

Charter

of the

City of Port Huron Michigan



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PREAMBLE FOR THE CITY OF PORT HURON

We, the People of the City of Port Huron, as the Maritime Capital of the Great Lakes[®], hereby establish this Charter of the City of Port Huron pursuant to the authority granted by the laws of the State of Michigan.

We adopt this Charter to address changes in municipal law and practice that have occurred in the past 40 years. We remain dedicated to our Council-Manager form of government, which provides for strong political leadership in the form of elected City Council members, with the strong managerial experience of a City Manager to oversee professional employees.

We recognize the economic and social importance of honoring the diverse cultural assets of our city. We also recognize the legacy of those citizens who have contributed to the welfare of our community through scientific, entrepreneurial, economic, labor, charitable, civic, artistic and educational activities and encourage continued citizenry involvement in activities that embrace our past, enhance our present and thoughtfully cultivate the community of our future.

We believe the conservation of precious resources, both natural and human, is a health, safety and welfare consideration central to local government. It is encouraged that ordinances and resolutions be passed and enforced that provide for the peace, health and safety of persons and property and to provide for the protection and preservation of the natural environment.

We further adopt this document recognizing the positive contributions that public participation in governmental decision making has made to the quality and character of our community. This Charter preserves, and honors the contributions of our citizens, and recognizes them as our most important resource.

We, therefore, declare this the Charter of the City of Port Huron.

CHAPTER 1

Powers, Boundaries and General Provisions

Section 1-1. Powers of the City

The City shall have all expressed and implied powers possible for a city to have under the Constitution and laws of Michigan, now existing or which may hereafter be required or permitted, as fully and completely as though they were specifically enumerated in this Charter. All rights and powers, not inconsistent with the provisions of this Charter, existing at the time of its adoption shall continue. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Section 1-2. Boundaries

The corporate boundaries of the City of Port Huron shall be those as established on the date this Charter takes effect, provided that the City shall have the power to change its boundaries in the manner provided by law. The City Clerk shall maintain complete records of the existing boundaries on the date this Charter takes effect and each change thereafter.

Section 1-3. Districts

The City of Port Huron shall consist of a single district.

Section 1-4. Amendments

This Charter may be amended at any time in the manner provided by law. Should two (2) or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail.

Section 1-5. Definitions and interpretations

Except as otherwise specifically provided or indicated:

(a) All words used in this Charter indicating the present time shall not be limited to the time of the adoption of this Charter but shall include the time of the happening of any event or requirement for which provision is made in this Charter.

(b) The word *person* may extend to and be applied to units of government, corporate units and to partnerships, as well as individuals.

(c) Except in reference to signatures, the words *written* or *in writing* shall include printing, typewriting, transmitted via email or other electronic form which can be readily retrievable and printed.

(d) The words *printed* and *printing* shall include reproduction by printing, engraving, stencil, duplicating, lithographing or any similar method.

(e) The singular number shall include the plural and the plural number shall include the singular.

(f) The words *law, state law, laws of the state or statute* shall denote applicable common law, the Constitution and the public acts of the State of Michigan in effect at the time the provision of the Charter containing any of these words is to be applied.

(g) Whenever the date fixed by this Charter for the doing or completion of any act falls on a Saturday, Sunday or holiday, such act shall be done or completed on the next succeeding day which is not a Saturday, Sunday or holiday.

(h) In any case in which this Charter requires mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

(i) A City officer is defined as a person elected or appointed to an elective City office or City Council, the City Manager and administrative officers. City officer does not include general City employees.

Section 1-6. Headings

The chapter and section headings used in this Charter are for convenience only and shall not be considered to be a part of this Charter.

Section 1-7. Invalid, illegal or unconstitutional provisions

If any provision, section or portion thereof of this Charter or the application thereof to any person or circumstance is found by a court to be invalid, illegal or unconstitutional, such holding shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion or application or the validity of this Charter as a whole. It is the intent of the Charter Commission and of the electors who voted on this Charter that any part or parts thereof of this Charter that are invalid, illegal or unconstitutional shall not affect any other part thereof.

Section 1-8. Liability

(a) The provisions of this Charter are not intended and shall not waive any immunity from tort liability provided by law.

(b) Any liability of the City shall be as prescribed and limited by law.

(c) Failure to provide notice as required by law shall bar any action or proceeding for collection of any demand or claim against the City.

