

PART I CHARTER*

***Editor's note**--Printed in this part is the Charter for the City of Houghton, Michigan, as adopted by the electorate at a special election on June 8, 1970, and effective on June 23, 1970. Amendments to the original Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law reference(s)--Charters, resolutions, ordinances, and enumeration of powers, Mich. Const. 1963, art. VII, ' 22.

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PREAMBLE

We, the people of the City of Houghton, Michigan in order to secure the benefits of efficient self-

government and to promote our common welfare do hereby enact and establish this Charter.

CHAPTER I. INCORPORATION AND POWERS

Section 1.1. Incorporation.

The incorporated village now existing and known as the "Village of Houghton" as its limits are now or may hereafter be established shall become a municipal corporation under the laws of the State of Michigan and shall be known by the name of "City of Houghton."

State law reference(s)--Body corporate, MCL 117.1, MSA 5.2071.

Section 1.2. Boundaries.

The city shall embrace the territory constituting the Village of Houghton on the effective date of this Charter as described in the appendix attached hereto and made a part hereof by this reference, together with such annexations thereto and less such detachments therefrom as may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed thereby changed without amendment of this section. The clerk shall maintain and keep available in his office for public inspection and distribution an official description of the current boundaries of the city.

Editor's note--The appendix referred to in this section is not printed in this volume but is on file in the city clerk's office.

Section 1.3. Powers of the City.

The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.

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

State law reference(s)--Permissible charter provisions, municipal powers, MCL 117.4j, MSA 5.2083.

Section 1.4. Intergovernmental Relations.

The city may exercise any of its powers or perform any of its functions and may participate in the authorized financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof.

State law reference(s)--Permissible charter provisions, contracts with other municipalities, MCL 117.4g, MSA 5.2080.

CHAPTER II. THE COUNCIL*

***State law reference(s)--Mandatory charter provisions, legislative body and city officers, MCL 117.3, MSA 5.2073.**

Section 2.1. General Powers and Duties.

There is hereby created a city council and all powers of the city shall be vested in the council except as otherwise provided by law or by this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.2. Composition.

The council shall consist of seven members elected by the qualified voters of the city at large.

Section 2.3. Membership Qualifications.

Any qualified voter of the city 18 years of age, or older, and not in default thereto shall be eligible to hold the office of councilman.

Section 2.4. Mayor and Mayor Pro Tem.

The council shall elect from among its members officers of the city who shall have the titles of mayor and mayor pro tem, each of whom shall serve at the pleasure of the council. The mayor shall preside at meetings of the council and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The mayor pro tem shall act as mayor during the absence or disability of the mayor.

Section 2.5. Election and Terms of Office.

The regular election of councilmen shall be held on the first Tuesday after the first Monday in November in each even numbered year, in the manner provided for in chapter III. At the first election under this charter seven (7) councilmen shall be elected; the four candidates receiving the greatest number of votes shall serve for terms of four years, and the three candidates receiving the next greatest number of votes shall serve for a period of two years. At the next regular election and at all subsequent regular elections, councilmen shall be elected for terms of four years or for completion of a term in which a vacancy occurred.

Section 2.6. Filling Vacancies.

If any vacancy occurs in the office of councilmen, except by recall as provided in the general law pertaining thereto, the council shall appoint within thirty (30) days an eligible person to fill such vacancy until the next regular city election at which time the vacancy shall be filled as provided for in section 2.5. If an appointment is not made within thirty (30) days after the vacancy occurs, then the election authorities shall call a special election to fill the vacancy, to be held no sooner than ninety (90) days nor later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions in chapter III. No vacancy occurring within sixty (60) days preceding the next regular city elections need be filled until that election is held.

Notwithstanding the requirement in section 2.13 that a quorum consist of four members, if at any time the membership of the council becomes less than four, the remaining members may by majority action appoint additional members to raise the membership to four.

A vacancy shall be deemed to occur upon the death, resignation, recall, or forfeiture of office resulting from (1) disqualification on grounds as prescribed in this Charter or by law, (2) violation of any express prohibition of this Charter, (3) conviction of a crime involving moral turpitude, or (4) unexcused absences from three consecutive meetings of the council.

Section 2.7. Oath of Office.

Elected candidates within seven (7) days after receiving official notice of election to office shall publicly subscribe an oath in writing promising before the clerk to uphold and defend the constitutions and laws of this nation and state and the Charter of the City of Houghton.

Section 2.8. Compensation.

The compensation of councilmen shall be determined by ordinance, shall be based on attendance at council meetings, and shall be provided for in the annual budget. Ordinances increasing compensation shall not become effective before the term of office following that in which the ordinance was adopted. Councilmen initially elected under the terms of this Charter shall receive compensation at the same rate as prescribed by the Houghton Village ordinance at the time this Charter becomes effective. Reimbursement shall be made for authorized actual and itemized expenses incurred by anyone on city business approved by the council.

Section 2.9. Conflict of Interest.

No member of the city council or other officer of the city shall be interested directly or indirectly beyond a trivial extent, in the profits of any contract, job, or work or in the sale to or by the city of any land, materials, supplies, or services, other than official services. Any member of the city council or other officer of the city who violates this provision shall be deemed guilty of misconduct and shall forfeit his office. The prohibitions of this section shall not apply if the city council shall declare upon its records by a two thirds vote of the members thereof, other than the member so interested, that the best interests of the city are served notwithstanding said personal interest.

Except where authorized by law no councilman shall hold any other city office or employment during his term of office and no former councilman shall hold any compensated appointive city office or employment until one year after the expiration of his membership on the council.

Section 2.10. Administrative Restraints.

No member of the council shall direct or request of the manager or any of his subordinates the appointment of any person to, or his removal from, office or employment. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager by means of communications at council meetings and shall refrain from giving orders to subordinates of the manager either publicly or privately.

Section 2.11. Judge of Qualifications.

The council shall be the judge of the qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence.

A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing if demanded shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to legal review by the circuit court.

Section 2.12. Nepotism.

Relatives by blood or marriage of any councilman or the manager within the second degree of consanguinity or affinity may not enter upon employment with the city during the term for which the said councilman was elected, or during the tenure of said manager. This prohibition shall not apply if the council shall declare upon its record by two thirds vote of the members elect thereof, other than the member involved, that the best interests of the city are served notwithstanding said relationship.

Section 2.13. Organization and Procedure.

The city council shall meet at 7:30 o'clock p.m. on the Tuesday night following the completion of the official canvass, at which time the members shall be sworn and assume the duties of their office. They may establish rules of procedure and policy which shall be made public; they shall meet in public session at least once each month at such times as may be prescribed by the rules; and a public journal of every session of their proceedings shall be kept by the clerk in the English language. Special meetings may be called by the mayor, manager, or any two councilmen on reasonable notice, the time and manner of which shall be defined in the council rules.

A majority of the members of the council shall constitute a quorum. The affirmative vote of a majority of the members shall be required to adopt an ordinance, and the vote thereon shall be recorded. All sessions of the city council and official records of the city shall be public.

Section 2.14. Appointment of City Manager and City Attorney.

The council shall appoint and may remove a city manager and also a city attorney.

