 46
CHAPTER 12. PUBLIC UTILITY FRANCHISES 50
Sec. 12-1. Franchises remain in effect. 50
Sec. 12-2. Granting of franchise. 50
Sec. 12-3. Conditions of public utility franchise. 50
Sec. 12-4. Regulation of rates. 51
Sec. 12-5. Use of public places by utilities. 51
CHAPTER 13. MISCELLANEOUS 52
Sec. 13-1. Severability of charter provisions. 52
Sec. 13-2. Trusts. 52
Sec. 13-3. Quorum. 52
Sec. 13-4. Penalty for misconduct in office. 52
Sec. 13-5. Economic development plan. 52
Sec. 13-6. Charter study group. 53
Sec. 13-7. Public information. 53
Sec. 13-8. Strategic plan. 53
Sec. 13-9 . Intergovernmental contracts and cooperation. 53
CHAPTER 14. SCHEDULE AND TRANSITIONAL PROVISIONS 54
Sec. 14-1. Submission to referendum. 54
Sec. 14-2. Publication of charter. 54
Sec. 14-3. Form of ballot. 54
Sec. 14-4 . Effective date of charter. 54
Sec. 14-5. Continuation of contracts and obligations. 54
Sec. 14-6. Continuation of office and employment. 55
Sec. 14-7. Prior city legislation. 55
Sec. 14-8. Status of chapter. 55

CHARTER

OF THE CITY OF

MARQUETTE, MICHIGAN\

PREAMBLE/VISION STATEMENT

We, the people of the city of Marquette, Marquette County, Michigan, by virtue of the authority of the Constitution of the State of Michigan and Public Act 279 of 1909, do hereby ordain and establish this home rule charter for the City of Marquette. It is the vision of the city of Marquette to ensure quality of life by remaining an economically sound municipality which embraces economic and sustainable growth while making environmentally sound decisions. The city of Marquette supports its many educational opportunities and medical care options. The city will promote tourism and recreational participation to maintain an atmosphere of safety and good health, friendliness and a continuing awe and appreciation of our beautiful Lake Superior. The City of Marquette will encourage continued citizenry involvement in activities that embrace our past, enhance our present and thoughtfully cultivate the community of our future.

CHAPTER 1. GENERAL PROVISIONS

Sec. 1-1. Name and boundaries.

The name of this organized city is "City of Marquette". It is a body corporate and embraces the territory constituting the City of Marquette, on the effective date of this charter, together with any annexations and less any detachments that may be made. Upon annexation or detachment of territory, the boundaries shall be deemed to be changed without amendment of this section. The city clerk shall maintain and keep available in the city clerk's office, for public inspection and distribution, an official description of the current boundaries of the city.

Sec. 1-2. General powers.

(a) Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be, permitted to provide in their charters by Public Act No. 279 of 1909 (MCL 117.1 et seq.), as fully and completely as though these powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

(b) The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated herein or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the Constitution and statute and the provisions of this charter.

Sec. 1-3. Definitions and rules of construction.

Except as otherwise specifically provided or indicated by the context, in this charter:

(1) All words indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

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

(3) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

(4) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil, duplicating, lithographing or any similar method.

(5) Except in reference to signatures, the words "written" and "in writing" shall include any representation of words, letters, symbols, numbers, or figures, whether printed or inscribed on a tangible medium or stored in an electronic or other medium and retrievable in a perceivable form and whether any electronic signature authorized by law is or is not affixed.

(6) The word "officer" shall include the mayor and other members of the city commission, the administrative officers, deputy administrative officers, members of city boards and city commissions created by or pursuant to this charter.

(7) The word "statute" shall denote the Public Acts of the State of Michigan as they are in effect at the time the provision containing the word "statute" is to be applied.

(8) The word "Constitution" shall denote the Constitution of the State of Michigan as it is in effect at the time the provision containing the word "Constitution" is to be applied.

(9) All references to specific local or public acts shall be to such local or public acts of the State of Michigan as they are in effect at the time the reference to such act is to be applied.

(10) All references to section numbers shall refer to section numbers of this charter.

(11) The word "city" means the City of Marquette, Michigan.

Sec. 1-4. Chapter and section and subsection headings.

The chapter, section and subsection headings used in this charter are for convenience only and shall not be considered as part of this charter.

Sec. 1-5. Amendments.

This charter may be amended at any time in the manner provided by statute. Should two or more amendments adopted at the same election have conflicting provisions the one receiving the largest affirmative vote shall prevail as to those provisions.

Sec. 1-6. Sundays and holidays.

Whenever the date fixed by this charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Sec. 1-7. Publication or mailing of notices.

(a) Notices or proceedings requiring publication shall, unless otherwise provided by law or this charter, be published as determined by the city commission. In the event publication is required by law in a newspaper of general circulation, the city commission shall designate the newspaper.

(b) In any case where this charter requires the mailing of any notice, the affidavit of the officer or employee responsible for mailing of the notice stating that such notice was mailed shall be prima facie evidence of such mailing.

Sec. 1-8. Records to be public.

All records of the city shall be made available to the general public in compliance with the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.) and shall be kept in city offices except when required for official reasons or for purposes of safekeeping to be elsewhere and shall be available for inspection at all reasonable times.

Sec. 1-9. Form of government.

The city shall have the city commission-manager form of government.

CHAPTER 2. CITY COMMISSION

Sec. 2-1. Number of members; general authority.

There shall be a city commission consisting of seven elected city commissioners, one of whom shall serve as mayor. The city commission shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "city commission" is used in this charter, the same shall be synonymous with the word "council" or any other term used in any statute or federal law in referring to municipal legislative or governing bodies.

Sec. 2-2. Election of mayor and mayor pro tem.

(a) The first city commission meeting following a regular city election shall be called to order by the city clerk or designee. After calling such meeting to order the city clerk or designee shall administer the oath of office to newly elected members of the city commission. The city clerk or designee shall preside over the election of officers provided for in this section. At such meeting the city commission shall elect one of its members to serve as mayor and one to serve as mayor pro tem, both for a term expiring at the first city commission meeting following the next regular city election. Such elections shall be by written ballot and by majority vote of the members of the city commission in office at the time. Such elections shall be based upon qualifications for the office rather than upon the length of service or upon the principle of rotation. Following the administration of the oath of office to the newly elected mayor and mayor pro tem, the mayor shall conduct the remainder of the meeting.

(b) In the event of absence or disability of both the mayor and mayor pro tem, the city commission may designate another of its members to serve as acting mayor during such absence or disability.

Sec. 2-3. Duties of mayor.

(a) Insofar as required by statute, and for all ceremonial purposes, the mayor shall be the executive head of the city. The mayor shall have a voice and vote in all proceedings of the city commission, equal with that of other members of the city commission, but shall have no veto power. The mayor shall be the presiding officer of the city commission.

(b) The mayor shall execute or authenticate by signature such instruments as the city commission, this charter or any statute or laws of the United States shall require.

(c) Except as may be required by statute, the mayor shall exercise only such powers as this charter or the city commission shall specifically confer upon the mayor.

(d) In the absence or disability of the mayor, the mayor pro tem. shall perform the duties of mayor. In the absence or disability of both, the designated acting mayor shall perform such duties.

Sec. 2-4. Expenses.

The mayor and city commissioners may, upon order of the city commission, be paid such necessary bona fide expenses incurred in service in behalf of the city as authorized and itemized.

Sec. 2-5. Meetings to be public.

The business of the city commission shall be conducted at public meetings in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). Citizens shall have a reasonable opportunity to be heard at meetings of the city commission that are open to the public under such rules and regulations as the city commission may prescribe.

Sec. 2-6. Regular meetings.

The city commission shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings each month. A regular meeting shall be held at 7:00 p.m. at the then prevailing local time on the Monday next following each regular city election.

Sec. 2-7. Special meetings.

(a) Special meetings shall be called by the city clerk on the written request of the mayor, the city manager or any three members of the city commission on at least 18 hours written notice to each member of the city commission, served personally or left at the member's usual place of residence; but a special meeting may be held on shorter notice if all members of the city commission are present or have waived notice thereof in writing.

(b) No business shall be transacted at any special meeting of the city commission unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the city commission present consent thereto and all the members absent file their written consent.

Sec. 2-8. Quorum; adjournment of meeting.

A majority of the members of the city commission in office at the time shall be a quorum for the transaction of business at all meetings of the city commission but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the city clerk may adjourn any meeting for not longer than one week.

Sec. 2-9. Compulsory attendance and conduct at meetings.

(a) Any two or more members of the city commission may by vote either request or compel the attendance of its members and other officers of the city at any meeting. Any member of the city commission or other officer who when notified of such request for attendance fails to attend such meeting for reasons other than confining illness or absence from Marquette County shall be deemed guilty of misconduct in office unless excused by the city commission. The presiding officer shall enforce orderly conduct at meetings and any member of the city commission or other officer who shall fail to act in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

(b) Any police officer designated by the presiding officer of the meeting shall serve as the sergeant-at-arms of the city commission in the enforcement of the provisions of this section.

