

Chapter 2

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***Cross reference(s)**--Civil emergencies, ch. 22; community development, ch. 26; elections, ch. 30; law enforcement, ch. 46; taxation, ch. 78; utilities, ch. 86; administration of zoning regulations, '98-41 et seq.; administration of sign regulations, '98-694.

State law reference(s)--Home rule cities, MCL 117.1 et seq., MSA 5.2071 et seq.

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ARTICLE I. IN GENERAL

Sec. 2-1. Payment of moneys.

All moneys belonging to the city shall be paid out as authorized by the Charter or action of the council by checks drawn by the city treasurer and countersigned by the city manager or, alternatively, by the mayor or mayor pro tem. (Code 1971, ' 1.41(7))

Sec. 2-2. Approval of legal documents.

The mayor or the city manager at the direction of the council shall sign, the city clerk shall attest to, the city manager shall approve as to substance, and the city attorney shall approve as to form all contracts and agreements requiring assent of the city unless otherwise provided for by law, the Charter, ordinance or provisions of this Code.
(Code 1971, ' 1.41(8))

Secs. 2-3--2-35. Reserved.

ARTICLE II. CITY COUNCIL*

*Charter reference(s)--Council generally, ' 2.1 et seq.

Cross reference(s)--Elections, ch. 30.

State law reference(s)--Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; Freedom of Information Act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

DIVISION 1. GENERALLY

Secs. 2-36--2-55. Reserved.

DIVISION 2. MEETINGS

Sec. 2-56. Presiding officer.

The mayor shall preside at all meetings of the council and in the absence of the mayor, the mayor pro tem shall preside; and if both the mayor and mayor pro tem are absent, the city clerk shall call the council to order and shall preside until an acting mayor shall be chosen.
(Code 1971, ' 1.164)

Sec. 2-57. Rules of procedure.

The meetings of the council may be conducted in accordance with recognized parliamentary procedure as described in Robert's Rules of Order, Newly Revised, except as it may be modified by this division.

(Code 1971, ' 1.165)

Charter reference(s)--Organization and procedure of meetings, ' 2.13.

Sec. 2-58. Appeals.

Any ruling of the presiding officer relative to the proper interpretation of any rule of the council shall be subject to appeal, which appeal shall be determined by a majority of the members present. If an appeal is taken by any member from the ruling of the presiding officer, the member of the council desiring to appeal shall state that he claims an appeal from the ruling of the presiding officer and shall state briefly what in his opinion the ruling should have been. If this appeal is seconded, the presiding officer shall state clearly the question at issue and shall then call for the vote of the council on the question: "Shall the decision of the presiding officer be sustained?" The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. He may express his opinion on any subject under debate without the substitution of another presiding officer.

(Code 1971, ' 1.166)

Sec. 2-59. Citizens addressing council.

With the consent of the council, the presiding officer may permit any citizen to address the council during deliberation on any subject. The presiding officer shall have the right to limit the length of time which any citizen may occupy in addressing the council.

(Code 1971, ' 1.167)

Sec. 2-60. Suspending rules.

The rules of the council may be temporarily suspended on the vote of four members.

(Code 1971, ' 1.168)

Sec. 2-61. Order of business.

The order of business for regular meetings of the council shall be as follows:

- (1) Calling the roll.
- (2) Approval of the minutes of the last meeting.
- (3) Citizens' oral communications.
- (4) Petitions and communications.
- (5) Communications from and reports of city officials.
- (6) Special and unfinished business.
- (7) New business. (Code 1971, ' 1.161)

Sec. 2-62. Special business.

The council may direct by majority vote that any matter may be made the special business of a future meeting, and that matter shall have precedence over all other business at such meeting.
(Code 1971, ' 1.163)

Secs. 2-63--2-95. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

*Charter reference(s)--Appointment of officers and department heads, ' 5.4.

Cross reference(s)--Any ordinance providing for the duties of city officers or employees not codified in this Code saved repeal, ' 1-11(a)(7); any ordinance providing for salaries or other employee benefits saved from repeal, ' 1-11(a)(8); fire chief, ' 38-61 et seq.

State law reference(s)--Mandatory charter provisions, officers, MCL 117.3, MSA 5.2073; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; political activities by public employees, MCL 15.401 et seq., MSA 4.1702(1) et seq.; legal defense of public employees, MCL 691.1408 et seq., MSA 3.996(108) et seq.; Michigan Security Employment Act, MCL 421.1 et seq., MSA 17.501 et seq.; incompatible offices, prohibition on holding, MCL 15.181 et seq., MSA 15.1120(121) et seq.