Section 2.15. City Manager Attendance at Sessions.

The city manager shall have a seat in the council sessions and may take part in all its proceedings and deliberations on all matters subject to such rules as the council shall from time to time prescribe but without the right to vote.

Section 2.16. Compelling Attendance.

The city council may enforce the attendance of any councilman, officer, or employee at its meetings in such manner as shall by ordinance be prescribed, and it shall by ordinance prescribe punishment for any misbehavior, contemptuous act, or disorderly conduct by any member or person present at any session of the council, said ordinance to be adopted within one year after the adoption of this Charter.

Section 2.17. Voting at Meetings.

Except on procedural motions, voting shall be by roll call and the ayes and nays shall be recorded in the journal. Each member present shall vote when his name is called, unless excused by a majority of the remaining members present, and a member refusing to vote shall be held in violation of this Charter.

CHAPTER III. ELECTIONS*

***State law reference(s)**--Mandatory charter provisions, elections, MCL 117.3, MSA 5.2073; election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 3.1. Wards and Precincts.

The City of Houghton, including any area annexed thereto, shall constitute one (1) ward. The city election commission shall establish convenient election precincts and, until otherwise changed, the precincts shall continue as now established. The inhabitants of the city having the qualifications of electors under the constitution and general laws of this state shall be the electors therein.

Section 3.2. Biennial and Special Elections.

A regular nonpartisan city election shall be conducted on the first Tuesday after the first Monday of November in each even-numbered year. The registration of voters, the preparation of ballots or machines, and the conduct of elections in the City of Houghton shall be in accordance with the terms of this Charter and the state election laws to the extent practicable and shall be under the general supervision of the city clerk. Special elections shall be held when called by resolution of the city council, with concurrence by the county elections scheduling committee and with at least forty-five (45) days in advance of such election, or when required by this Charter or the general laws of the state. Such resolution shall set forth the purpose of the election and the question to be voted upon.

Section 3.3. Election Commission.

The election commission of the City of Houghton shall consist of the city clerk, as chairman, and two other members to be appointed by the council. In case of a vacancy or inability to act, a substitute shall be appointed by the council. The election commission shall have such duties as are prescribed by state law and shall resolve disputes as to the adequacy of petitions, appoint inspectors with qualifications complying to state law, and otherwise prescribe election procedures. Compensation for inspectors shall be fixed by city ordinance.

Section 3.4. Nominations and Petitions.

Any legally qualified person may have his or her name placed in the regular election ballot for any elective office of the city by filing with the city clerk by 5:00 p.m. on the seventh Tuesday preceding such election a petition signed by not less than forty (40) nor more than sixty (60) registered electors of the city, and it shall be the duty of the clerk to provide uniform nomination petition blanks for that purpose. No person shall sign his name to a greater number of petitions for the office than there are positions to be filled. When the signature of any individual appears on more petitions than he is permitted to sign, the signatures bearing the most recent dates shall be invalidated.

If it shall appear to the clerk that such petition has been signed by the required number of electors of the city, nominating such person for such office, it shall be the duty of the clerk to place such name on the regular city election ballot in the same manner and form as any other name on the ballot. Incumbency

shall not be indicated unless required by state law. Any candidate may withdraw by filing a signed statement to such effect with the city clerk not later than Tuesday noon following the deadline for filing the original petition.

Section 3.5. Voting Hours.

The polls for all elections shall be open as provided by state law.

Section 3.6. Board of Canvassers.

In accord with state law the Houghton County Board of Canvassers will serve for all city elections.

Section 3.7. Recall.

Any elective officer may be removed by the qualified voters of the city at the time and in the manner provided by general law.

CHAPTER IV. LEGISLATION*

*State law reference(s)--Mandatory charter provisions, legislative powers and procedure, MCL 117.3, MSA 5.2073.

Section 4.1. Legislative Power of the City.

The legislative power of the city is fixed exclusively in the city council, except as otherwise provided by law. All official action of the city council shall be by ordinance, resolution, or motion.

Section 4.2. Prior Legislation Preserved.

All ordinances, resolutions, and rules of the village and of each administrative agency of the village which are in force on the effective date of this Charter, to the extent that they are consistent with the provisions of this Charter, shall continue in full force until repealed. All such ordinances, resolutions, and motions may be amended by the city council and shall continue in effect as amended. A numbering system shall be established for all preserved ordinances within one year after the adoption of this Charter.

Section 4.3. Ordinance Enactment.

- (a) *Form.* Each proposed ordinance shall be introduced in written or printed form. The enacting clause on all ordinances passed by the city council shall be "The City of Houghton Ordains." Each ordinance, when adopted, shall be identified by a number and a short title.
- (b) *Enactment and Effective Date.* Ordinances shall be enacted by the affirmative vote of a majority of the membership of the city council. No ordinance shall be enacted at the same meeting at which it is introduced nor without an adequate public hearing preceded by an appropriate notice unless it is an emergency ordinance. All ordinances shall take effect ten (10) days after their enactment.
- (c) *Emergency Ordinances.* Ordinances immediately necessary for the preservation of public peace,

health, morals, safety, or welfare may be given immediate effect or earlier effect than ten (10) days after their enactment upon receiving five (5) affirmative votes of the city council with publication as provided for in section 4.4. The emergency and effective date shall be stated therein.

- (d) *Amendments.* Any ordinance may be amended only by an ordinance passed in the manner provided in this section and no such ordinance shall be amended by reference to its title only, but the section or subsection amended shall be enacted in full.
- (e) *Traffic and Parking Regulations.* In any ordinance regulating traffic, parking, and one-way streets, it may be provided that, subject to adequate standards to be set forth therein, the details of regulating traffic, parking, and one-way streets may be promulgated by the city manager without formality of ordinance amendment.
- (f) *Repeal of Ordinances.* An ordinance may be repealed only by an ordinance passed in the manner provided in this section except that the ordinance to be repealed may be referred to by its number and title only.

Section 4.4. Publication and Effective Date.

Within seven (7) days after the enactment of an ordinance the same shall be published by one of the following methods:

- (a) The ordinance shall be printed in full in any newspaper published and/or widely circulated in the City of Houghton; or
- (b) A notice of the enactment of the ordinance giving the subject thereof shall be printed at once in one (1) newspaper published and/or widely circulated in the city, serving notice that the ordinance may be read from the minutes of the council meeting at which it was enacted and in which minutes it shall be printed in its entirety.

The clerk shall certify as to the manner and date of publication under each ordinance in the ordinance book.

Section 4.5. Ordinance Record.

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 clerk to authenticate such record by official signature, but the failure of the clerk to do so shall not invalidate it or suspend its operation.

Section 4.6. Enactment by Reference.

Ordinances and codes may be enacted by reference to the extent and in the manner provided by state law.

Section 4.7. Penalties.

The city council may provide in ordinances adopted by it for the punishment of violations thereof. Such punishment may be a fine or imprisonment, or both, at the discretion of the court, not exceeding the limits permitted by law. The court may order imprisonment until a fine is paid, and it may suspend sentence or establish probationary supervision. Enforcement by injunction, mandamus, orders of

superintending control, or other court proceedings may be also authorized.