Sec. 2-10. Organization and rules.

The city commission shall determine its own organization, rules and order of business subject to the following provisions:

(1) A journal of the proceedings of each meeting in the English language shall be kept by the city clerk and shall be signed by the presiding officer and city clerk of the meeting. The journal must be written or printed.

(2) A vote upon all ordinances and resolutions shall be taken by "yes" and "no" vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.

(3) No member of the city commission shall vote on any question in which the member has a financial interest other than the common public interest, or on any question concerning such member's own conduct, but on all other questions each member who is present shall vote when such member's name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

(4) The proceedings of the city commission, or a summary thereof, shall be published within ten days following each meeting. Any such summary shall be prepared by the city clerk and approved by the mayor and shall show the substance of each separate proceeding of the city commission.

(5) There shall be no standing committees of the city commission.

(6) The city commission may provide for video taping or recording of meetings.

Sec. 2-11. Investigations.

(a) The city commission or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters in which the municipality has an interest. The city commission for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

(b) Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this charter and such employee when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed $500.00 or imprisonment not to exceed 90 days or both in the discretion of the court.

(c) In case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the city commission may also invoke the aid of the Circuit Court of Marquette County in requiring obedience to such summons or production of such books, papers and other evidence. The Circuit Court of Marquette County, in case of contumacy or refusal to obey such summons or to produce such books, papers and other evidence, may issue an order requiring such person to obey such summons or to produce such books, papers and other evidence and to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as contempt thereof.

Sec. 2-12. Providing for public health and safety.

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

Sec. 2-13. Planning and zoning.

(a) The city commission shall maintain a city planning city commission in accordance with, and having all the powers and duties granted by, the provisions of statute relating to such city commissions.

(b) The city commission shall maintain a zoning ordinance in accordance with the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the city planning city commission.

Sec. 2-14. Recreation.

The city commission shall provide for a public recreation program for the residents of the city.

CHAPTER 3. LEGISLATION

Sec. 3-1. Enactment, amendment, repeal and effective date of ordinances.

(a) Subject to the exceptions which follow hereafter:

(1) Ordinances may be enacted by the affirmative vote of not less than four members of the city commission.

(2) No ordinance shall be amended or repealed except by an ordinance adopted as aforesaid.

(3) No ordinance shall be enacted at the meeting at which it is introduced nor until after publication of the proceedings or summary thereof of the meeting at which it was introduced, which summary shall include a statement of its title and purpose.

(4) The effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than ten days after enactment nor before publication thereof; provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health or safety may be enacted at the meeting at which it is introduced and before publication of the proceedings of the meeting at which it is introduced, or may be given earlier effect than ten days after its enactment, or both, by five affirmative votes if seven, six or five members of the city commission are present at the meeting at which it is enacted.

(5) In case an ordinance is given effect earlier than ten days after its enactment, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three public places in the city, other provisions of this charter notwithstanding; and the city clerk shall, immediately after such posting, enter in the ordinance book under the record of the ordinance a certificate under the city clerk's hand stating the time and place of such publication by posting, which certificate shall be prima facie evidence of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation. Such ordinance shall also be published in accordance with section 3-2 but not as a requirement for the effectiveness thereof.

(b) No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of section 3-2.

(c) No ordinance shall be amended by reference to its title only, but the revised

sections of the ordinance, as amended, shall be enacted and published in full; provided that an ordinance or section thereof may be repealed by reference to its title and ordinance or code number only.

Sec. 3-2. Publication and recording of ordinances.

(a) The full text of each ordinance shall be published within 20 days after its enactment in a newspaper as defined in section 1-7.

(b) All ordinances shall be recorded by the city clerk in a book to be called "The Ordinance Book", and it shall be the duty of the mayor and city clerk to authenticate such records by their official signatures thereon but the failure to so record and authenticate such ordinances shall not invalidate them or suspend their operation.

Sec. 3-3. Initiative and referendum.

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

(b) *Initiatory and referenda petitions.*

(1) An initiative or a referendum petition shall be signed by not less than ten percent of the registered electors of the city on the date of the filing of such petition. The city clerk shall provide and make available to any registered elector of the city general petition forms upon which any initiative or a referendum petition may be set forth by such elector or others interested therein. Such petition may be the aggregate of two or more petition papers.

(2) Each signer of a petition shall sign his name, and shall place thereon, after his name, the date and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed in the presence of the affiant. Such petition shall be filed with the city clerk who shall, within 15 days, canvass the signatures thereon to determine the genuineness and the sufficiency thereof. Any signature obtained more than 60 days before the filing of such petition with the city clerk shall not be counted.

(3) If found to contain an insufficient number of genuine signatures of registered electors of the city, or to be improper as to form or compliance with the provisions of this section the city clerk shall notify, forthwith, the person filing such petition, and fifteen days from such notification shall be allowed for the filing or supplemental papers.

(4) When found sufficient and proper, the city clerk shall present the petition to the

city commission at its next regular meeting.

(c) *City commission procedure on petitions.* Upon receiving an initiatory or referenda petition from the city clerk, the city commission shall, within 30 days, unless otherwise provided by statute, either:

(1) Adopt the ordinance as submitted by an initiatory petition;

(2) Repeal the ordinance, or part thereof, referred to by a referenda petition; or

(3) Determine to submit the proposal provided for in the petition to the electors.

(d) *Submission of ordinances to electors*. Should the city commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the city commission, at a special election called for that specific purpose. The result of all elections held under the provisions of this subsection shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or Constitution.

(e) *Ordinance suspended; miscellaneous provisions.*

(1) The presentation to the city commission by the city clerk of a valid and sufficient referenda petition proposing to repeal an ordinance which has been in effect one year or less on the date of filing such petition shall automatically suspend the operation of the ordinance in question pending repeal by the city commission or final determination by the electors.

(2) 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. It is provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this section or if submitted to the electorate by the city commission on its own motion.

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

CHAPTER 4. ELECTIONS

Sec. 4-1. Wards and precincts.

The city shall consist of one ward. The city commission shall establish by ordinance convenient election precincts, in accordance with statute.

Sec. 4-2. Regular election date.

A regular city election shall be held each year on the Tuesday following the first Monday in November.

Sec. 4-3. Qualified electors.

Every resident of the city qualified to vote under the Constitution and laws of the State of Michigan, who satisfies the requirements for registration prescribed by law, shall be a qualified elector of the city under this charter.

Sec. 4-4. Conduct of elections.

The general election law of the State of Michigan shall apply to elections except when expressly provided otherwise in this charter. The election board shall conduct all elections in the city. The city commission shall by ordinance, consistent with law and this charter, provide for the conduct of elections in the city, for prevention of fraud in elections, and for recount of ballots in cases of doubt or fraud. The election board shall adopt regulations consistent with law, this charter and ordinances adopted by the city commission.

Sec. 4-5. Elective offices.

(a) The elective officers of the city shall be seven city commissioners and five members of the board of light and power, nominated and elected at large by the qualified and registered electors of the city.

(b) Each city commissioner shall be elected for a term of three years. No city commissioner shall serve more than two consecutive terms in office, except that a city commissioner appointed to fill a vacated office may, at the expiration of the appointed term of office, seek election to not more than two consecutive terms of office. A city commissioner who has served two consecutive terms in office may not hold city elective office until at least one year shall have elapsed after the end of the city commissioner's term of office.

(c) Members of the board of light and power shall be elected for terms of three years. No member of the board of power and light may serve more than two consecutive terms in office

except that a board member appointed to fill a vacated office may, at the expiration of the appointive term of office, seek election to not more than two consecutive terms of office. A board member who has served two consecutive terms in office may not hold city elective office until at least one year shall have elapsed after the end of the member's term of office.

(d) The term of office of each elected officer shall commence at 7:00 p.m. on the Monday following the regular city election at which the officer is elected.

Sec. 4-6. Nominations.

(a) All candidates for city primary elections shall be nominated by petition or by filing a nonrefundable filing fee in the amount established by the city commission, which fee shall be no less than $100.00, with the city clerk. The form of petition shall be substantially that designated by the secretary of state for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the city clerk. A candidate may have the nominating petitions printed, but the petitions must comply substantially with the statutory form. Petitions for each candidate shall be signed by not fewer than 25 nor more than 50 registered electors of the city. No person shall sign a greater number of petitions for any office than the number of persons to be elected to the office at the following regular city election. Where the signature of a person appears on more petitions than the person permitted to sign, the signatures shall be counted only to the extent that the person is permitted to sign, in the order of the respective dates of filing of the petitions containing the signatures.

(b)(1) The city clerk shall receive filing fees and nominating petitions filed in accordance with the provisions of this charter to 4:00 pm. local time, on the afternoon of the ninth Tuesday preceding the August primary. Filing fees and nominating petitions for special elections for the filling of vacancies shall be filed with the city clerk between the thirty-fifth day preceding such election and 4:00 p.m. local time on the thirtieth day preceding the special election.