DIVISION 1. GENERALLY

Secs. 2-96--2-115. Reserved.

DIVISION 2. CITY MANAGER*

*Charter reference(s)--City manager, " 5.1--5.3.

Sec. 2-116. Appointment; duties.

- (a) A city manager shall be appointed by a majority vote of the membership of the council, to hold office at the pleasure of the majority of the 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. In case of dismissal, the city manager shall be served notice in writing by the council with a statement of reasons for dismissal.
- (b) He shall:
 - (1) Supervise the administrative affairs of the city.
 - (2) Carry out the policies formulated by the council.

- (3) Supervise enforcement of city ordinances, the Charter, and state laws within the jurisdiction of the city and advise the council of the more significant violations.
- (4) Attend council meetings and keep the council informed on the conditions and needs of the city.
- (5) Perform other duties as may be prescribed by the Charter, by city ordinance, and by resolutions of or by request from the council.
- (6) Prepare and submit to the council the annual budget and such other reports and recommendations as may be required or requested.
- (7) Participate in the discussion on all matters coming before the council but without the right to vote.
- (8) In accordance with the Charter provisions in section 5.4, remove appointees from office.

(Code 1971, ' 1.41(1))

Sec. 2-117. Department heads.

In case of a vacancy in office or during the absence of any department head, the city manager may designate an interim acting head or perform personally the functions of the office. All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the city manager, such new practices as appear to be of benefit to the service and to the public. (Code 1971, ' 1.41(2))

Sec. 2-118. Delegation of duties.

The city manager may direct any department responsible to him to perform the work for any other department, or may delegate to any officer or employee any duties other than those established for the department to which he may be assigned. (Code 1971, ' 1.41(3))

Secs. 2-119--2-150. Reserved.

ARTICLE IV. DEPARTMENTS*

 *Cross reference(s)--Volunteer fire department, ' 38-36 et seq.; department of police, ' 46-31 et seq.

DIVISION 1. GENERALLY

Secs. 2-151--2-170. Reserved.

DIVISION 2. DEPARTMENT OF PUBLIC WORKS

Sec. 2-171. Headed by director.

The department of public works shall be headed by the director of public works, who shall be appointed by the council on recommendation by the city manager. The director shall be responsible for all matters relating to construction, management, maintenance and operation of all physical properties of the city, except as otherwise provided by the Charter or this Code.

He shall be responsible for planning in connection with such changes or improvements to the physical properties of the city as are consistent with and necessary for its future growth and development.

(Code 1971, ' 1.60)

Secs. 2-172--2-200. Reserved.

ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES*

DIVISION 1. GENERALLY

Sec. 2-201. Continued.

Such of the boards and commissions provided for in this chapter as are in existence at the time of the adoption of this Code shall be continued, and the members serving on such boards and commissions shall remain in office for the duration of the term for which they were appointed. Except as otherwise provided for by law, the Charter or this Code, the following provisions shall be applicable to all boards and commissions of the city:

- (1) *Vacancies.* Any vacancy occurring in the membership of any board or commission shall be filled for the remainder of the unexpired term in the manner provided for original appointment to such board or commission.
- (2) *Removal.* The appointing authority may remove any member of any board or commission for cause.
- (3) *Rules.* Each board and commission shall have power to make rules and regulations concerning the administration of its affairs as shall not be inconsistent with laws, the Charter and this Code.
- (4) *Compensation.* Unless otherwise stipulated, all members of boards and commissions shall serve without compensation as members.

(Code 1971, ' 1.71)

*Charter reference(s)--Advisory committees or boards, ' 11.12.

Cross reference(s)--Housing board of appeals, ' 14-346 et seq.; downtown development authority, ' 26-31 et seq.; zoning board of appeals, ' 98-71 et seq.; zoning commission, ' 98-101 et seq.; planning commission, ' 98-126 et seq.

State law reference(s)--Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Secs. 2-202--2-225. Reserved.

DIVISION 2. PLANNING COMMISSION*

***Charter reference(s)**--Authority to establish a planning commission, ' 11.16(d).

Cross reference(s)--Discrimination hearing by planning commission, ' 42-33; planning commission approval of zoning regulations, ' 98-126 et seq.