State law reference(s)--Designation of ordinance violation as civil infraction whether or not authorized by charter, MCL 117.41, MSA 5.2083(2).

Section 4.8. Time Limit for Prosecution.

No prosecution for the violation of an ordinance shall be commenced after the expiration of two (2) years following commission of the offense.

Section 4.9. Initiative and Referendum.

An ordinance may be initiated by petition to which all signatures shall be obtained within thirty (30) days before the date of filing. A referendum on an ordinance enacted by the city council may be had by a petition signed within forty-five (45) days after the enactment of the ordinance. A petition for an initiated ordinance or for a referendum shall be in the form and manner hereinafter provided.

- (a) *Form of Petitions.* An initiatory or referendum petition shall be addressed to the city council. A petition may, in length, extend to two or more petition papers identical as to content, except for signatures. A referendum petition shall clearly identify by title and number the ordinance or part thereof it proposes to repeal. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition may initiate more than one ordinance.
- (b) *Signatures Required.* An initiatory or a referendum petition shall be signed by registered electors of the city not less in number than fifteen (15) percent of the registered electors of the city as of the date of the last regular city election prior to the filing of the petition.
- (c) *Signing and Circulation of Petition.* Each signer shall sign his name, and thereafter his Houghton address and the date of his signing said petition. To each petition paper there shall be attached a sworn affidavit executed by the circulator of such paper that each signature thereof is the genuine signature of the person it purports to be, and that such circulator believes each signer to be a duly registered elector of the City of Houghton. Such petition shall be filed with the clerk.
- (d) *Canvass of Signatures by Clerk.* Upon receipt of any initiatory or referendum petition, the clerk shall canvass the signatures thereon to determine whether said petition contains a sufficient number of signatures of registered electors of the city. Any signatures obtained on an initiatory petition more than thirty (30) days before the filing of such petition with the clerk shall not be counted, and any signatures obtained on a referendum petition more than forty-five (45) days before the filing of the petition with the clerk shall not be counted. The clerk shall complete said canvass within fifteen (15) days from the filing of said petition, and in the event the petition filed is in any respect deficient the clerk shall forthwith so notify the person filing the same. In the case of initiative or referendum ten (10) days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed and is in compliance with the provisions of this Charter, the clerk shall present the petition to the city council at its next regular meeting. The filing of a referendum petition shall suspend effectiveness of the ordinance in question until the issue is determined.
- (e) *Council Procedure on Initiatory and Referendum Petitions.* Upon receiving an initiatory or a referendum petition from the clerk, the council shall, within thirty (30) days:
 - (1) If it be an initiatory petition, enact the ordinance as submitted in the petition;

- (2) If it be a referendum petition, repeal the ordinance or part thereof to which the petition refers; or
 - (3) In either case, move to submit the proposal to the electors.
- (f) *Submission to Electors.* Should the council decide to submit the proposal to the electors, the proposal shall be submitted at the next election held in the city for any purpose, or, at the discretion of the council, at a special election called for that purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred and fifty (150) days from the time the petition is presented to the council and the council does not adopt the ordinance, then the council shall call a special election within sixty (60) days from such time for the submission of the initiative proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the general laws of the State of Michigan. If two (2) 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.
- (g) *Limitation on Amendment or Repeal of Initiatory or Referendum Ordinances.* 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.

CHAPTER V. ADMINISTRATION*

 *State law reference(s)--Mandatory charter provisions, appointment, qualifications, duties and compensation of officers, MCL 117.3, MSA 5.2073; permissible charter provisions, city departments, MCL 117.4j, MSA 5.2083.

Section 5.1. City Manager.

The city manager shall be appointed by a majority vote of the membership of the city council to hold office at the pleasure of said majority of the city council. He shall be the chief administrative officer of the city government. The council may designate a qualified person to perform the duties of manager during his absence or disability or if there is a vacancy in the office. If at any time in the opinion of the majority of the council the services of the city manager are unsatisfactory, he shall be notified in writing with the reasons and given an opportunity to correct the conditions. If the conditions are not corrected, he shall be given notice of termination in writing at least two months before the intended date of his termination.

Section 5.2. City Manager's Qualifications.

The manager shall be appointed solely on the basis of his executive, administrative, and professional qualifications. He need not be a resident of the city or state at the time of his appointment but while in office may reside outside the city only with the approval of the council.

Section 5.3. Responsibilities of the City Manager.

The city manager shall:

- (a) Supervise the administrative affairs of the city.
- (b) Carry out the policies formulated by the council.
- (c) Supervise enforcement of city ordinances, the city Charter, and state laws within the jurisdiction of the city and advise the council of the more significant violations.
- (d) Attend council meetings and keep the council informed on the condition and needs of the city.
- (e) Perform other duties as may be prescribed by this city Charter, by city ordinance, and by resolution of or by request from the council.
- (f) Prepare and submit to the council the annual budget and such other reports and recommendations as may be required or requested.
- (g) Participate in the discussion on all matters coming before the council but without the right to vote.

Section 5.4. Appointment of Officers and Department Heads.

The council shall appoint a clerk, a treasurer, an assessor, a chief of police, a fire chief and such other officers and department heads as may be needed upon recommendation by the city manager. One person may be designated to fill more than one of these positions. A majority of the membership of the city council shall have authority, upon the recommendation of the city manager or upon the council's own initiative, to remove any such appointee.

Section 5.5. Ordinance or Administrative Code.

Within one year following the adoption of this Charter the council shall enact an ordinance or administrative code containing all ordinances of a general and permanent nature comparable to those adopted for this purpose by other municipalities. Among other items the ordinance shall provide for personnel policies the council may adopt, salary schedules, wage rates and other administrative regulations that should be formalized as standard procedure. Pending passage of this ordinance the city manager, with council approval, may establish such administrative rules as may be desirable and necessary.

Section 5.6. Personnel Director.

The city manager shall be personnel director with authority to delegate the duties of said office. All city employment shall be based upon fair and impartial principles with fitness, ability, training, and experience the major considerations. There shall be no discrimination on account of color, politics, or religion. No city official or employee may solicit political contributions from municipal employees nor engage in municipal political activities on city property or on city time.

A personnel advisory board may be appointed by the city manager with council approval to make

investigations and recommendations to the city manager. Decisions of the city manager on these matters, however, shall be deemed final.

Section 5.7. Salaries, Wages and Fringe Benefits.

The city council shall establish as a part of the ordinance or administrative code salary schedules for city officers and staff people and shall also provide for suitable wage rates for employees. The council shall also provide lawful fringe benefits to whatever extent and degree it may determine.

Section 5.8. City Attorney.

There shall be a city attorney of the city, appointed by the city council who shall serve as chief legal advisor to the council, the manager, and all city departments, offices, and agencies, shall represent the city in all legal proceedings, and shall perform such other duties as may be required. The city attorney shall be, and shall continue to be, duly licensed to practice law in the State of Michigan. The council may engage one or more special attorneys for specific purposes or cases.

Section 5.9. City Clerk.