Section 1-9. Oath of office

(a) Notice of election, or appointment, of any City Council member shall be made in writing by the City Clerk within forty-eight (48) hours after the canvassing of the vote or appointment is made. If within ten (10) days from the date of the notice such member shall not take, subscribe to and file with the City Clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the City Council shall extend the time in which such member may qualify.

(b) Every person elected or appointed as a City officer, or appointed to any board, agency, institution, commission or authority, shall take and subscribe to an oath of office as provided by law which shall be filed and kept in the office of the City Clerk.

Section 1-10. Public Meetings

All business of the legislative body, and all public bodies, shall be conducted at a public meeting held in compliance with the Open Meetings Act, MCL §15.261, *et seq.*, or as otherwise required by law.

Section 1-11. Public Records

All records of the municipality shall be made available to the general public in compliance with the Freedom of Information Act, MCL §15.231, *et seq.*, or as otherwise required by law.

Section 1-12. Publication of notices

Notices or proceedings requiring publication shall, unless otherwise provided by law or this Charter, be published as determined by the City Council. In the event publication is required by law in a newspaper of general circulation, the City Council shall designate the official newspaper.

Section 1-13. Qualification of City officers

Any person elected or appointed as a City officer shall be a citizen of the United States.

Section 1-14. Retirement system for City employees

A retirement system may be provided for employees of the City.

CHAPTER 2

City Council

Section 2-1. Authority of the City Council

(a) The City Council shall have full power and authority to exercise all the powers conferred upon the City, except as herein otherwise provided.

(b) The City Council is empowered to pass all ordinances relating to the municipal concerns of the City to provide for the public peace, health, safety and welfare of persons and property of the City and to provide proper penalty for the violation thereof, subject to the provisions of law and this Charter.

(c) The City Council, or any person or committee authorized by it, may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the City Council shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days, or both.

(d) There shall be no standing committees of the City Council.

(e) The City Council shall provide by ordinance or resolution for such boards and commissions as it may, from time to time, deem necessary, subject to law and provisions of this Charter. Members shall serve without compensation unless otherwise provided by law or by the City Council.

Section 2-2. Composition of City Council

(a) The City Council shall consist of the Mayor and six (6) Councilmembers. The Mayor shall be elected at-large on a nonpartisan ballot and shall serve a term of two (2) years. The six (6) Councilmembers shall be elected at-large on a nonpartisan ballot and shall serve for four (4) year staggered terms.

(b) No individual shall be a candidate for more than one City elected office at the same election.

(c) Newly elected members shall take the oath of office and assume the duties of their office at the next regularly scheduled meeting following their election.

Section 2-3. Eligibility and qualifications

(a) Members of the City Council, including the Mayor, shall be qualified and registered electors of the City and shall have been residents of the City for at least one (1) year immediately prior to their election. Appointments made to fill a vacancy shall also be subject to the one (1) year residency requirement and be qualified and registered electors of the City.

(b) The City Council shall be the sole judge of the election and qualification of its own members, subject to review by the courts. No member of the City Council shall hold any other compensated City office during their term of office unless otherwise provided in this Charter.

(c) No person shall be eligible for membership on the City Council who is in default to the City. The holding of office by any member who is in default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his or her last known place of residence by first class mail by the City Clerk upon the direction of the Council, or, unless the member contests his or her liability for the default in a court of competent jurisdiction or an appropriate administrative proceeding.

Section 2-4. The Mayor and Mayor Pro Tem

(a) Insofar as required by law and for all ceremonial purposes, the Mayor shall be recognized as the Chief Executive Officer of the City. The Mayor shall exercise only such powers as the law, this Charter or the City Council specifically confer upon him or her. As a member of City Council, the Mayor shall have a voice and vote in the proceedings of the City Council, but no veto power. The Mayor shall authenticate by his or her signature such instruments as the City Council, this Charter or state law shall require.

(b) At the first regular meeting after each City general election, the City Council shall appoint one of its elected members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform all the duties of the Mayor allowed by law when, on account of illness, absence from the City or disability, the Mayor is temporarily unable to perform the duties of the office of Mayor.