State law reference(s)--Authority to regulate land use, MCL 125.581 et seq., MSA 5.2931 et seq.; municipal planning (planning commission), MCL 125.31 et seq., MSA 5.2991 et seq.; powers of zoning commission transferred to planning commission, MCL125.42, MSA 5.3002.

2-226: Creation:

There shall be a City of Houghton Planning Commission (the "Commission") pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*, hereinafter referred to as the Commission with the powers and duties as therein set forth and as hereinafter provided. This ordinance shall be officially known and described as the "City of Houghton Planning Commission Ordinance."

2-227. Membership:

- A. The Commission shall consist of nine (9) members. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:
 1. Shall be a qualified elector of the City of Houghton, except that one member may be a non-qualified elector, who is the owner of property within the City limits;
 2. Shall not be a declared candidate for any political office in the City of Houghton, except this condition shall not apply to the Mayor or Council representative to the Commission. (Section 2-227(C)(2) and (C)(3) of this ordinance).
- B. Citizen members shall be appointed for three-year terms. However, when this ordinance takes effect, the Houghton City Council shall reappoint the current members of the Commission and shall identify which citizen members serve one-year, two-year, or three-year terms, such that, as nearly as possible, the terms of 1/3 of all Commission members will expire each year. The Houghton City Council shall also identify which community interest is represented by each current member of the City of Houghton Planning Commission. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for in original appointment such that, as nearly as possible, the terms of 1/3 of all Commission members continue to expire each year.
- C. Members of the Commission shall be appointed by the Mayor with consent from the City Council. Membership shall be representative of the important geographic and interest segments of the City of Houghton.

1. First priority, each member shall represent and advocate what is best for the City of Houghton as a whole, putting aside personal or special interests.
2. Second priority, the Mayor and City Manager shall be members of the Planning Commission
3. Third priority, one member from the Houghton City Council shall be appointed along with six citizen members. Each of these members shall represent at least one separate important segment of the community, as designated by the Houghton City Council, such as:
 - a. One at-large member
 - b. One member representing environmental interest
 - c. One member representing governmental municipal interests, and housing and human services
 - d. One member representing educational interests
 - e. One member representing recreational and tourism interests
 - f. One member representing industrial and economic interests
 - g. One member representing transportation, communication and utility interests

D. The Planning Commission must not have more than three representatives who are members of the City Council and City Administration combined.

2-228 Training:

Appointed members of the Commission are encouraged to attend educational programs designed for training members of Michigan planning commissions if the adopted City of Houghton budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. The Commission shall include in its Bylaws what training programs qualify.

2-229. Members, Appointment and Terms:

- A. By October 15th of each year, the City of Houghton Clerk shall determine which citizen members' terms of office expire and shall notify the citizen members.
- B. Citizen members, whose terms are expiring and who desire to be reappointed, shall inform the Houghton City Council in writing by November 1 of their desire to be reappointed to the Commission. The Houghton City Council shall act on the reappointments at its 2nd meeting in December. A majority vote of the Houghton City Council is required for reappointment for a three-year term.
- C. If a citizen member does not seek reappointment or if the Houghton City Council rejects the reappointment, the procedure for a new appointment shall be used.
- D. Each new appointment of a citizen member shall be made from names submitted in response to an advertisement placed in a timely manner by the City of Houghton Clerk in a newspaper with paid circulation in City of Houghton.
- E. In December of each year, the Mayor with consent from the City Council shall consider the applications received for new appointments, and appoint citizen members to the Commission by a majority vote for a three-year term of office which shall end December 31 at 5:00 p.m. of the respective year.

- F. The member from the Houghton City Council shall be appointed for a two-year term by the Mayor with approval of the City Council at the December meeting following the most recent General Election.
- G. Citizen members of the City of Houghton Planning Commission are not term limited.

2-230. Removal from Office:

- A. The Houghton City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a hearing before the Council. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
- B. The secretary of the City of Houghton Planning Commission shall report any member who has missed three consecutive regular meetings to the Houghton City Council.

2-231. Membership; Vacancies:

The Houghton City Council shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

2-232. Membership; Transition:

The Houghton City Council shall make annual appointments, appointing approximately one-third of the membership of the Commission as specified herein.