A city clerk shall be appointed according to section 5.4 of this Charter. The clerk shall attend all meetings of the council, keep its journal in the English language, be custodian of the city seal and all papers, documents and records pertaining to the city and as may otherwise be required by law, give notice of expiration of official bonds, franchises, contracts and appointments completed in behalf of the city, administer oaths and compel furnishing of bonds giving notice to the city manager of any failure in these requirements, authenticate and certify all ordinances and resolutions by the council and perform such other duties as may be required.

Section 5.10. City Treasurer.

The city treasurer shall be appointed as provided for in section 5.4 and shall be the chief financial officer of the city. He shall also serve as accountant for the city, maintain a uniform system of accounts conforming to such uniform system as may be required by law, maintain a system of internal financial control, keep appropriate records of assets, liabilities, receipts and expenditures and submit reports on the same as may be required, collect and deposit all receipts in behalf of the city, making all disbursements therefrom and perform such other duties as may be required.

Section 5.11. City Assessor.

The city assessor shall be appointed as provided for in section 5.4 and shall be charged with all duties normally imposed on assessing officers, shall prepare all regular and special assessment rolls, annually assess the value of all taxable property in the city, spread on the rolls any and all taxes duly and properly certified and perform such other duties as may be required.

CHAPTER VI. GENERAL FINANCE, BUDGETING AND PURCHASING*

*State law reference(s)--Mandatory charter provisions, annual appropriation of money for municipal purposes, MCL 117.3, MSA 5.2073.

Section 6.1. Fiscal Year.

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

Section 6.2. Submission of Budget and Budget Message.

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

Section 6.3. Budget Message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position, and include such other material as the manager deems desirable.

Section 6.4. Budget Preparation.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments, and agencies in terms of their respective work programs, and the method of financing such expenditures.
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable, and the proposed method of financing each such capital expenditure.
- (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income plus any reappropriated year-end surplus.

Section 6.5. Capital Program Budget.

- (a) *Submission to Council.* The manager shall prepare and submit to the council a five-year capital program at least three months prior to the final date for submission of the budget.

- (b) *Contents.* The capital program shall include:
- (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - (3) Cost estimates, method of financing, and recommended time schedules for each such improvement; and
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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

Section 6.6. Adoption of the Budget; Appropriation and Tax Levy Ordinance.

- (a) *Notice and Hearing.* The council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
- (1) The time and place where copies of the message and budget are available for inspection by the public; and
 - (2) The time and place, not less than seven (7) days after such publication, for a public hearing on the budget.
- (b) *Amendment Before Adoption.* After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.
- (c) *Adoption.* The council shall adopt the budget on or before the 15th day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute adoption of an ordinance appropriating the amounts specified therein from the funds indicated and an ordinance levying the property tax therein provided.

Section 6.7. Council Action on Capital Program.

- (a) *Notice and Hearing.* The council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
- (1) The time and place where copies of the capital program are available for inspection by the public; and

- (2) The time and place, not less than seven (7) days after such publication, for a public hearing on the capital program.
- (b) *Adoption.* The council by ordinance shall adopt the capital program with or without amendment after the public hearing and on or before the 15th day of the last month of the current fiscal year.

Section 6.8. Public Records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.

Section 6.9. Amendments After Adoption.

- (a) *Supplemental Appropriations.* If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 4.3, part (c). To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him, and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more of the appropriations.
- (d) *Transfer of Appropriations.* At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency and, upon written request by the manager, the council may transfer part or all of any encumbered appropriation balance from one department, office, or agency to another.
- (e) *Limitations; Effective Date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 6.10. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or

abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 6.11. Administration of Budget.

- (a) *Work Programs and Allotments.* At such time as the manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced, or transferred appropriations made pursuant to section 6.9.
- (b) *Payments and Obligations Prohibited.* No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Section 6.12. Budget Control.

At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the manager shall submit to the council data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is insufficient, the council, on the recommendation of the manager, may 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 income. The manager may provide for monthly or quarterly allotments of appropriations to departments, funds, or agencies under such rules as he shall prescribe.

Section 6.13. Depository.

The council shall designate the depository or depositories for city funds and shall provide for the regular deposit of all city moneys.

Section 6.14. Audits and Reports.

An independent audit shall be made of all accounts of the city government at least annually or more frequently if deemed necessary by the council. Such audits shall be made by certified public accountants selected by the council. If a state audit is required by law, the council, by resolution, may declare that it takes the place of the audit required in this section. An annual report of the city's business, including an abstract of the annual audit, shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finances of the city government.

Section 6.15. Receipt and Payment of Money.

All moneys shall be received by the city treasurer regardless of source. Unless otherwise provided by law or by ordinance, all moneys drawn from the treasury shall be drawn pursuant to the authority or appropriation of the council. The council, upon the recommendation of the city manager, where necessary to expedite operating procedures, may authorize by resolution designated officers and employees of the city to make minor disbursements from petty cash accounts, which disbursements shall be accounted for and shall be audited by the treasurer.

Checks for the expenditures of city funds shall be signed by the treasurer and countersigned by the manager or clerk, or other person designated by the council.

Section 6.16. Deferred Payment Contracts.

The city may enter into installment or lease-purchase contracts for the acquisition or sale of real or personal property or capital equipment as permitted by law. Each such contract shall not extend over a period greater than 30 years or as permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

Section 6.17. Investment of City Funds.

Idle moneys may be invested according to the general laws of the state as the city council may determine.

Section 6.18. Purchasing and Contracts.

Uniform and centralized purchasing and contracting procedures shall be developed and maintained by the city manager with the approval of the council. Competitive bids shall be required where practical and contracts awarded when deemed in the best interests of the city. Power shall be reserved, however, to reject any or all bids. The council may authorize the construction or repair of public improvements by the city work force.

The power to contract on behalf of the city is hereby vested in the city council, but the city manager shall have power to bind the city as to routine or operational items for which appropriation has been made. No contract shall be made with any person, firm, or corporation in default to the city.

State law reference(s)--Restrictions on city's power to contract, MCL 117.5, MSA 5.2084.

CHAPTER VII. SPECIAL ASSESSMENTS*

***State law reference(s)**--Permissible charter provisions, assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 7.1. Special Assessment Power.

The city council shall have the power to determine, with or without a petition, that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessment upon

the parcels or property especially benefited and so declared by resolution. Such resolution shall state the estimated cost of the improvement, what portion of the cost shall be paid by special assessment, what portion, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and the interest to be charged. It shall also designate the districts or land and premises upon which special assessments shall be levied.

Section 7.2. Procedure Ordinance.

The city council shall prescribe by general ordinance the complete special assessment procedure to be used, including the preparing of plans and specifications, estimated costs, conducting a public hearing on construction necessity, the preparation hearing, correction, and confirmation of the special assessment roll, the collection of special assessments if land is divided, and any other matters concerning the making of improvements by the special assessment method.

The ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and costs incident thereto or if there exists any invalidity in whole or in part. It shall also provide for the refund of excessive assessments, provided that, if the excess is less than five (5) percent of the total cost, it may be placed in the general fund of the city.

Section 7.3. Assessment Lien.