(2) The city clerk shall, prior to every election, publish notice of the last day permitted for payment of filing fees and filing nominating petitions and of the number of persons to be nominated or elected to each office at least one week and not more than three weeks before the last day on which petitions can be filed or filing fees paid.

(3) Every candidate for elective office shall file with the candidate's nominating petition or filing fee an affidavit that the candidate possesses the qualifications for the office. Failure to file such affidavit shall invalidate the petition; the filing fee shall not be accepted by the city clerk if such an affidavit is not filed.

(c) Within five days after the filing of a nominating petition, the election board shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this charter. If a petition is found insufficient, the election board shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended

and filed again as a new petition or a different petition may be filed for the same candidate. The election board shall keep on file all petitions found sufficient at least until the first day of January following the primary election for which the candidates are nominated in the petitions. All nominating petitions filed shall be open to public inspection in the office of the city clerk.

Sec. 4-7. Primary elections.

(a) A regular nonpartisan city primary election shall be held on the Tuesday succeeding the first Monday in August preceding every regular city election for all elective offices of the city except as herein provided.

(b) If upon the expiration of the time for filing nominating petitions for any elective city office or payment of a filing fee, petitions have been filed or filing fees paid for no more than twice the number of candidates for the office to be elected at the following regular city election, then no primary election shall be held for one or more offices. The city clerk shall publish notice of this fact as part of the publication of notices for the primary election.

(c) Candidates equal in number to twice the number of persons to be elected to the city commission and to the board of light and power at the next regular city election who receive the highest number of votes in a primary election shall be declared the nominees for election to the respective offices. The names of the nominees shall be certified by the city clerk to the election board to be placed upon the ballot for the next regular city election.

Sec. 4-8. Special elections.

Special city elections shall be held when called by resolution of the city commission at least 50 days in advance of such election, or when required by this charter or by statute. Any resolution calling a special election shall set forth the purpose of the election. No more special city elections shall be called in any year than the number permitted by statute.

Sec. 4-9. Ballots.

(a) The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as possible to the provisions of the statute.

(b) The names of all candidates for the city commission and for the board of light and power shall be printed on official ballots without designation or symbol.

(c) If two or more candidates for the same office have surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

(d) The names of the candidates shall be alternated systematically in the manner prescribed by statute for primary elections.

Sec. 4-10. Electronic voting equipment.

Notwithstanding anything in this charter, the city may use electronic voting equipment to the extent authorized by state law.

Sec. 4-10. Election board.

There shall be an election board consisting of the city clerk as chair and four qualified electors of the city, appointed by the city commission. Members of the election board shall not be candidates for any elective office. The election board shall appoint the election inspector for each precinct and shall have charge of all activities and duties required of them by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the city commission. The election board shall be compensated at the same rate as election inspectors. In any case where election procedure is in doubt, the election board shall prescribe the procedure to be followed.

Sec. 4-11. Board of canvassers.

The city clerk shall be the city clerk of the board of canvassers. The board of canvassers shall convene on the day following each city election, shall canvass the votes and determine the results of the election, as provided by statute. The board shall notify in writing the successful candidates or nominees of the election or nomination. The city clerk shall certify in duplicate under the corporate seal of the city the determinations of the board and shall file one certificate with the county city clerk and the other in the city clerk's office.

CHAPTER 5. ADMINISTRATIVE SERVICE AND EMPLOYEES

Sec. 5-1. Administrative officers designated; appointment functions generally; employees designated.

(a) The administrative officers of the city shall be the city manager, city attorney, city clerk, city treasurer, and city assessor. The city commission may by ordinance create additional administrative offices and may by resolution combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

(b) The city manager and city attorney shall be appointed by the city commission for an indefinite period, shall be responsible to and serve at the pleasure of the city commission and shall have their compensation fixed by the city commission. All administrative officers of the city except the city manager and city attorney and except administrative officers of independent boards and city commissions shall be appointed by the city manager for an indefinite period, subject to confirmation by the city commission. Such officers shall be responsible to the city manager and shall have their compensation fixed by the city manager in accordance with budget appropriations and any pay plan adopted by the city commission. Such officers may be discharged by the city manager without confirmation by the city commission, but they shall have the right of appeal provided for in section 6-12.

(c) Except as may be otherwise required by statute or this charter, the city commission shall establish by ordinance such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department, but the city commission may not diminish the duties or responsibilities of the office of city manager. The city manager may prescribe such duties and responsibilities of the officers of those departments responsible to the manager which are not inconsistent with this charter or with any ordinance or resolution.

(d) All personnel employed by the city who are not elected officers of the city or administrative officers or deputies by, or under the authority of, this charter shall be deemed to be employees of the city. The head of each department shall have the power to hire and discharge the employees in the department over which the department head has jurisdiction subject to the provisions of section 6-12.

Sec. 5-2. Performance review of city manager and city attorney.

The city commission shall conduct an annual performance review of the city manager and the city attorney.

Sec. 5-3. Relationship of city commission to administrative service.

Neither the city commission nor any of its members or committees shall dictate the appointment

or employment of any person or in any way interfere with the city manager or other administrative officer so to prevent the manager or other administrative officer from exercising judgment in the appointment of officers and employees in the administrative service. Except for the purpose of reasonable inquiry, the city commission and its members shall deal with the administrative service solely through the city manager, and neither the city commission nor any member thereof shall give orders to any of the subordinates of the city manager.

Sec. 5-4. City manager.

(a) *Appointment and qualifications.* The city commission shall appoint a city manager within 90 days after any vacancy exists in such position. The city manager shall hold office at the pleasure of a majority of the city commission, but the city manager shall not be removed from office during a period of 60 days following any regular city election except by the unanimous vote of the members of the city commission in office at the time. The city manager shall be selected solely on the basis of executive and administrative qualifications with special reference to training and experience.

(b) *Functions and duties.* The city manager shall be the chief administrative officer of the city government. The functions and duties of the city manager shall be:

(1) To be responsible to the city commission for the efficient and effective administration of all administrative departments of the city government.

(2) To see that all laws and ordinances are enforced.

(3) To appoint and remove the heads of the several city departments in the manner specified in section 5-1.

(4) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed.

(5) To recommend an annual budget to the city commission and to administer the budget as finally adopted under policies formulated by the city commission, and to keep the city commission fully advised at all times as to the financial condition and needs of the city.

(6) To recommend to the city commission for adoption such measures as deemed necessary or expedient; and to attend city commission meetings with the right to take part in discussions but not to vote.

(7) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official.

(8) To perform such other duties as may be prescribed by this charter or as may be required by ordinance or by direction of the city commission.

Sec. 5-5. Acting city manager.

The city commission may appoint or designate an acting city manager during the period of a vacancy in the office and shall fix the compensation of the acting city manager. If the city manager is to be absent from the city for a period not exceeding four weeks, the mayor shall appoint an acting city manager to serve during such absence of the city manager. Such acting city manager shall, while in such office, have all the responsibilities, duties, functions and authority of the city manager.

Sec. 5-6. City attorney and special council.

(a) The city attorney shall act as legal adviser to, and be city attorney and counsel for, the city commission and shall be responsible solely to the city commission as a whole. The city attorney shall advise any officer or department head of the city in matters relating to official duties when so requested and shall file with the city clerk a copy of all written opinions given by the city attorney of any such officer or department head.

(b) The city attorney shall prosecute such ordinance violations and shall conduct for the city such cases in court and before other legally constituted tribunals as the city commission may request the city attorney shall file with the city clerk copies of such records and files relating thereto as the city commission may direct.

(c) The city attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to the city attorney by the city commission and shall promptly give an opinion as to the legality thereof.

(d) The city attorney shall call to the attention of the city commission and the city manager all matters of law, and changes or developments therein, affecting the city.

(e) The city attorney shall perform such other duties as may be prescribed by this charter or by the city commission.

(f) The city attorney shall at all times cooperate with the city manager and shall provide such information and reports and perform such duties as are requested by the city manager so long as they are not inconsistent with the duties of office as herein provided.

(g) Upon the recommendation of the city attorney, or upon its own initiative, the city commission may retain special legal counsel to handle any matter in which the city has interest, or to assist and counsel with the city attorney therein.

(b) The compensation set by the city commission for the city attorney shall be in contemplation of the normal duties of that office. special compensation may be provided at the discretion of the city commission for appeals to, or litigation commenced in, the federal courts, the circuit court or state supreme court; for work requiring extensive hearings before quasi-

judicial or administrative tribunals; for legal work in connection with the issuance of bonds of the city; for condemnation proceedings or for other matters outside the scope of the city attorney's normal duties. No such special compensation, nor any compensation to special legal counsel, shall be paid except in accordance with an agreement between the city commission and the city attorney or special counsel made before the service for which such special compensation is to be paid has been rendered.

Sec. 5-7. City clerk.

(a) The city clerk shall be the city clerk of the city commission. The city clerk or a designee thereof shall attend all meetings of the city commission and shall keep a permanent journal of its proceedings in the English language.