2-233. Meetings:

- A. The Commission shall hold regular meetings as prescribed by its Bylaws and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission and all questions which shall arise at its meetings shall be determined by a vote of the majority of the voting members present.
- B. All meetings of the Commission shall be open to the public.
- C. The affirmative vote of 2/3 of the total number of voting seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan, except for a Site Plan Review.

2-234. Powers and Duties:

The Commission shall have its powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

2-235. Staff:

Any City of Houghton employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

2-236 Meetings; Records:

The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

2-237 Approval, Ratification, and Reconfirmation:

All official actions taken by all City of Houghton Planning Commissions preceding the Commission created by this ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous City of Houghton Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.
(Ordinance 2010-215)

Secs. 2-238--2-260. Reserved.

DIVISION 3. HOUSING COMMISSION*

*Cross reference(s)--Community development, ch. 26.

State law reference(s)--Housing and slum clearance projects, MCL 125.651 et seq., MSA 5.3011 et seq.; housing corporation law, MCL 125.601 et seq., MSA 5.3057(1) et seq.; urban redevelopment corporations, MCL 125.901 et seq., MSA 5.3058(1) et seq.; rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.

Sec. 2-261. Creation authorized.

In accord with Public Act No. 18 of 1933 (MCL 125.653, MSA 5.3013), the council is authorized to create a housing commission for the city.
(Code 1971, ' 1.90)

State law reference(s)--Municipal housing commission, creation, MCL 125.653, MSA 5.3013.

Sec. 2-262. Authority to create.

In accord with Public Act No. 18 of 1933 (MCL 125.651 et seq., MSA 5.3011 et seq.), Extra Session, the council is authorized to create a housing commission for the city.
(Ord. No. 70, ' 1.90, 7-9-1986)

Sec. 2-263. Membership.

The housing commission shall consist of five members to be appointed by the city manager. The term of office of members of the commission shall be five years. Members of the first commission shall be appointed for staggered terms; and annually thereafter, one member shall be appointed for the term of five years. Members of the commission may be removed from office by the appointing authority. Any vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term. Members of the commission, excluding the director or city manager or members of the council, shall receive compensation as established by the council. (Code 1971, ' 1.90(1); Ord. No. 70, ' 1.90, 7-9-1986)

State law reference(s)--Municipal housing commission, membership, MCL 125.654, MSA 5.3014.

Sec. 2-264. Meetings; officers.

The housing commission shall meet at regular intervals, such meetings to be public. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director, who may also serve as secretary, and such other employees or officers as shall be necessary. The commission shall prescribe the duties of all of its officers and employees and may, with the approval of the appointing authority, fix their compensation. The commission may, as necessary, employ engineers, architects and consultants. (Code 1971, ' 1.90(2))

State law reference(s)--Municipal housing commission, meetings and appointment of officers and employees, MCL 125.655, MSA 5.3015.

Sec. 2-265. Powers and duties.

- (a) The housing commission shall have the following enumerated powers and duties:
 - (1) To determine in what areas of the city it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals, and/or welfare.
 - (2)
 - a. To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest in such property, or acquire such property by gift, bequest or under the power of eminent domain;
 - b. To own, hold, clear and improve property;
 - c. To engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension and/or repair of any housing project or projects or parts of projects; or
 - d. To lease and/or operate any housing project or projects.
 - (3) To control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the city for operation or maintenance of either or both.

- (4) To establish and revise rents of any housing project, but shall rent all property for such sums as will make them self-supporting, including all charges for maintenance and operation, for principal and interest on loans and bonds, and for taxes.
 - (5) To rent only to such tenants as are unable to pay for more expensive housing accommodations.
 - (6) To call upon other departments for assistance in the performance of its duties, but those departments shall be reimbursed for any added expense incurred.
- (b) It shall have such other powers relating to a housing facilities project as may be prescribed by ordinance or resolution of the council as may be necessary to carry out the purposes of this article. (Code 1971, ' 1.90(3))

State law reference(s)--Municipal housing commission, powers and duties, MCL 125.657, MSA 5.3017.

Sec. 2-266. Conflict of interest.

No member of the housing commission or any of its officers or employees shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by the commission. (Code 1971, ' 1.90(4))

State law reference(s)--Municipal housing commission, prohibited conflicts of interest, MCL 125.658, MSA 5.3018.

Sec. 2-267. Reporting.