Section 2-5. Compensation and expenses

(a) The compensation of each member of the City Council shall be fifty dollars (\$50.00) per each regular and special meeting attended, except the Mayor shall receive sixty dollars (\$60.00) per each regular and special meeting attended. City Council shall not be paid for more than one meeting per day unless more than four (4) hours has passed between meetings. In all cases, the compensation shall not exceed a combination of fifty (50) regular and special meetings annually. Compensation shall be payable monthly.

(b) As set forth in paragraph (a) of this section, compensation for each member of City Council shall be increased by five dollars (\$5.00) effective July 1, 2015, and every five (5) years thereafter. Each five dollar (\$5.00) increase shall commence with the start of the fiscal year of the City.

(c) Councilmembers shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties of office as authorized by the City Council.

Section 2-6. Conflict of interest

(a) The Contracts of Public Servants with Public Entities Act, MCL Sec. 15.321, *et seq.*, shall govern the conduct of public servants of the City in respect to contracts with the City.

(b) Except for public contracts governed by MCL 15.321 *et seq.*, no member of the City Council shall have an interest, directly or indirectly, in any contract, job or work with the City. No member of the City Council shall be financially interested directly or indirectly in the sale to the City of any land, materials, supplies or services. This does not apply to the official services of his or her office.

(c) Any member of the City Council offending the provisions of this section shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or be imprisoned not more than ninety (90) days, or both, in the discretion of the court, and shall forfeit their office.

(d) The foregoing prohibitions of this section, as they apply to a Councilmember or Councilmembers, shall not apply if the City Council shall declare on its records by an affirmative vote of five (5) of the remaining members of the City Council that the best interests of the City are served despite a personal interest, direct or indirect, and if in compliance with the Contracts of Public Servants with Public Entities Act, MCL § 15.321, *et seq.*

Section 2-7. Meetings of City Council

(a) *Regular meetings* - Regular meetings of the City Council shall be held each month as prescribed by ordinance.

(b) *Special meetings* - Special meetings of the City Council may be called by the City Clerk on the written request of the Mayor or any three (3) members of the City Council, provided such written request has been submitted to the City Clerk at least twenty-four (24) hours prior to the special meeting. The City Clerk, or the Clerk's designee, shall serve written notice of such special meeting on each member at least 18 hours prior to the special meeting. The notice shall be served either personally or left at the member's usual place of residence. Alternatively, the notice may be served via email, text message or other electronic means if such preference has been filed with the City Clerk in writing by the individual member. Any special meeting at which all members of the City Council are present shall be a legal meeting for all purposes without such notice.

(c) *Open to the public* - All regular and special meetings of the City Council shall be open to the public and the rules of order of the City Council shall provide that the citizens shall have reasonable opportunity to be heard, except as otherwise provided by law.

(d) *Quorum* - Four (4) members of the City Council shall be a quorum for the transaction of business. In the absence of a quorum, two (2) or more members may adjourn any regular or special meeting.

(e) *Rules of Order* - The City Council shall determine its rules and order of business.

(f) *Voting* - All ordinances or resolutions shall be adopted or passed by an affirmative vote of at least four (4) members of the City Council. All votes shall be taken by "Yes" and "No" votes and entered upon the record; except when the vote is unanimous, it shall only be necessary to so state. Each member present shall vote on each question before the City Council for a determination unless required by law to abstain.

(g) *Journal of the proceedings* - The City Clerk shall keep a written or printed journal of the proceedings of each City Council meeting in the English language. The proceedings of each City Council meeting shall be available for inspection at all reasonable times during normal business hours in accordance with law.

Section 2-8. Forfeiture of office

(a) A member of City Council shall forfeit their office if at any time during their term of office they:

- (1) Lack any qualification for the office prescribed by this Charter or by law;
- (2) Violate any expressed prohibition of this Charter;
- (3) Fail to attend four (4) consecutive regular meetings of the City Council without being excused by a majority vote of the members thereof; or
- (4) Are convicted of a felony while holding office.

(b) Pursuant to paragraph (a) of this section, the City Council may declare the forfeiture of office of any member by an affirmative vote of five (5) members. No City Councilmembers may have their office declared forfeited until such member has been granted a hearing and notice of such hearing has been served upon the member at least ten (10) business days before such hearing. The hearing notice shall be served either personally, or if they cannot be found in the City, sent by certified mail to their last known address. The notice of such hearing shall state the grounds for forfeiture of the office. Such member shall have the right to be heard at such hearing in person or by counsel.