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

(c) The city clerk shall certify by signature all ordinances and resolutions enacted or passed by the city commission.

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

(e) The city clerk shall have power to administer oaths of office.

(f) The city clerk shall perform such other duties as may be prescribed by this charter, by the city manager or by resolution or ordinance of the city commission.

Sec. 5-8. City treasurer.

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

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

(c) The city treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the city commission may determine and shall report the same in detail to the finance department.

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

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

(f) The city treasurer shall perform such other duties as may be prescribed by this charter, by the city manager or by resolution or ordinance of the city commission.

Sec. 5-9. City assessor.

The city assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. The city assessor shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. The city assessor shall perform such other duties as may be prescribed in this charter, by the city manager or by resolution or ordinance of the city commission.

Sec. 5-10. Deputy administrative officers.

Subject to any applicable collective bargaining agreements, the city clerk, city treasurer and city assessor may appoint their own deputies subject to the written confirmation of the city manager, and may terminate the status of their deputies at their pleasure, upon written notice to the city manager. Such deputies shall, in each case, possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superiors or by the city manager.

Sec. 5-11. Public library board.

(a) The Board of Trustees of the Peter White Public Library is hereby continued and charged with the care, management and control of the municipal public library. Such board shall consist of five members, all of whom shall be appointed by the mayor with the confirmation of the city commission, one annually on or before May 1 of each year. Such members shall have the qualifications for city board members prescribed in section 6-1. The term of the members shall be five years beginning on May 1 of the year in which they are appointed. The members of such Board shall serve without compensation.

(b) The Board, by way of example but without limitation:

(1) May sue and be sued;

(2 May acquire and hold property;

(3) Shall be responsible for the determination of library policies and the administration of the library;

(4) Shall employ, discharge and fix the compensation of library personnel;

(5) Shall promulgate rules and regulations for the library;

(6) Shall approve a budget for the library; and

(7) Shall expend library funds subject to the provisions of this section.

(c) The city treasurer shall be the treasurer of the library board and shall have custody of all of the funds of the board. All revenues of the library shall be turned over to the city treasurer after collection or receipt, in accordance with section 5-8(b). The city treasurer shall disburse library funds only in pursuance of an order of the board.

(d) The city commission shall levy annually, as part of the July (summer) tax roll, any special levies required for the support of the library in accordance with Local Act 254 of 1891 and Local Act 7 of 1929. Such levies shall not be included in the two percent tax limitation contained in section 8-1. The city commission may appropriate additional funds for the support of the library.

(e) The control of the budget of the library shall be in accordance with the provisions of this charter for other city departments except that transfers of unencumbered appropriation balances from one account to another may be made by the board. Accounting for library finances shall be done by the finance department. The officer responsible for city purchasing shall make such purchases for the library as the board or its officers may request.

Sec. 5-12. Independent boards and city commissions.

The city commission may not create any board or city commission, other than those provided for in this charter, to administer any department or agency of the city government except a municipal hospital or any activity which by statue is required to be so administered. The city commission may, however, establish quasi-judicial appeal boards and boards or city commissions to serve solely in an advisory capacity, or to administer activities conducted jointly with other units of government.

CHAPTER 6. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL

Sec. 6-1. Eligibility for elective office.

(a) No person shall hold any elective office of the city unless the person has been a resident of the city for at least three years immediately prior to the last day for filing supplemental petitions or payment of filing a filing fee for such office or prior to the time of appointment to fill a vacancy and is also a qualified and registered elector of the city on such day and throughout the person's tenure of office.

(b) No person shall be eligible to be a candidate for nomination for city commissioner at any election if the person will have served by the Monday following the next regular city election for six or more consecutive years as a member of the city commission, unless at least one year has elapsed between the termination of such membership and the Monday following such election. Consecutive years shall be measured from the last date at which the person took office as a member of the city commission following a period of at least one year without so being a member.

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

(d) Each candidate for elective office shall file with the candidate's petition or filing fee the candidate's affidavit that the candidate possesses the qualifications for such office provided in this section. Failure to file such affidavit shall invalidate the petition; the filing fee shall not be accepted by the city clerk if such an affidavit is not filed.

(e) The city commission shall be the sole judge of the election and qualification of its own members.

(f) Each member of a city board or city commission shall have been a resident of the city for at least three years immediately prior to the day of appointment and shall also be a qualified and registered elector of the city on such day and throughout the member's tenure of office. No person shall be eligible for membership on any such board or city commission if the person will have served at the time of taking office for six or more consecutive year' as a member of such board or city commission unless at least one year has elapsed after the termination of such membership. Consecutive years shall be measured from the last date at which the person took office as a member of such board or city commission following a period of at least one year without so being a member.

(g) All officers shall be citizens of the United States.

(h) Except as otherwise provided by law, a person appointed by the city commission or any other government agency, to represent the city on a non-city board, committee, or city commission shall be subject to the same requirements as persons appointed by the city commission to serve on a city board, committee, or city commission, except that appointments to the board of directors of the downtown development authority (DDA) shall be made to candidates for appointment who meet the requirements of section 4 of Public Act No. 197 of 1975 (MCL 125.1654); whereby the city manager may make (and the city commission may confirm) appointments of nonresidents who meet the qualifications as required by Public Act No. 197 of 1975 (MCL 125.1651 et seq.); provided however, that preference may be given to eligible candidates to serve on the DDA board who also meet the qualifications to serve on any of the city's boards, committees or city commissions.

(i) No elective officer may be appointed to any city office or be employed by the city during the term of office for which was elected or for one year thereafter, except that after the expiration of the term of office the officer may be appointed as a member of an independent board or city commission.

Sec. 6-2. Vacancies in office.

Any elective city office shall be declared vacant by the city commission before the expiration of the term of such office:

(1) For any reason specified by statute or by this charter as creating a vacancy in office;

(2) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;

(3) If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;

(4) In the case of any member of the city commission, if such officer shall miss six consecutive regular meetings of the city commission or 25 percent of such meetings in any fiscal year of the city, unless such absence shall be excused by the city commission and the reason heretofore entered in its proceedings at the time of each absence;

(5) If the officer is removed from office by the city commission in accordance with the provisions of section 6-3.

(b) The office of any member of any board or city commission created by, or pursuant to, this charter shall be declared vacant by the city commission:

(1) For any reason specified by statute or by this charter as creating a vacancy in office;

(2) If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;

(3) If such officer shall miss four consecutive regular meetings of such board or city commission in any fiscal year of the city, unless such absence shall be excused by such board or city commission and the reason heretofore entered in the proceedings at the time of each absence;

(4) If the officer is removed from office by the city commission in accordance with the provisions of section 6-3.

Sec. 6-3. Removals from office.

(a) Removals by the city commission of elective officers or of members of boards or city commissions created by or pursuant to this charter shall be made for either of the following reasons:

(1) For any reason specified by statute for removal of city officers by the Governor.

(2) For any act declared by this charter to constitute misconduct in office.

(b) Such removals by the city commission shall be made only after a hearing conducted by the city commission, notice of which has been given to such officer by the city clerk at least ten days in advance, either personally or by delivering the same at the officer's last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by city attorney, to be heard in defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, s failure to do so may be deemed cause for removal. A majority vote of the members of the city commission in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal.

Sec. 6-4. Resignations.

Resignations of elective officers and of members of boards and city commissions shall be made in writing and filed with the city clerk and shall be acted upon by the city commission at its next regular meeting following receipt thereof by the city clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

Sec. 6-5. Filling vacancies in office.

(a) Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards or city commissions appointed for a definite term, such appointments shall be for the unexpired term.

(b) Vacancies in elective offices shall, within sixty days, be filled for the unexpired

term of the officer whose office has become vacant, by appointment by a majority vote of the members of the city commission then in office of a person possessing the qualifications for the office. In the case of a vacancy on the board of light and power the city commission shall consult with the board of light and power's remaining members before the city commission makes its appointment.

(c) If any such vacancy in the position of city commissioner is not so filled within the said sixty days, or if four or more vacancies exist simultaneously in the city commission, the city clerk shall within ten days thereafter call a special election to be held within sixty days thereafter to fill such vacancies for the unexpired terms of the officers whose offices have become vacant. In connection with any such special election no primary election shall be held; candidates shall be nominated by petitions or payment of a filing fee in a manner identical to that provided in section 4-6; the names of all qualified candidates who pay filing fees or file valid and sufficient nomination petitions within the time provided in section 4-6 shall be certified to the election city commission and placed on the ballot; and all other election provisions of this charter not inconsistent with this section shall govern.

(d) Notwithstanding the foregoing, no vacancy in the office of city commissioner or on the board of power and light shall be filled either by appointment or by special election if the term of office of the person whose office has become vacant expires within 90 days after the vacancy occurs.

Sec. 6-6. Terms of office.

Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards and city commissions appointed for a definite term shall not be shortened. The terms of elective officers shall not be extended beyond the period for which any such officer was elected except that an elective officer shall, after the officer's term has expired, continue to hold office until the officer's successor is elected or appointed and has qualified. Where several terms of city commissioners expire simultaneously, that city commissioner who was elected by the highest number of votes (or any appointee who filled the position) shall be deemed to be succeeded by the candidate who received the highest number of votes, that city commissioner who was elected by the second highest number of votes, by the candidate who received the second highest number of votes, etc.

Sec. 6-7. Oath of office and bond.

(a) Every officer, elective or appointive, before entering upon the duties of office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the city clerk, together with any bond required by statute, this charter or by the city commission. In case of failure to comply with the provisions of this section within ten days from the date the officer is notified in writing of election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the city commission shall, by resolution, extend the time in which such officer may qualify.

(b) Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the city commission, shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the city commission shall direct and approve. Such official bond of every officer and employee shall be conditioned that the officer and employee will faithfully perform the duties of office, and will on demand deliver over to the successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to the office, which may be in such person's custody as an officer or employee; and such bonds may be further conditioned as the city commission shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that the officer or employee will, on demand, pay over or account for to the city, or any proper or agent thereof, all moneys received as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

(c) All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The city clerk shall be custodian of all the bonds of all officers or employees, except that the city treasurer shall be custodian of any bonds pertaining solely to the city clerk.

Sec. 6-8. Delivery of office.

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, the officer or employee shall within five days, or sooner on demand, deliver to the officer's or employee's successor in office or to superior thereof all the books, papers, moneys and effects in the officer's or employee's custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed $500.00 or imprisonment for not to exceed 90 days, or both, in the discretion of the court.

Sec. 6-9. Compensation and employee benefits.

(a) The compensation and employee benefits of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the city Manager within the limits of budget appropriations and in accordance with any pay plan adopted by the city commission.

(b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, city commissions and other compensation receivable by such officers or employees for their services. Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers or employees and be paid

into the city treasury and a statement thereof filed periodically with the city clerk.

(c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred for service in behalf of the city.

Sec. 6-10. Retirement system.

For the purpose of providing retirement allowances for the employees of the city, the membership of the city in the state municipal employees' retirement system created by the municipal employees retirement act of 1984, Public Act No. 427 of 1984 (MCL 38.1501 et seq.), shall continue and the conditions of such membership shall in no way be altered by the taking of effect of this charter. The city may withdraw from such system in the manner provided by statute and in that event the city commission shall provide for a comparable retirement system, for the officers and employees of the city other than elective officers and members of boards or city commissions as a replacement for such system.

Sec. 6-11. Anti-nepotism.

(a) The following relatives and their spouses of any elective official or of an elected official's spouse or of the city manager or of the manager's spouse are disqualified from holding any appointive city office or any city employment during the term for which said elective official was elected or during the tenure of office of the city manager respectively: Child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption.

(b) This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of said elective official or appointment of said city manager respectively.

Sec. 6-12. Merit system.

(a) The city commission shall by ordinance provide for a merit system of personnel management. Such system shall provide at least the following:

(1) For a professional and impartial approach to all municipal personnel problems based solely on the fitness, training and experience of the individual with no discrimination on account of political or religious opinion.

(2) That grievance and appeal features of the system shall include all officers and employees of the city except elective officers, the city manager, city attorney, technical consultants employed under contract and members of boards and city commissions.

(3) That all newly appointed employees shall serve for a probationary period of not less than six months during which period they may be dismissed without cause

and without recourse to any grievance or appeal procedure.

(4) For rules and regulations covering the selection, promotion and discharge of municipal employees. Where competitive tests are used and eligible lists created, appointments shall be made from a list of not less than the three candidates standing highest on such list, or from the total number of candidates who pass such test, whichever number is less;

(5) For an orderly procedure for processing grievances so that grievances may be adjusted at administrative levels without resort to the appeal board;

(6) That the city commission shall act as an appeal board and that grievances or alleged violations of the merit system may be brought before the appeal board only after all steps in the grievance procedure have been followed; and that all proceedings before the appeal board shall be at special meetings at which the appeal shall be the first order of business rather than holding the appeal as part of a regular city commission meeting; and that at any appeal proceeding the aggrieved employee may be represented by any person or persons of such employee's own choice and all parties at interest may call such witnesses as they deem necessary;

(7) That no person covered by the grievance or appeal features of the system shall be demoted, discharged or otherwise disciplined except for cause or without an opportunity for any complaint arising from such action to be processed through the established grievance and appeal board procedure. No such appeal shall stay the personnel action, but the person shall be allowed any compensation lost through such action if such action is reversed by the appeal board. However, nothing shall prevent the discharge of any person when the position the person holds has been abolished or consolidated with another position or when a reduction of personnel is necessary;

(8) For the preparation, installation and maintenance of a classification plan based on the duties, authorities and responsibilities of positions;

(9) For the preparation and recommendation of a systematic salary plan for the positions covered by the system;

(10) For the restriction of political activity in city municipal politics of persons covered by the system;

(11) For a seniority system under which:

a. Merit, ability and attitude shall be given first consideration in promotions, transfers or the filling of new jobs or vacancies and seniority shall govern only where these factors are approximately equal;

b. Seniority shall be given first consideration in reduction or restoration of the working force except when the city will thereby be deprived of the services of an employee with greater skill or ability who is necessary to efficient continuance of operations; and

c. The determination of equal merit, ability and attitude is reserved to the administrative officers but not to the exclusion of following the regular grievance procedure;

(12) That any employee who prior to the effective date of this charter has accepted, or who may subsequently thereto accept appointment as an administrative officer or deputy or assistant administrative officer or assistant department head, shall accumulate seniority while working under such appointment and in case such employee is removed from such appointment, except for misconduct, shall have all the rights of seniority to which such employee would have been entitled if such employee had worked continuously in the previous employment;

(13) That all relations between the city and its employees governing working conditions shall be set forth in the ordinance establishing the merit system and no separate or different contracts or agreements shall be made.

(b) It is the intent of this section to secure the establishment of a merit system program as an integral part of the administrative service, to the end that the handling of the personnel activities will be done in a manner equitable to the employees without handicapping or curtailing responsible administrative officers, and by increased efficiency and improved administration will be economical to the citizens.

Sec. 6-13. Ethics, sexual harassment and bullying.

On or before January 1, 2014, the city commission shall adopt the following:

(1) An ethics ordinance entitled "Ethics and Code of Conduct" by which all persons in the municipal service (including the members of the board of light and power and employees thereof), whether compensated or voluntary, shall abide. The ordinance shall encourage such persons to place the public interest above self-interest.

(2) Provisions defining and prohibiting bullying and sexual harassment.

CHAPTER 7. GENERAL FINANCE

Sec. 7-1. Fiscal year.

The fiscal year of the city shall be October 1 through September 30.

Sec. 7-2. Budgets.

(a) *Generally.* At such times as may be required by the city manager or specified by ordinance, each administrative officer or director of a department shall submit to the chief financial officer an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his or her control. The chief financial officer shall prepare and submit to the city manager a complete budget for the next fiscal year in such detail and supporting schedules as the city manager shall require. The city manager shall submit the proposed budget to the city commission on or before the second regular meeting in July.

(b) *Capital improvements program.* As part of the proposed budget, the city manager shall annually prepare a capital improvements program of public structures and improvements. The capital improvements program shall show those public structures and improvements that in the city manager's judgment will be needed or desirable and can be undertaken within the ensuing six-year period. The proposed capital improvements program shall be submitted to the planning city commission for review and shall be adopted by the city commission.

(c) *Hearings.* A public hearing on the proposed budget shall be held before its final adoption by the city commission. Notice of the time and place of holding the hearing shall be in accordance with law. A copy of the proposed budget shall be on file in the office of the city clerk for public review during normal business hours at least one week prior to the public hearing.

(d) *Adoption.* The city commission shall by resolution determine and adopt the budget and make the appropriations for the next fiscal year and shall provide by resolution for a tax levy of the amount necessary to be raised by taxation. The total amount of appropriation shall not exceed the revenues of the city as estimated by the city commission, based upon a tax levy for all city operating purposes, plus all additional and miscellaneous revenues derived by the city in accordance with provisions of law, this charter and city ordinances.

(e) *Budget controls.* During the fiscal year, if it shall appear that the income is less than anticipated, the city commission shall reduce appropriations for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within available revenue. If the revenues exceed the amounts estimated in the budget, the city commission may make supplemental appropriations. No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation. Except as otherwise provided in this charter, the city commission may transfer any unencumbered appropriated balance or any portion thereof from one department, fund or agency to another.

Sec. 7-3. Depository.

The city commission shall designate the depository or depositories for city funds and shall provide for the daily deposit of all city monies. The city commission may provide for such security for the city deposits as it may deem necessary, except that personal surety bonds shall not be deemed proper security.

Sec. 7-4. System of accounts.

The city shall maintain a system of accounts of the city which shall conform to this charter, to any uniform system required by law and to generally accepted principles and practices of governmental accounting.

Sec. 7-5. Independent audit; annual report.