The housing commission shall make an annual report of its activities to the council and shall make such other reports as the council may require. (Code 1971, ' 1.90(5))

State law reference(s)--Municipal housing commission, requirement of annual report, MCL 125.659, MSA 5.3019.

Sec. 2-268. Operating funds.

Initial funds for operation of the housing commission may be provided by the council, but the commission shall thereafter be self-supporting and shall as soon as possible reimburse the city for all moneys expended by it for the commission from revenues received from the sale of bonds. (Code 1971, ' 1.90(6))

State law reference(s)--Municipal housing commission, funding, MCL 125.656, MSA 5.3016; advances to housing authority, MCL 125.606, MSA 5.3057(6).

Secs. 2-269--2-300. Reserved.

ARTICLE VI. FINANCE*

*Charter reference(s)--General finance, budgeting and purchasing, ch. VI.

Cross reference(s)--Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, ' 1-11(a)(3); any ordinance authorizing or approving any contract, deed or agreement saved from repeal, ' 1-11(a)(4); any ordinance making or approving any appropriation or budget saved from repeal, ' 1-11(a)(6); any ordinance levying or imposing any special assessments saved from repeal, ' 1-11(a)(10); any ordinance not codified in this Code that levies, imposes or otherwise relates to taxes, exemption from taxes and fees in lieu of taxes saved from repeal, ' 1-11(a)(14); special assessments, ch. 66; taxation, ch. 78; fee schedule, app. A.

State law reference(s)--Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.; uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.; local government fiscal responsibility act, MCL 141.1201 et seq., MSA 5.3188(201) et seq.; deposit of public moneys, MCL 211.43b, MSA 7.86.

DIVISION 1. GENERALLY

Secs. 2-301--2-320. Reserved.

DIVISION 2. PURCHASING AND CONTRACTING*

***Charter reference(s)**--Purchasing and contracts, ' 6.18.

State law reference(s)--Bidders for public contracts, required qualifications, MCL 123.501 et seq., MSA 5.2311 et seq.; validation of municipal purchase contracts, MCL 123.721 et seq., MSA 5.3461 et seq.

Sec. 2-321. Purchasing agent.

The city manager shall act as purchasing agent of the city and shall adopt any necessary rules respecting requisitions and purchase orders. (Code 1971, ' 1.144)

Sec. 2-322. Purchases or contracts between \$2,500.00 and \$10,000.00.

Purchases of supplies, materials or equipment, the cost of which is more than \$2,500.00 but less than \$10,000.00, may be made in the open market; but such purchases shall, where practicable, be based on at least three competitive bids and shall be awarded to the lowest competent bidder meeting specifications. The purchasing agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication. Where bids are solicited by written communication, a request for such bids shall also be posted in the city hall. A record shall be kept for six months of all open market orders and the bids submitted on such orders, which records shall be available for public inspection. Any or all bids may be rejected. (Code 1971, ' 1.145)

Sec. 2-323. Purchases or contracts over \$10,000.00.

Any expenditure for supplies, materials, equipment, construction project or contract obligating the city, where the amount of the city's obligation is in excess of \$10,000.00 shall be governed by the provisions of this section.

- (1) Such expenditures shall be made the subject of a written contract.
- (2) Notice inviting sealed competitive bids shall be published in the official newspaper at least five days before the final date for submitting bids thereon.

Such notice shall give briefly the specifications of the supplies, materials or equipment or construction project or other matter to be contracted for, and shall state the amount of bond or other security, if any is to be required, to be given with the bid, and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.

- (3) The city shall also solicit bids from a reasonable number of qualified prospective bidders by sending each a copy of the notice requesting bids, and notice thereof shall be posted in the city hall.
- (4) Unless prescribed by the council, the city manager shall prescribe the amount of any security to be deposited with any bid which deposit shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by the council, the city manager shall fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and material bond to be required of the successful bidders.
- (5) Bids shall be opened and read in public by the city manager, or in the event of his being absent or incapacitated, by the city clerk, at the time and place designated in the notice requesting bids. The city manager or the city clerk and at least one other city official, preferably the head of the department most closely concerned with the subject of the contract, shall be present at the opening of the bids. The bids shall thereupon be carefully examined and tabulated and reported to the council with the recommendation of the purchasing agent. After tabulation, all bids may be inspected by the competing bidders.
- (6) When such bids are submitted to the council, the contract to be executed, in a form approved by the city attorney, shall also be submitted and if the council shall find any of the bids to be satisfactory, it shall award the contract and shall authorize execution of the contract with the successful bidder and the filing of any bonds which may have been required, which bonds shall first be approved by the city attorney as to form and content. Contracts shall be awarded to the lowest competent bidder meeting specifications unless the council shall determine that the public interest will be better served by accepting a higher bid. Such award may be by resolution or ordinance. The council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.
- (7) At the time any public works construction, maintenance or repair contract is executed by him, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the city, conditioned upon the performance of the contract, and further conditioned to pay all laborers, mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of such work. The contractor shall also file

evidence of public liability insurance in an amount satisfactory to the city manager, and agree to save the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