From the date of confirmation of any assessment or reassessment roll the same shall constitute a lien upon the respective lots or premises assessed and shall also be a charge against the person on whom assessment is made, until such time as said assessment is paid, and, in case of delinquency, may be enforced by any measures available to the council.

Section 7.4. Contest of Assessment.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment:

- (a) Unless, within thirty (30) days after the confirmation of the special assessment roll, written notice is given to the city clerk for attention of the city council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment is illegal; and
- (b) Unless such suit or action shall be commenced within sixty (60) days after the confirmation of the roll.

Section 7.5. Illegal Assessment.

If the city attorney submits a written opinion finding said roll illegal, in whole or in part, the city council may revoke its confirmation, correct the illegality, and reconfirm the same as amended, provided that no other property not involved in the illegality shall not be assessed more than was imposed in the original confirmation without further notice and hearing thereon.

CHAPTER VIII. BORROWING*

*State law reference(s)--Permissible charter provisions, borrowing money and issuing bonds,

MCL 117.4a, MSA 5.2074; permissible charter provisions, mortgage bonds for purchase of public utilities, MCL 117.4c, MSA 5.2076.

Section 8.1. General Powers.

Subject to the applicable provisions of general law as the same are now or may hereafter be enacted, the city may borrow money for any purpose within the scope of its powers, and may issue bonds or other evidence of indebtedness therefore. Such bonds or other evidence of indebtedness shall include but not be limited to:

- (a) General obligation bonds which pledge the full faith and credit of the city for the payment thereof.
- (b) Special assessment bonds which are issued in anticipation of the payment of special assessments for public improvements in a special assessment district or combination thereof, which bonds may be either an obligation of the special assessment district or districts, or both an obligation of such district and a general obligation of the city.
- (c) Revenue bonds as authorized by law.
- (d) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by law to finance in this manner, or for such other purposes as may be authorized by law.
- (e) Bonds issued in anticipation of future payments from the motor vehicle highway fund or any other source which the city may be permitted by law to pledge for the payment of principal and interest thereof.
- (f) Tax anticipation notes as authorized by law.
- (g) Calamity bonds issued in case of fire, flood, or other calamity as authorized by law.
- (h) Bonds for the city's share of the cost of local improvements, which bonds may be issued as a part of, or independently of, any issue of special assessment bonds which are issued for the same improvement or improvements.
- (i) Bonds for refunding indebtedness of the city.
- (j) Time-purchase contracts as authorized elsewhere herein.

Section 8.2. Use of Borrowed Funds.

Each bond or other evidence of indebtedness shall contain on its face a statement of the purpose for which the same is issued and no officer of the city shall use the proceeds thereof for any other purpose, except that, whenever the original proceeds of any bond issue, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the city council may authorize the use of such unexpended and unencumbered fund as permitted by law including but not limited to the following:

- (a) For an additional extension or improvement of the facility or project for which the bond issue was made.
- (b) For the retirement of such bond issues.
- (c) If such bond issue has been fully retired or funds are segregated which are adequate for such purpose, then for the retirement of other bonds or obligations of the city.
- (d) If there is no other indebtedness, or funds are segregated which are adequate for such purpose, then for such other purposes as may be permitted by law.

Section 8.3. Special Assessment Collections.

All collections on each special assessment roll or combination of rolls, in anticipation of which bonds have been issued, shall be set apart in a separate fund (but not necessarily a separate bank account) and shall be used for the purpose for which levied and for payment of the principal of and interest on such bonds. If there is any deficiency in a special assessment fund to meet the payment of the principal and interest to be paid therefrom, moneys shall be advanced from the general fund of the city to meet such deficiency and shall be replaced in the general fund when the special assessment fund shall be sufficient therefor.

Section 8.4. Execution of Bonds.

All bonds issued by the city shall be signed by the mayor and countersigned by the city clerk, and shall bear the corporate seal of the city. Said signatures may be by facsimile if permitted by law. Any attached coupons may be signed with the facsimile signature of the city clerk.

Section 8.5. Bond Record.

The city clerk shall keep a detailed record of all bonds and other evidence of indebtedness. Upon payment of the same the clerk shall mark them "canceled" and keep them until their destruction is permitted by general law.

CHAPTER IX. TAXATION*

*State law reference(s)--Mandatory charter provisions, taxes, MCL 117.3, MSA 5.2073; restrictions on city's powers, rate of taxation, MCL 117.5, MSA 5.2084; permissible charter provisions, laying and collecting rents, tolls and excises, MCL 117.4i, MSA 5.2082.

Section 9.1. Limitation, and Subjects of Taxation.

The city shall have the power to assess taxes and to levy and collect rents, tolls, and excises, including all powers now or hereafter granted to cities by the State of Michigan. Exclusive of any levies authorized by law to be made beyond charter tax rate limitation, the annual ad valorem tax levy shall not exceed two (2.0) percent of the equalized assessed value of all real and personal property of the city. The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county, and school purposes under the general laws. Except as otherwise provided in this Charter, city taxes shall be assessed,

levied, collected, and returned in the manner provided by statute. No exemptions from taxation shall be allowed except as expressly required or permitted by law.

Section 9.2. Assessment Roll.

Between tax day and the first meeting of the board of review in each year, the city assessor shall make and complete an assessment roll in the manner and form provided in the general tax law.

Section 9.3. Board of Review.

The board of review shall consist of three (3) electors of the city who are owners of property assessed for taxes in the city, and, at the time of their appointment, are neither elected nor appointed officials of the city. They shall be appointed by the council to serve three-year staggered terms subject to the pleasure of the council. Each term shall commence as of January 1. The assessor shall serve ex officio without vote as clerk of the board of review. They shall proceed with their work as required by law. Their compensation shall be fixed by ordinance.

Section 9.4. Notices, Board of Review Meetings, Tax Exemption Claims.

The assessor shall cause notice of the date, time, and place of the first annual meeting of the board of review to be published at least one week prior thereto in a newspaper circulated in the city, but failure to give such notice shall not invalidate the roll. Also, the assessor shall apprise persons, in a manner to be determined by the council, who may be eligible for tax exemptions including by example, but not limited to, senior citizens for the purpose of informing them of their rights and promoting their exercise thereof.

Section 9.5. Duties and Procedure of Board of Review.

The board of review shall have power to correct or amend said assessment roll and to increase or decrease any assessment or valuation of taxable property, may strike therefrom any property wrongfully listed, or add any property rightfully taxable, either on its own motion or at the request of any person. Any person considering himself aggrieved by reason of any assessment may complain thereof either verbally or in writing or by authorized representative to said board.

The board may establish reasonable regulations for the conduct of its hearings, require the filing of a brief statement of the arguments by those appealing to it, require the appellant to appear in person or in writing or by authorized representative, keep a permanent record of all proceedings and otherwise provide for the expediting of its work. The concurrence of a majority of the membership of the board shall be necessary to change any assessment.

The assessor shall make any changes, additions, or corrections to said roll directed by the board of review. Thereupon, the board shall complete and adopt the roll and a majority thereof shall endorse the same as provided by law. When so endorsed, the roll shall be conclusively presumed by all courts to be valid and shall not be set aside except for causes mentioned in the general laws. The omission of the endorsement or any other formality herein prescribed shall not affect the validity of the roll. A summary report of the assessment roll shall be delivered to the city council by the assessor immediately thereafter.