(a) An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the city commission. Such audit shall be made by certified public accountants experienced in municipal accounting to be selected by the city commission without regard to any requirements for competitive bidding. Such audit shall be available for public inspection at the office of the city clerk.

(b) The city manager shall prepare an annual report of the affairs the city after completion of the annual audit. The report shall include financial statements showing the results of all city operations including operating statements for each public utility owned or operated by the city. Copies of such report, after approval by the city commission, shall be made available for public inspection and distribution at the office of the city clerk.

CHAPTER 8. TAXATION

Sec. 8-1. Power to tax; tax limit.

The city shall have the power to assess taxes and lay and collect rents, tolls and excises. Any excises based upon payroll or income shall be levied upon a uniform basis. The annual general ad valorem tax levy for municipal purposes shall not exceed two per cent of the assessed value of all real and personal property subject to taxation in the city, exclusive of any levies authorized by general statute to be made beyond charter tax rate limitations and the levies for the support of the Peter White Public Library authorized by Local Act 254 of 1891 and Local Act 7 of 1929.

Sec. 8-2. Subjects of taxation.

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

Sec. 8-3. Exemptions.

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

Sec. 8-4. Board of review.

(a) *Composition.* The board of review shall be composed of five members, with at least four of those members being freeholders of the city who shall meet the eligibility requirements contained in section 6-1 and who during their term of office shall not be city or school board officers or employees of either the city or school board or be nominees or candidates for elective city or school board office. The filing by a member of the board of review of such filing fee or member's nomination petition for an elective city or school board office or the filing of consent thereto shall constitute a resignation from the board of review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation.

(b) *Terms of members; compensation; chair; city clerk.* The terms of all members shall be three years. The city commission shall fix the compensation of the members of the board. The board of review shall annually in February select its own chair for the ensuing year. The assessor shall be city clerk of the board and shall be entitled to be heard at its sessions, but shall have no vote.

(c) *Notice of meetings.* Notice of the time and place of the sessions of the board of review shall be published by the city clerk at least ten days prior to each session of the board.

(d) *Duties and functions.*

(1) For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of review in townships, except as otherwise provided in this charter.

(2) It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just.

(3) In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions.

(4) Except as otherwise provided by statute, no person other than the board of review shall make or authorize any change upon, or additions or corrections to, the assessment roll.

(e) *Records of proceedings.* The assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the board.

Sec. 8-5. City clerk to certify tax levy.

Within three days after the city commission has adopted the budget for the ensuing year, the city clerk shall certify to the assessor the total amount which the city commission determines shall be raised by general ad valorem tax. The city clerk shall also certify all amounts of current or delinquent special assessments and all other amounts which the city commission requires to be assessed, reassessed or charged upon any property or against any person. The city clerk shall also certify the amount of the taxes to be raised for the school district of the city so long as it is governed by an act providing for the collection of school taxes on the July (summer) tax roll.

Sec. 8-6. 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 section 8-5, the assessor shall spread upon said tax roll the several amounts determined by the city commission to be charged, assessed, or reassessed against persons or property. The assessor shall also spread the amounts of the general ad valorem city tax and school taxes 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.

Sec. 8-7. Certification of tax roll for collection.

After spreading the taxes the assessor shall certify the tax roll, and the mayor shall annex the mayor's warrant thereto directing and requiring the city treasurer to collect prior to the date established by law from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to the 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 June 15, the roll shall be delivered to the city treasurer for collection.

Sec. 8-8. Taxes due; notification thereof.

(a) City taxes shall be due on July 1 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 shall:

(1) Publish, between June 15 and July 1 notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same; and

(2) Mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed.

(b) Failure on the part of the Treasurer to give such 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.

Sec. 8-9. Collection fees.

(a) All taxes paid on or before July 31 of each year shall be collected by the city treasurer without collection fee.

(b) On the September 14 and on the fourteenth day of each succeeding month the city treasurer shall add to all taxes then unpaid one per cent of said taxes as a collection fee. 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, collectible in the same manner as the taxes to which they are added.

(c) If delivery of the tax roll to the city treasurer, as provided in section 8-7, is delayed for any reason by more than thirty days after July 15, the application of the schedule of collection fees provided herein shall be postponed 30 days for the first 30 days of such delay and shall be postponed an additional 30 days for each additional 30 days, or major fraction thereof, of such delay.

Sec. 8-10. Failure or refusal to pay tax.

If any person, firm or corporation shall neglect or refuse to pay any tax assessed to such person, firm or corporation, the city 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 seizure no property shall be exempt. The city treasurer may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provision. The city 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.

Sec. 8-11. Delinquent tax roll to county treasurer.

All city and school taxes remaining uncollected by the city treasurer on March 1 following the date when said roll was received by the city treasurer shall be returned to the county treasurer to the extent and in the same manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes are 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.

Sec. 8-12. State, county and school taxes.

For the purpose of assessing and collecting taxes for state, county and school purposes, the city shall be considered the same as a township, and all provisions of statute relative to the collection of and accounting for such taxes shall apply. School taxes shall be collected with city taxes on the July (summer) tax roll so long as the school district of the city is governed by an act so providing. For the purposes of collecting state, county and school taxes, the city treasurer shall perform the same duties and have the same powers as township treasurers under statute.

CHAPTER 9. BORROWING POWER

Sec. 9-1. Issuance of bonds.

The city may, within the limits provided by law, authorize the borrowing of money for any purpose within the scope of the powers vested in the city; and may provide for the issuance of bonds of the city or other evidence of indebtedness therefore and may pledge the full faith, credit and resources of the city for the payment of the obligations created thereby.

Sec. 9-2. Proceeds of bonds.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and it shall be unlawful to use the proceeds for any other purpose, provided that, whenever the proceeds of any bond issue or any part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue is made the city commission shall use as provided by law.

Sec. 9-3. Emergency bonds.

In case of fire, flood or other calamity, the city commission may issue emergency bonds in accordance with law, which may be general obligations of the city, to provide relief for the residents of the city, and for the preservation or restoration of municipal property.

Sec. 9-4. Special assessment bonds.

The city commission may provide for the borrowing of money and issuing of bonds in anticipation of the payment of the special assessments, or in anticipation of the payment of any combination of special assessments. Such special assessment bonds may be an obligation of the special assessment district, or may be both an obligation of the special assessment district and a general obligation of the city as provided by law. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose.

CHAPTER 10. PURCHASING; CONTRACTS ; LEASES

Sec. 10-1. Purchases and sales.

(a) The city manager shall be responsible for the purchase and sale of all city property but may designate another officer or employee of the city as purchasing agent. Comparative prices hall be obtained for the purchase or sale of all materials, supplies and public improvements except:

(1) In the employment of professional services and

(2) When the city manager, the purchasing agent if one be designated or the city commission as hereinafter provided shall determine that no advantage to the city would result.

(b) The city shall by ordinance specify the dollar amounts for sales or purchases of property by the city for which:

(1) The sale or purchase shall be approved by the city commission,

(2) Sealed bids shall be obtained unless the city commission by unanimous resolution of those present at the meeting, based upon the written recommendations of the city manager, determines that no advantage to the city would result fret competitive bidding, and

(3) The requirements of section 10-2 shall be compiled with.

(c) No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The city commission may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

(d) Purchases shall be made from the lowest and best bid meeting specification. All purchases and sales shall be evidenced by written contract or purchase order.

(e) The city may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

(f) The city may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of at least five (5) members of the city commission.

(g) The purchasing services of the city shall be made available without charge to the library.

(h) The purchasing services of the city shall be made available to the Marquette Area

public school (MAPS) system, and the city commission may provide for fair charges for any such services.

(i) Detailed purchasing, sale and contract procedures shall be established by ordinance.

Sec. 10-2 Contracts.

(a) All contracts and leases to which the city is a party when this charter becomes effective shall remain in full force and effect.

(b) The authority to contract on behalf of the city is vested in the city commission and shall be exercised in accordance with the provisions of statute and of this charter, provided that purchases and sales may be made by the city manager, or the purchasing agent if one be designated, subject to the provisions of section 12.1.

(c) Any contract or agreement in an amount in excess of the amount established by ordinance made with form or terms other than the standard city purchase order form shall before execution be submitted to the city attorney and the city attorney's opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the city clerk together with a copy of the opinion.

(d) Before any contract, agreement or purchase order obligating the city to pay an amount in excess of the amount established by ordinance, the finance department shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose to be financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract under authority of section 10-4. Certification by the finance department shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

(e) No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this section.

(f) No contract shall be amended after the same has been made except upon the authority of the city commission, provided that the city manager or purchasing agent if one be designated, may amend contracts for those purchases and sales made by them under the authority of section 12.1.

(g) No compensation shall be paid to any contractor except in accordance with the terms of the contract.

(h) No contract shall be made with any person, firm or corporation in default to the city.

(i) An individual agreement of employment shall not be deemed a contract requiring opinion by the city attorney or certification by the finance department.

Sec. 10-3. Restriction on powers to lease property.