- (8) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after the same has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city. (Code 1971, ' 1.146)

Sec. 2-324. Exception to competitive bidding.

Competitive bidding shall not be required in respect to contracts for professional services. In any other case where competitive bidding clearly is not practical or where no advantage would result to the city to require competitive bidding, the council, upon the written recommendation of the city manager, may authorize the execution of a contract without competitive bidding. Where a contract is let without competitive bidding, the proposed contract shall be approved by the city attorney as to form and content, unless prepared by him by direction of the council, and submitted to the council. (Code 1971, ' 1.147)

Sec. 2-325. Emergency purchases.

In case of emergency, any department head, with the approval of the city manager, may purchase directly any supplies, materials or equipment the immediate procurement of which is necessary to the continuation of the work of his department. Such purchases and the emergency causing them shall be reported in detail to the city manager within a week from the time when made, and such reports shall be preserved for a period of two years. (Code 1971, ' 1.148)

Sec. 2-326. Sale of property.

Whenever any city property, real or personal, is no longer needed for corporate or business purposes, it may be offered for sale on approval of the council. Personal property may be sold for cash by the purchasing agent after receiving quotations or competitive bids for the best price obtainable. All real property may be sold for not less than its fair market value after approval of the sale has been given by the council. Prior to offering real estate for sale, the city clerk shall obtain a formal written appraisal from a certified appraiser to determine the fair market value of such property. (Code 1971, ' 1.149; Ord. No. 16, ' 1.149, 10-23-1975)

Sec. 2-327. Procedure for purchase of real property.

No real property shall be purchased by the city, nor shall the city approve the purchase of real property by any city commission or authority, without first obtaining two independent certified appraisals of the property considered for purchase. These appraisals shall be presented to the council at an executive session held prior to the public meeting at which the council votes on the proposed purchase of such property. The appraisals shall be retained by the city clerk as part of the minutes of the executive session and shall not be publicly disclosed until the city obtains a purchase option on such property or, if no option is obtained, until the time of its public meeting at which the council votes on the proposal to enter into a purchase agreement.

(Ord. No. 42, ' 1.150, 3-23-1981)

Secs. 2-328--2-360. Reserved.

DIVISION 3. PUBLIC IMPROVEMENT FUND*

*State law reference(s)--Uniform budgeting and accounting act, public improvement funds not subject to the general appropriations act requirement, MCL 141.436, MSA 5.3228(36).

Sec. 2-361. Purpose of fund.

The purpose of the public improvement fund shall be the appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, extending, altering or repairing public improvements which the city may by the provisions of the Charter or the general law be authorized to acquire, alter or enlarge. (Code 1971, ' 1.108)

Sec. 2-362. Disbursements.

The moneys accumulated in the public improvement fund shall not be transferred, encumbered or otherwise disposed of, except for the purpose of acquiring, extending, altering or repairing public improvements which the city may by the provisions of the Charter or the general law be authorized to acquire, extend, alter or repair. The moneys so accumulated in such fund shall be disbursed only on specific resolution of the council and in accordance with the other provisions of this section. (Code 1971, ' 1.109)

Sec. 2-363. Appropriations to fund.

The council may allocate to the public improvement fund miscellaneous revenues received if the revenues are not otherwise pledged or encumbered for other purposes. (Code 1971, ' 1.110)

Secs. 2-364--2-395. Reserved.

DIVISION 4. BUDGET*

*Charter reference(s)--General finance, budgeting and purchasing, ch. VI.

State law reference(s)--Annual accounting for public funds, Mich. Const. 1963, art. IX, ' 21; public hearings on budgets, MCL 141.411 et seq., MSA 5.3228(1) et seq., Mich. Const. 1963, art. VII, ' 32; uniform budgeting and accounting act (mandatory), MCL 141.421 et seq., MSA 5.3228(21) et seq.