Section 9.6. Notice of Assessment Changes.

The assessor shall give notice by regular mail to each owner of property which has been added to the assessment roll or the value of which has been increased or decreased on such roll. The notice shall be

addressed to the owner according to the records of the assessor's office and mailed not less than ten (10) days before adjournment of the board of review. Neither the failure of the assessor to give notice nor the failure of the person to receive notice shall invalidate any assessment roll nor any assessment thereon.

Section 9.7. Assessment of Taxes.

The assessor shall take the assessment roll as adopted by the board of review and the budget as adopted by the council and prepare a "City Tax Roll" by spreading thereon pro rata to each person or property assessed the sums required to be raised by property taxation by the terms of the annual appropriation resolution adopted by the city council or by the terms of other valid procedures.

Section 9.8. Assessor's Warrant.

Upon delivering said city tax roll to the city treasurer, the assessor shall annex thereto his warrant over his signature, with the seal of the city affixed, commanding the treasurer to collect from the several persons named in said roll the several sums mentioned therein and enforce payment as provided herein or by general law.

Section 9.9. Tax Liens.

All taxes thus assessed shall become a debt due the city as provided by general law, and as of July 1 of the year of assessment, the taxes, both real and personal, with any applicable charges, fees, or penalties shall become a lien, paramount to all other claims, encumbrances, or liens, upon the property against which they are assessed until paid.

Section 9.10. Statement to Taxpayers.

Upon receipt of the city tax roll, the treasurer shall proceed to collect the taxes. He shall prepare and mail to each taxpayer, at his last known address on the tax roll, a statement or billing showing the description of the property, the assessed valuation, the millage, and the tax payable, but the failure to send or receive such statement shall not prejudice the validity of the tax or the right and the duty to collect or enforce payment thereof.

Section 9.11. Collection Fees and Penalties.

The city taxes provided for by this chapter shall be assessed, levied, and billed prior to July 1 in each year, shall become payable on that date, and shall be collected on or before the 31st day of July in each year; and if so paid no collection, interest, or penalty fees shall be charged. As of August 1 in each year a collection fee of one percent per month or major fraction of a calendar month shall be charged, unless such fees are otherwise changed by the council. And when paid the charges shall be placed in the general fund of the city.

The city council may, by ordinance, establish a system for the installment collection of taxes extending not more than one year and provide for the collection of reasonable interest or collection fees thereon and of penalties for the late payment of installments.

Section 9.12. State, County and School District Taxes.

The city is authorized to levy and collect state, county and school district taxes in accordance with state law and for this purpose the city shall be considered the same as a township and all provisions of state

law relative to the collection of such taxes, the accounting therefore [therefor] to the appropriate taxing units, and the returning of delinquent taxes to the county treasurer for collection, shall apply, and the city treasurer shall have all of the powers and duties in connection therewith as township treasurers have.

Section 9.13. Failure To Pay Personal Property Tax.

Respecting taxes levied against personal property, the city manager shall have power to levy upon and sell at public sale the personal property of a person refusing or neglecting to pay the tax, in the manner provided by law and shall have the same powers respecting the property assessed and the person who is the owner or custodian thereof as provided by law for the collection of taxes.

Section 9.14. Jeopardy Assessment of Personal Property Taxes.

If the city treasurer finds that any person, who is or may be liable for taxes upon personal property, the taxable situs of which was in the city on tax day, intends to depart from the state or to remove therefrom personal property, which is, or may be, liable for taxation, or intends to conceal himself or his property, or intends to do any other act tending to prejudice or to render wholly or partly ineffectual the proceedings to collect the tax, unless proceedings therefore [therefor] cannot be brought without delay, he shall cause notice of his finding to be given such person, together with a demand for the immediate payment of the tax.

Thereupon, the tax shall become immediately due and payable and the treasurer shall have and shall exercise all the powers granted by law to township and city treasurers for the collection thereof. If the exact amount of any such tax has not, at the time of such finding, been determined because the same has not been spread upon the tax roll, the treasurer shall estimate the amount of the tax upon such personal property and the estimate shall be presumed to be the amount of tax upon such property which, together with other taxes which have accrued thereon, shall become payable as hereinabove provided. The tax so estimated by the treasurer shall, upon the giving of the notice herein provided, become a lien upon the property liable for the tax. The lien shall be of the same type and legal effect as the lien upon personal property provided in section 9.9 of this Charter.

If the estimate of the treasurer is in excess of the amount of tax spread against such property upon the tax roll, he shall refund the excess upon the demand of the person from whom it was collected or his legal representative. If such person furnishes evidence, satisfactory to the treasurer, by bond or otherwise that he will duly pay the tax or taxes to which the treasurer's findings relate, then such tax or taxes shall not be payable prior to the time otherwise fixed for payment thereof.

Section 9.15. Failure To Pay Real Estate Tax.

All city taxes, including assessments, interest, or other charges, upon real property remaining uncollected by the treasurer on March first following the date when said amounts became payable, or one year thereafter in case an installment collection ordinance applies thereto, shall be subject to one of the following procedures:

- (a) The real property against which such taxes, assessments, interest, or other charges have been assessed shall be subject to sale and redemption for the enforcement and collection thereof in the manner which may be provided by ordinance. The council is hereby empowered to adopt an ordinance providing for such unpaid taxes, assessments, penalties, and other charges by sale conducted by the city treasurer, with a redemption period as provided for sales by county treasurers, and foreclosure of the lien and perfection of the

sale by petition duly filed in the circuit court for the County of Houghton followed by decree or order thereof.

- (b) If no such ordinance is adopted and in effect, then such taxes, assessments, interest, and other charges shall be returned to the county treasurer in the manner provided by law for returns by township treasurers for township, county, and school taxes, and the same shall be collected in like manner by the county treasurer, and shall remain a lien upon the property against which they are assessed or chargeable until paid.

Section 9.16. Inequitable Assessment or Tax.

If it shall be found, at any time, that any property has been subjected to a substantially inequitable assessment or tax, as a result of errors in computations, decimal misplacement, double entries, law, adoptions of wrong principles and the like, so that the same amounts to a constructive fraud upon the taxpayer, and if the city attorney shall prepare and file a written memorandum indicating that, under current statutes and case law, relief would be granted by a court of competent jurisdiction, then the city council may so determine and declare by resolution without requiring the commencement of court proceedings, and any necessary adjustment may be taken from the general fund of the city.

Section 9.17. Tax Clearances.

The council shall request of the register of deeds of Houghton County that no warranty deed for the transfer of real estate or any interest therein shall be received or recorded by the register of deeds for the County of Houghton unless all city taxes and assessments on the property described therein, then due and payable, have been paid. It shall be the duty of the city treasurer or such other agency as the city council may designate, upon the request and after the payment therefore [therefor], to furnish a certificate that all such taxes and assessments have been paid, and such certificate shall be filed with the register of deeds when the document is submitted for record. A fee to be fixed by the city council may be charged for issuing the certificate.