(a) Any agreement or contract for the renting or leasing of public property for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the city commission but any petition for such referendum must be filed within 90 days after publication of the proceedings of the meeting of the city commission at which such agreement or contract is authorized.

(b) The transfer or assignment of any agreement or contract for the renting or leasing of public property may be made only upon approval of the city commission but approval of such transfer shall not be subject to referendum.

(c) Rentals and leases and renewals thereof shall be for a fair consideration as determined by the city commission.

(d) No lease of property shall be authorized at the meeting at which it is introduced nor until after publication of the proceeding or summary thereof of the meeting at which it was introduced. No lease of real property for a term greater than ten years shall be made until an assessment has been made by the city commission, city manager, and city treasurer of any other best possible use for the property and the potential financial cost and impact for the city.

Sec, 10-4. Installment payment contracts.

The city may enter into any contract or agreement for the purchase of lands, property or equipment for public purposes to be paid for in installments. Each contract shall be in conformity with the law and the aggregate of all such contracts may not exceed the limitations provided by law.

CHAPTER 11. MUNICIPAL UTILITIES AND BOARD OF LIGHT AND POWER

Sec. 11-1. 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, 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 not to exceed the limitations set by statute and Constitution.

Sec. 11-2. 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, except the electric light and power utilities which shall be under the management and supervision of the board of light and power.

Sec. 11-3. Rates.

(a) The city commission shall have the power to fix from time to time such 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, except the services of the board of light and power. The rates and charges of any municipal public utility for the furnishing of water, light, heat, 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.

(b) The rates for any utility service sold outside the city limits shall be fixed so as to provide at least a reasonable return on the total cost of such service including depreciation expense on the investment in distribution and production equipment required to provide such service, and in no case shall such rates be fixed to provide a lower return than the return provided from rates for comparable service inside the city.

Sec. 11-4. Collection of rates and charges.

(a) The city commission shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

(1) 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 ordinance.

(2) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.

(3) That suit may be instituted by the city in any court of competent jurisdiction for the collection of such rates or charges.

(b) With respect to the collection of rates charged for water the city shall have all the powers granted to cities by Public Act No. 178 of 1939 (MCL 123.161 et seq.).

Sec. 11-5. 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 an appertaining to any municipally owned public utility which is needed to continue operating 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 restrictions of this section shall not apply to the sale or exchange of any 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.

Sec. 11-6. Utility finances.

(a) Separate accounts shall be kept for each public utility owned or operated by the city. Such accounts 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 income tax shall not be accounted for. To that end, the accounts shall show all assets, liabilities, revenues, expenses, reserves and surplus. Revenues shall include charges rendered by such utility to any other city department or fund, including, by way of illustration but not limited to, charges for street lighting, electricity and water for municipal buildings and fire hydrant rentals. Such charges shall be computed in a reasonable manner considering cost and value of the service and the practice of privately owned utilities and, where the service is comparable to that provided to other customers, the charge shall be the same as to other customers. Expenses shall include charges for all expenses of the utility including repairs to capital equipment, full depreciation based upon estimated life of the utility's capital equipment and the equivalent of all property taxes which would be paid by a privately owned utility. Payments on principal and interest of debt incurred by, or for the use of, the utility shall be paid from utility funds, but such payments on principal should not be charged as an expense.

(b) Any public utility for the furnishing of water, light, heat, power or gas, in addition

to having shown in its accounts the items listed in the preceding paragraph shall actually have transferred to its funds such inter-departmental or inter-fund charges and shall actually have transferred to the city general fund each year the equivalent of all property taxes levied by any unit of government on property within the city and charges for services furnished to the utility by any other city department or agency.

(c) The valuation of property of each utility for purposes of determining the equivalent of property taxes shall be fixed by the assessor using methods comparable to those for fixing the value of privately-owned businesses. Such valuation shall include all property of each such utility whether located inside or outside the city, and the tax equivalent shall be computed by multiplying the tax rates for the city, schools and county government by the total valuation as so fixed. All payments of tax equivalents shall be for the use of the general city government only and not for the schools, library or Marquette County. No municipal utility shall make any other tax payment of any kind, or any payment in lieu thereof, to any other unit of government unless required by law.

(d) Depreciation reserve accounts shall be established for each utility to which the annual depreciation charges shall be credited, but actual cash need not be segregated for these reserve accounts.

(e) If, in any year, any utility for the furnishing of water, light, heat, power or gas has insufficient funds to make the payments to the general fund for the entire tax equivalent, then such payment or part thereof shall not be made that year, but the amount not paid shall be established clearly in both the utility and general city accounts as being a loan to the utility and shall be paid at the earliest possible date at which funds are available. Loans for other purposes may be made to the electric and water utilities from any other city funds, but shall also be repaid at the earliest possible date at which utility funds are available.

(f) Except as provided subsection (g) of this section, the city commission may by resolution transfer annually not over 50 percent of the net income of the utility to the general fund of the city to be spent for other municipal purposes. Such transfers shall be based on the net income earned in the fiscal year immediately preceding the transfer and only after the completion of the audit of such year. Net income shall be determined by considering all items of revenue and expense (except the equivalent of income taxes) including, but not limited to, those defined in this section. The estimated amount of such transfer may be included as estimated revenue in the budget for the fiscal year in which the transfer is to be made.

(g) The amount of net income not so transferred to the general fund shall be held in one or more appropriate reserve accounts of such utility for use in paying for future additions, betterments, expansions and replacements. The amounts of future expenditures for such purposes shall be charges against such reserve accounts. Such reserves shall be separate and distinct from the depreciation reserves. Whenever the total amount of such separate reserve accounts equals twenty per cent of the undepreciated book value of the property then in service or being held for future service in each such utility, as determine by the original cost of its property and equipment, no further transfers to such reserves shall be required and the city commission may transfer to the general fund in the manner prescribed in the preceding paragraph

not over one hundred percent of the previous year's net income of such utility. However, if at the close of any year the amount of such separate reserve accounts is below said twenty percent of book value, the city commission shall increase such accounts to said twenty per cent before transferring in excess of 50 percent of the net income of such utility to the general fund of the city. In no year shall the total transferred to such reserves and to the general fund of the city exceed 100 percent of the net income of such utility for the preceding year.

(h) No funds of any utility for the furnishing of water, light, heat, power or gas other than the payments and transfers heretofore provided for in this section and other than temporary short-term loans in anticipation of taxes shall be loaned or transferred to any other city fund except upon a majority vote of the electors of the city voting thereon unless such utility is discontinued, in which case such funds shall revert to the general fund of the city. If money is loaned to other city funds in anticipation of tax collections, it shall be repaid to the utility at the earliest possible date at which funds are available.

Sec. 11-7. Board of light and power.

(a)(1) The electric light and power utilities of the city shall be under the management control and supervision of a board of light and power as constituted in this charter.

(2) The board shall appoint a director of light and power, who shall be the executive officer of, and directly responsible to, the board. The director shall appoint an accountant who shall be responsible for the maintenance of a system of accounts which shall conform to this charter, to any uniform system required by law and to generally accepted principles and practices of municipal utility accounting. The board shall have full, complete, and entire charge of the city light and power operations and services, shall make all contracts pertaining thereto, and shall organize and conduct the affairs of the city's light and power for the supply and distribution of light and power in a manner consistent with the best practice therefor.

(3) The board of light and power shall not be subject to, or limited by, provisions of this charter that are in conflict with, or inconsistent with, the stated powers and authority vested in this section the board of light and power. To the extent that a particular matter is not specifically addressed in this section, the provisions found in other sections of this charter pertaining to operations and administration shall be applied to the board of light and power.

(b) The board shall have the power to acquire property, both real and personal, and interests in property in the name of the city for the purposes of the board of light and power and shall have the power to dispose of the same by sale, exchange or lease: Provided, that the board shall not dispose of real property of any interests therein by sale or lease, except as provided in section 11-5 of this charter.

(c) The board shall have power and authority to fix all rates for light and power,

subject to confirmation by the city commission which rates shall become effective thirty days after such confirmation.

(d) The funds and revenues of the board of light and power shall be credited only to the funds and accounts of the board and shall not be withdrawn or used for any other purpose whatsoever, except as provided in Section 13.6 of this charter. The board of light of power shall have and exercise full control over all of the funds of the board. All checks drawn for the payment of money, under authority of the board, shall be signed by the director and countersigned by the accountant of the board of light and power.

(e) The board may provide for the pensioning of any employee of the board of light and power or dependent of such employee, subject to section 6-10.

(f) The board shall provide its own rules of administration procedure, and accounting systems and procedures, which rules and any changes therein shall be consistent with the provisions of this charter and shall be effective when approved as to form by the city attorney and filed with the city clerk as a public record.

(g) The director shall employ such personnel as may be deemed necessary to carry out duties as provided by this charter, with full power to promote, demote, remove, or suspend personnel for reasons of discipline, incapacity, or for the good of the service.