Sec. 2-396. Submission of budget and budget message.

On or before May 1 of each year, the city manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message. (Code 1971, ' 1.173)

Charter reference(s)--Similar provisions, ' 6.2.

Sec. 2-397. Budget message.

The city manager's budget message shall:

- (1) Explain the budget both in fiscal terms and in terms of the work programs;
- (2) Outline the proposed financial policies of the city for the ensuing fiscal year;
- (3) Describe the important features of the budget;
- (4) Indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes;
- (5) Summarize the city's debt position; and
- (6) Include such other material as the city manager deems desirable.

(Code 1971, ' 1.174)

Charter reference(s)--Similar provisions, ' 6.3.

Sec. 2-398. Budget preparation.

- (a) 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 the Charter, shall be in such form as the city manager deems desirable or the council may require. In organizing the budget, the city 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; and
 - (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.

- (b) The total of proposed expenditures shall not exceed the total of estimated income.
(Code 1971, ' 1.175)

Charter reference(s)--Similar provisions, ' 6.4.

Sec. 2-399. Capital program budget.

- (a) *Preparation, submittal.* The city 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.

This information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. (Code 1971, ' 1.176)

Charter reference(s)--Similar provisions, ' 6.5.

Sec. 2-400. Council action on budget.

- (a) 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 days after such publication, for a public hearing on the budget.
- (b) 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) 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 appropriations of the amounts specified in the budget as expenditures from the funds indicated and shall constitute a levy of the property tax proposed in the budget. (Code 1971, ' 1.177)

Charter reference(s)--Similar provisions, ' 6.6.

Sec. 2-401. Council action on capital program.

- (a) The council shall publish in one or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:
 - (1) The time and places where copies of the capital program are available for inspection by the public; and
 - (2) The time and place, not less than seven days after such publication, for a public hearing on the capital program.
- (b) The council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 15th day of the last month of the current fiscal year. (Code 1971, ' 1.178)

Charter reference(s)--Similar provisions, ' 6.7.

Sec. 2-402. 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. (Code 1971, ' 1.179)

Charter reference(s)--Similar provisions, ' 6.8.

Sec. 2-403. Amendments after adoption.

- (a) If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council may make supplemental appropriations for the year up to the amount of such excess.
- (b) 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(c) of the Charter. 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) If at any time during the fiscal year it appears probable to the city 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) At any time during the fiscal year, the city 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 city manager, the council may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- (e) 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. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption. (Code 1971, ' 1.180)

Charter reference(s)--Similar provisions, ' 6.9.

Sec. 2-404. 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.

(Code 1971, ' 1.181)

Charter reference(s)--Similar provisions, ' 6.10.

Sec. 2-405. Administration of budget.

At such time as the city 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 city 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 2-403. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds 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 article 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 article 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. (Code 1971, ' 1.182)

Charter reference(s)--Similar provisions, ' 6.11.

Sec. 2-406. Budget control.

At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the city 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 city manager, may reduce appropriations for any item, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within income. The city manager may provide for monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he shall prescribe.

(Code 1971, ' 1.183)

Charter reference(s)--Similar provisions, ' 6.12.

Sec. 2-407. Depository.

The council shall designate the depository for city funds and shall provide for the regular deposit of all city moneys. (Code 1971, ' 1.184)

Charter reference(s)--Similar provisions, ' 6.13.

State law reference(s)--Deposit of public moneys (mandatory), MCL 211.43b, MSA 7.86.

Sec. 2-408. 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 audit 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.

(Code 1971, ' 1.185)

Charter reference(s)--Similar provisions, ' 6.14.

Sec. 2-409. 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 city treasurer.

(Code 1971, ' 1.186)

Charter reference(s)--Similar provisions, ' 6.15.

Sec. 2-410. 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 15 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. (Code 1971, ' 1.187)

Charter reference(s)--Similar provisions, ' 6.16.

State law reference(s)--Validation of municipal purchase contracts, MCL 123.721 et seq., MSA 5.3461 et seq.

Sec. 2-411. Investment of city funds.

Idle moneys may be invested according to the general laws of the state as the council may determine. (Code 1971, ' 1.188)

Charter reference(s)--Similar provisions, ' 6.17.

State law reference(s)--Investment of idle funds, Mich. Const. 1963, art. IX, ' 18.