CHAPTER X. UTILITIES, FRANCHISES AND PERMITS*

*State law reference(s)--Permissible charter provisions, public utilities, MCL 117.4f, MSA 5.2079; necessity of referendum for acquisition of public utility or granting irrevocable franchise, Mich. Const. 1963, art. VII, ' 25; city's authority to acquire public service facilities, Mich. Const. 1963, art. VII, ' 24.

Section 10.1. General Powers of the City Respecting Utilities.

The city shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, maintain, encumber, convey, dispose of or sell, either within or without its corporate limits, public utilities, including for illustration but not by way of limitation, aeronautical facilities, public utilities for treating and supplying water and for supplying light, heat, power, gas, waste water and sewage treatment, and disposal, garbage disposal, public transportation, and facilities for the storage and parking of vehicles; and also to sell and deliver the products or services thereof, both within or without its corporate limits. The power to supply the utility services, as herein possessed and reserved, shall include the power to extract, process, manufacture, transport, or purchase the

same from others. Each such utility shall establish and maintain citywide service to every practical extent.

Section 10.2. Rates.

The city council shall have the power to fix, from time to time, such 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. Higher rates may be charged for service outside the corporate limits of the city. It is hereby declared to be the duty of the council to establish rates which will make each utility service sustaining including the accumulation and maintenance of adequate reserves unless it declares upon its records that self-sustaining rates are determined not to be in the public interest.

Section 10.3. Collection of Utility Rates and Charges.

The council shall provide by ordinance for the collection of all public utility rates and charges of the city. Except as otherwise provided by law, such ordinance shall include at least the following:

- (a) Regulations for the city to have as security for the collection of 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.
- (b) Terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.
- (c) Provision that suit may be instituted by the city in any court of competent jurisdiction for the collection of such rates or charges.
- (d) Assumption, with respect to the collection of rates, of all the powers granted to cities by any statute of the state.

Section 10.4. Accounts and Finances.

Separate accounts shall be kept for each public utility owned and operated by the city. Such accounts shall be classified and made in accordance with generally accepted municipal utility accounting practice. Charges for all services furnished to or rendered by, other city departments or agencies including city tax equivalents if required by the council shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operations which report shall be on file in the office of the clerk for public inspection.

Section 10.5. Granting of Privately Owned Public Utility Franchises.

All irrevocable public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No franchise shall be granted for a longer period than 30 years. No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election as provided by general law. No special election for such purpose shall be ordered unless the expense of holding such election as determined by the council shall first have been paid to the city treasurer by the grantee.

State law reference(s)--Duration of franchises and licenses, Mich. Const. 1963, art. VII, ' 30;

restriction on submission of franchise to electors, MCL 117.5, MSA 5.2084.

Section 10.6. Conditions of Public Utility Franchises.

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

- (a) To repeal the same for misuse, nonuse, or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public;
- (f) To use, control, and regulate the use of its streets, alleys, bridges, streams, rivers, and public places and the space above and beneath them;
- (g) To make an independent audit and examination of accounts at any time and to require reports annually, provided that this condition shall not apply to public utilities subject to the jurisdiction of the Michigan Public Service Commission.

The city council shall cause to be instituted such actions or proceedings as may be necessary to prosecute a public utility company for violations of its franchise, the city Charter, or ordinances, and may revoke, cancel, or annul any franchise granted by the city which for any reason has become inoperative, illegal, or void.

Section 10.7. Regulation of Rates.

All public utility franchises shall make provision therein for fixing or controlling rates, fares, and charges and may provide for readjustments 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.

Section 10.8. Joint Use Permitted.

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 and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefore [therefor]. In the absence of agreement and upon application by any public utility, the council may provide for arbitration of such joint use and the compensation to be paid therefore [therefor] and the arbitration award shall be final.

Section 10.9. Revocable Permits.

Temporary permits for public utilities, revocable at any time at the will of the city council, may be granted by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. All such temporary permits shall be subject to the right of the city to make independent audit and examination of accounts at any time and to require reports annually or at more frequent intervals as prescribed by resolution of the city council. When the city council deems it in the public interest, such permits may be exclusive.

Section 10.10. Acquisition by Condemnation.

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

Section 10.11. Use of Public Places.

Every public utility shall be subject to the power of the city to use, control, and regulate use of its streets, alleys, bridges, streams, rivers, parks, and public places, and the space above and beneath them and shall pay such part of the cost of improvements or maintenance thereof as shall arise from such use and shall protect and save the city harmless from all damages arising from such use.

Section 10.12. Existing Franchises and Permits To Remain in Effect.

All franchises and permits to which the Village of Houghton is a party when this Charter becomes effective shall remain in full force and effect with their respective terms and conditions.

CHAPTER XI. MISCELLANEOUS

Section 11.1. Acquisition and Use of Property.

The city shall have power to acquire by purchase, gift, condemnation, lease, legacy, bequest, or otherwise any and all kinds of property, both real and personal, absolute or in trust, located within or without the city, for any public, proprietary, or charitable use or for any purpose within the scope of its powers; to do all things necessary to effectuate such purpose; to hold, manage, maintain, develop, or operate the same; to change the use to other public purposes subject to any limitation expressly placed thereon by law or the valid terms of any trust; and to lease, encumber, sell, convey, or otherwise dispose of the same.

State law reference(s)--Permissible charter provisions, acquisition of public buildings and grounds, MCL 117.4e, MSA 5.2078.

Section 11.2. Public Peace, Health and Safety of Persons and Property.

The city shall provide as may be required by law for the peace and health and for the safety of persons and property and in this connection may by ordinance prevent, prohibit and correct public nuisances, dilapidation of dwelling, commercial, industrial and other structures and the spread of blight and deterioration. It can exercise all powers granted by law to prevent devaluation, unhealthful influences

and hazards to the peace and welfare of its inhabitants and to otherwise serve their public needs. When proper and applicable the cost of any such measures may be assessed against specific properties.

Section 11.3. Land Plats.

The city council shall have power to establish standards for the acceptance of plats or subdivisions of lands or premises within or outside the city to the distance provided by state law, and may require the dedication of streets and other public ways to public ownership and the grading and improving thereof to acceptable standards.

State law reference(s)--Mandatory charter provisions, public health, safety and peace, MCL 117.3, MSA 5.2073.

Section 11.4. Recording of Plats.

The register of deeds of Houghton County shall not receive for record any plat or subdivision of any lands or premises, within the corporate limits or outside the corporate limits to a distance allowed by law, unless the same shall have endorsed thereon a certificate signed by the city clerk showing that such plat or subdivision has been approved by the city.

Section 11.5. Disposition of Records.

Subject to any applicable state law, the city shall have power to determine the period and manner in which municipal records shall be preserved and the time and manner in which they may be summarized, microfilmed, recorded, or destroyed.

Section 11.6. Board of Health.

When the council shall deem it necessary, it may, subject to the provisions of this Charter, establish a board of health for the city, and appoint officers therefor, and make rules for its government, and invest it with such powers and authority as may be necessary for the protection and preservation of the inhabitants.

State law reference(s)--Permissible charter provisions, city departments, MCL 117.4j, MSA 5.2083.

Section 11.7. Library Facilities.