(h) The compensation of all employees of the department of light and power shall be fixed by the director within the limits of budget appropriations and approved by the board, and in accordance with any pay plan adopted by the board, except the salary of the director which shall be fixed by the board. The respective salaries and compensation of employees of the board as fixed by the director and approved by the board shall be in full for all official services of such employees and shall be in lieu of all fees, city commissions, and other compensations receivable by such employees for their services.

(i) The following relatives and their spouses of any elective official or of the official's spouse, or of the director of the board of light and power, or of the director's spouse are disqualified from holding any appointive board of light and power office or any board of light and power employment during the term for which said elective official was elected or during the tenure of office of the director respectively: child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the board of light and power at the time of the election of said elective official or the appointment of said director respectively.

(j) The provisions of section 6-12 of this charter shall apply to the personnel of the board of light and power, except that the city commission shall by ordinance provide for a merit system of personnel management in relating to the personnel of the board of light and power; and except that the board of light and power shall function as the appeal board and carry out the same duties and functions as the appeal board in section 6-12.

(k) The minutes of all board meetings shall be filed in the office of the city clerk as a public record and no official action taken by any board at any meeting shall be valid or effective, until a copy of the minutes of the meeting at which such action was taken shall have been so filed with the city clerk. Immediately following the regular city election held in November of each year, the board shall appoint from its members a chair to preside at the meetings of the board, and a secretary.

(l) The board shall, on or before the first Monday in May in each year, file with the mayor and the city commission, a report, presenting an analysis of the status and needs of the works, services, and properties under its control; also, a report of an independent audit to be made by a certified public accountant, experienced in utility accounting chosen by the board.

(m)(1) The Director shall prepare and submit to the Board on the first Monday in June of each year, a tentative budget covering operations for the ensuing fiscal year. After adoption of such budget by the board, a copy shall be filed with the city manager and the city commission.

(2) At the beginning of each quarterly period during the fiscal year, and more often if required by the board, the director shall submit to the board data showing the relation between the estimated and actual revenues and expenditures to date; and, if it shall appear that the revenues are less than anticipated, the Board may reduce appropriations, except amounts required for debt and interest charges to such a degree as may be necessary to keep expenditures within the revenues.

(3) The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund, except as provided for in section 11-6.

(n)(1) The director shall be responsible for the purchase and sale of all light and power department property, but may designate another officer or employee of the city as purchasing agent. Comparative prices shall be obtained for the purchase or sale of all materials, supplies and public improvements except in the employment of professional services and when the director, the purchasing agent if one be designated or the board of light and power as hereinafter provided shall determine that no advantage to the city would result.

(2) In all sales or purchases in excess of the amount established pursuant to section 10-1.

a. The sale or purchase shall be approved by the board of light and power;

b. Sealed bids shall be obtained unless the board of light and power by unanimous resolution of those present at the meeting, based upon the written recommendations of the director, determines that no advantage to the city would result from competitive bidding.

(3) No sale or purchase shall be divided, for the purpose of circumventing the dollar value limitation contained in this section. the board of light and power may authorize the making of improvements or the performance of any work without competitive bidding.

(5) Purchases shall be made from the lowest and best bid meeting specification. All purchases and sales shall be evidenced by written contract or purchase order.

(6) All purchases and sales shall be evidenced by written contract or purchase order.

(7) The board may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of at least four members of the board of light and power.

(o) The electric light and power utilities of the city shall include any other ancillary activities associated with the type of assets acquired by the board to provide such light and power as stated in subsection (a).
(Prior Charter § 13.7)

CHAPTER 12. PUBLIC UTILITY FRANCHISES

Sec. 12-1. 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.

Sec. 12-2. Granting of franchise.

(a) Public utility franchises and all renewals, extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted.

(b) No franchise ordinance which is not subject to revocation at the will of the city commission shall be enacted nor become operative until the same shall have first been referred to the people at a 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 city commission for referral to the electorate before thirty days after application therefor has been filed with the city commission nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the city clerk the grantee's unconditional acceptance of all terms of such franchise. no special election for such purpose shall be ordered by the city commission unless the expense of holding such election, as determined by the city commission shall have first been paid to the city treasurer by the grantee.

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

Sec. 12-3. 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 city commission to insert in such franchise any provision within the power of the city to impose or require:

(1) To repeal the same for misuse, non-use or failure to comply with the provisions thereof.

(2) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency.

(3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(4) To require continuous and uninterrupted service to the public in accordance with the term of the franchise throughout the entire period thereof.

(5) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them.

(6) To impose such other regulations as may be determined by the city commission to be conducive to the safety, welfare, and accommodation of the public.

Sec. 12-4. 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, goodwill or prospective profits.

Sec. 12-5. Use of public places by utilities.

Every public utility whether it has a franchise or not 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. 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 by 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 city commission 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.

CHAPTER 13. MISCELLANEOUS

Sec. 13-1. Severability of charter provisions.

If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this charter is declared to be severable.

Sec. 13-2. Trusts.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The city commission may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

Sec. 13-3. Quorum.

A quorum of any board or city commission created by or pursuant to this charter shall be a majority of the numbers of such board or city commission in office at the time, but not less than two members.

Sec. 13-4. Penalty for misconduct in office.

Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in section 6-2.

Sec. 13-5. Economic development plan.

In order to promote the standard of living and the economic health of the city, the city commission shall establish an economic development plan. The city commission shall establish a process utilizing the resources of the citizens of the city and the governmental agencies to enhance human capital, competitiveness, environmental sustainability, health, safety and well-being.

Sec. 13-6. Charter study group.

Every ten years the city commission shall appoint a charter study group. The charter study group shall review the city charter and make recommendations for changes in this charter. The charter study group shall make its recommendations within one year after appointment.

Sec. 13-7. Public information.

By January 1, 2014 the city commission shall adopt an ordinance for the official publication and communication with the city, using the most current print, electronic and other appropriate media or combination reflecting the best assessment of the habits of the residents for obtaining information; every five (5) years the city commission shall review the current system and make suggestions for change.

Sec. 13-8. Strategic plan.

The city commission shall prepare a strategic plan for the advancement of the city. The plan shall be prepared with input from the residents of the city and the city commission. By January 1, 2014, the city manager shall recommend a process to be approved by the city commission to obtain public input from residents for use in the development of the strategic plan. Within one year after adoption of such a process, a strategic plan shall be submitted to the city commission for its approval in the preparation of the annual budget for the city. Every two years the city manager shall submit the strategic plan to the city commission and the public for city commission review and public input from the residents of the city consistent with the process adopted by the city commission to update the city Strategic Plan.

Sec. 13-9 . Intergovernmental contracts and cooperation.

Intergovernmental relations and regional cooperation, for the betterment of the region, are encouraged. 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 political subdivisions or agencies thereof, or any municipal corporation, or other public agency allowed by state law, or the United States or any agency thereof.

CHAPTER 14. SCHEDULE AND TRANSITIONAL PROVISIONS

Sec. 14-1. Submission to referendum.

This charter shall be submitted to a vote of the qualified electors of the city of at the general election to be held on November 6, 2012. Notice of election shall be given as provided by law and the vote shall be counted and canvassed and the results determined as provided by law.

Sec. 14-2. Publication of charter.

Prior to the submission of this charter to the electors of the city, this charter shall be published online and copies made available at the city clerk's office.

Sec. 14-3. Form of ballot.

The form of the ballot for the submission of this charter shall be as follows:

Instructions: A cross (x) in the square Il before the word "Yes" is in favor of the proposed charter, and a cross (x) in the square [] before the word "No" is against the proposed charter.

Before leaving the booth, fold the ballot so that the initials of the inspector may be seen on the outside.

Shall the proposed charter for the City of Marquette drafted by the charter commission elected on November 8, 2011, be adopted?

[] Yes
[] No

Sec. 14-4 . Effective date of charter.

If the canvass of the votes on the adoption of the charter show it to have been approved, it shall take effect and become law as the city charter on January 1, 2013, at 12:01 a.m.

Sec. 14-5. Continuation of contracts and obligations.

After the effective date of this charter, the city shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and paper belonging to it under and by virtue of the previous charter. No right or liability, either in favor of or against the city, existing at the time this charter becomes effective and no suit or prosecution of any character, shall in any manner be affected by any change resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city

shall continue to be its debts and liabilities and all fines and penalties imposed at the time of such change shall be collected by the city.

Sec. 14-6. Continuation of office and employment.

The adoption of this charter shall not affect the term of any city employee or city officer serving at the time of adoption. Elected or appointed officers serving when this charter becomes effective shall continue in their respective offices until the term to which they were elected or appointed ends.

Sec. 14-7. Prior city legislation.

(a) All valid bylaws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this charter and which are in force and effect on the effective date of this charter shall continue in full force and effect until repealed or amended.

(b) Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulation that are inconsistent with this charter are hereby repealed.

Sec. 14-8. Status of chapter.

The purpose of this chapter is to inaugurate the government of the city under this charter and to accomplish the transition from the old to the new charter, and it shall constitute a part of this charter only to the extent and for the time required to accomplish this end.