To the extent and in the manner provided by state law, the City of Houghton is hereby empowered to own, operate, enlarge, relocate and maintain a public library and branches thereof or participate with any other local governmental unit or units in the support and maintenance of a district library for the use and benefit of its citizens. Subject to valid and equitable charges it may extend such services by contract, fees, or otherwise to nonresidents of the city. To assist in fulfilling this function, the council shall have power to carry out the terms of any deed or trust granted to the city, shall appoint a board of directors of the library, and may allot for its support such portions of the general fund as are reasonably necessary or as may be required by the terms of any trust.

Section 11.8. City Liability.

The city shall have all the immunities from claims for damages for injury to persons or property as

may be permitted by law. The city shall not be liable on any claim for damages regardless of its basis unless the claimant has complied with state statutory provisions of Public Acts No. 170 of 1964 (MCL 691.1401 et seq., MSA 3.996(101) et seq.) as amended and is entitled to recovery thereunder.

Section 11.9. Personnel Bonds.

The council may determine whether any officer or employee of the city or person using public property shall give a bond, and the amount and type thereof, which bond shall be procured from a surety company authorized to do business under the laws of the State of Michigan. The city may require additional bonds during periods of special risk. Premiums on all such bonds shall be paid by the city, or such agency as may be benefited thereby.

Section 11.10. Oath Requirements.

Every elected officer and such other employees as may be designated by the city shall take the oath of office prescribed by law before taking office. The oath of office of each councilman shall be in writing, shall be filed with the city clerk, and shall contain the statement that in his candidacy for nomination and election he has not knowingly violated any provisions of the general election laws of the state.

Section 11.11. Condemnation.

The city shall provide by ordinance for acquiring by condemnation or otherwise such property and rights as may be required for any public use or purpose within the scope of its powers in the manner prescribed by the statutes of this state. Any property or rights so acquired and no longer needed for the original purpose, at the discretion of the city, may be diverted to any other public use or purpose within the scope of the powers of the city, or may be leased, encumbered, or sold and disposed of in such manner as said city shall prescribe.

State law reference(s)--Permissible charter provisions, condemnation, MCL 117.4e, MSA 5.2078; city condemnation proceedings, MCL 117.35, MSA 5.2115.

Section 11.12. Advisory Committees or Boards.

The city council or city manager with the approval of the council may from time to time appoint such committees or boards as are deemed appropriate to advise and consult with them, and with appropriate department heads, regarding any municipal activity. Such committees or boards shall serve at the pleasure of the council which shall also determine what, if any, compensation shall be paid.

Section 11.13. Amendment and Revision of Charter.

This Charter may be amended or revised from time to time as provided by law, and the city council shall, at no less frequently than ten (10) year intervals, appoint a charter and study commission to recommend any charter changes that should be considered.

Section 11.14. Streets and Public Places.

The city reserves the power to use, regulate, improve, vacate, abandon, and control the surface of its streets, alleys, and public ways and of the space above and beneath them, and to prepare and adopt a plan regarding the same within the city and for a distance outside as may be permitted by law.

State law reference(s)--City control of highways, Mich. Const. 1963, art. VII, ' 29; permissible

charter provisions, public ways, MCL 117.4h, MSA 5.2081.

Section 11.15. Licenses.

The city council may prescribe the terms and conditions consistent with state and federal laws upon which licenses may be granted and revoked for any and all activities within the city limits affecting the public interest.

State law reference(s)--Permissible charter provisions, regulations, MCL 117.4i, MSA 5.2082.

Section 11.16. Other Express Powers.

The city shall also have power:

- (a) To use, control, and regulate the streams, waters and watercourses within its boundaries;
- (b) To acquire, establish, extend, operate, and maintain parks, boulevards, cemeteries, hospitals, and all works which involve the public morals, peace, health, safety, and welfare as provided by law;
- (c) To provide by ordinance for the establishment of districts or zones, within which the use of lands and structures, the height, the area, the size and location of the buildings, and the required open spaces for light and ventilation of such buildings; the density of population may also be regulated;
- (d) To establish and maintain a planning commission having the powers and duties prescribed by law;
- (e) To establish a recreation commission and such other commissions as may be deemed necessary or desirable;
- (f) To control the location, type and size of outdoor advertising within the city limits.

Any powers expressed in this Charter shall not be deemed to be exclusive, and the city shall have all powers permitted by law, whether or not enumerated.

State law reference(s)--Permissible charter provisions, watercourses, MCL 117.4h, MSA 5.2081; permissible charter provisions, acquisition of public buildings and grounds, MCL 117.4e, MSA 5.2078; permissible charter provisions, zoning, billboards, MCL 117.4i, MSA 5.2082.

Section 11.17. Saving Clause.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter or of the Charter as a whole, unless it clearly appears that such other section or part is also held invalid or unconstitutional.

CHAPTER XII. TRANSITION SCHEDULE

Section 12.1. Purpose.

The purpose of this article is to inaugurate the government of the City of Houghton under this Charter, and it shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

Section 12.2. Election To Adopt Charter.

This Charter shall be submitted to the qualified electors of the Village of Houghton, being the area described in the appendix of this Charter, at an election to be held on Monday, June 8, 1970 between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. If, at this election, a majority of those voting approve the adoption of this Charter, the village clerk shall do and perform all other acts required by law to put this Charter into effect and to complete the incorporation of the city.

The election shall be conducted by the officers of the Village of Houghton charged with the conduct and supervision of the election following the usual election procedure.

Section 12.3. Form of Ballot.

The form of the question on submission of this Charter shall be as follows:

Shall the proposed Charter of the City of Houghton drafted by the Charter Commission which was elected November 4, 1969, be adopted?

YES NO

Section 12.4. Effective Date.

This Charter, if adopted, shall go into effect immediately upon receipt in the office of the secretary of state of a certified copy of the Charter as adopted by the voters of Houghton along with any other required documents.

Section 12.5. First City Council.

Concurrently with the election on the adoption of this Charter, an election shall be held for seven (7) members of the first council and, notwithstanding any provisions to the contrary in chapter III of this Charter, nominating petitions for this election shall be received by the clerk not later than 4 o'clock p.m. on Monday, April 27, 1970. The election shall be conducted on an at-large, nonpartisan basis on a single ballot and with each voter permitted to vote for up to seven (7) of the council candidates. The four councilmen receiving the greatest number of votes shall serve until the Monday following the general election in November of 1974 and the three other councilmen shall serve until the same day in November of 1972. As nearly as practicable, the election shall be conducted in conformance with the terms of this proposed Charter and the election laws of the state.

If this Charter is adopted, the first council shall convene, be sworn in, and organize at 7:30 o'clock p.m. on Tuesday, June 23, 1970 at which time the incumbent council of the present Village of Houghton shall complete its business and then terminate and cease to exist, and all rights, duties, functions, and powers of the council shall become vested in the new council.

Officers holding office under the previous Charter, except members of the village council, shall

continue in office until their successors are chosen or until the office is abolished in accordance with the provisions of this Charter. Where questions arise concerning the responsibility and authority of officers, pending the appointment of a city manager, the council shall temporarily fix responsibility and grant authority as is necessary to maintain the services of the city.