Section 2-9. Resignations

Resignations of all elected officials shall be made in writing and filed with the City Clerk. The resignation shall be placed on the agenda of the next regular meeting of the City Council and shall be received and become effective at the conclusion of said meeting. The resignation may be withdrawn up to the time it is received by the City Council by written notice of such withdrawal delivered to the office of the City Clerk.

Section 2-10. Vacancies

(a) A vacancy on City Council shall exist when any member of the City Council, including the Mayor, dies, resigns, is removed from office, moves from the City, or otherwise lacks any qualifications for the office to which they were elected or appointed, is convicted by a court of competent jurisdiction of a felony, or of misconduct in office under this Charter, or is judicially declared to be mentally incompetent. A vacancy shall also be deemed to exist on City Council when no candidate is elected to a City Council seat, including the office of Mayor.

(b) A vacancy, except one caused by recall or in the office of Mayor, shall, if possible, be filled at the next regularly scheduled City Council meeting after the vacancy exists. The process to fill the vacancy shall be that the next highest vote getter in the preceding election for City Council for the vacancy to be filled who received at least twenty-five percent (25%) of the total ballots cast shall fill the vacancy. If the identified person to this procedure lacks any qualifications to fill the vacancy, then the process shall be repeated until such vacancy is filled.

(c) If no candidate from the preceding election fills the vacancy by the process in paragraph (b) of this section, or if the vacancy is caused by no candidate being elected to the City Council seat other than the office of Mayor, the City Council shall solicit and consider letters of interest from qualified and registered City electors who are qualified to fill the vacancy. The City Council may, by a vote of not less than four (4) members, fill the vacancy by appointing a person to serve who meets the requirements of Chapter 2.

(d) If a vacancy is filled more than four (4) months before the next City general election, the person filling the vacancy shall hold office until the next City general election, at which time a successor shall be elected to serve the remainder of any unexpired term. If a vacancy is filled less than four (4) months before the next City general election and the office is not due to be filled at that election, the person shall serve for the remainder of the unexpired term.

(e) If the City Council is unable to fill a vacancy within forty-five (45) calendar days of the effective date of the vacancy, the City Clerk shall schedule an election for the next available election date for the purpose of filling such vacancy. There shall be no primary election and candidates shall be nominated by petitions in a manner identical to that provided in Section 4-4 of this Charter. The City Clerk shall publish notice of the last day, time and place for filing nominating petitions as required by law.

(f) When a vacancy has been created because of the succession of a Councilmember to the office of Mayor, the term of office for the person filling this vacancy shall end when a newly elected Mayor takes office. A Councilmember who succeeded to the office of Mayor shall retake his or her seat on the City Council if their term has not expired.

(g) In case of a vacancy in the office of Mayor, the Mayor Pro Tem shall succeed to the office of Mayor for the unexpired term and the City Council shall appoint one (1) of its elected members to serve as Mayor Pro Tem. Upon completion of the unexpired term of the Mayor, a Mayor Pro Tem who has succeeded to the office of Mayor shall retake their vacated seat as Councilmember if their term as Councilmember has not expired.

(h) In case of a simultaneous vacancy in the office of Mayor and the office of Mayor Pro Tem, the member of City Council with the longest continuous service shall serve as Mayor. Between members of City Council with equal length of continuous service on the City Council, the person who received the highest number of votes at the time of his or her last election shall serve as Mayor. The City Council shall appoint one of its elected members to fill the vacancy in the office of Mayor Pro Tem. Upon completion of the unexpired term of the Mayor, the Councilmember who succeeded to the office of Mayor shall retake their vacated seat as Councilmember if their term as Councilmember has not expired.

(i) If the membership of City Council is for any reason reduced to less than four (4) members, and the membership of City Council cannot be brought up to at least four (4) members by the process provided in paragraph (b) of this section, appointment(s) sufficient to bring the total number of members of City Council to four (4) shall be made by an affirmative vote of a majority of the remaining members of City Council. A member who is appointed under this subsection shall not vote on the appointment of himself or herself to an elective or appointive City office. A member of the City Council appointed under this subsection shall hold the office only until the member's successor is elected and qualified. The successor shall be elected at a special or regular election on the next regular election date that is not less than 120 days after the appointment is made and the successor shall serve for the balance of the unexpired term of the City Council seat he or she is filling. There shall be no primary election and candidates shall be nominated by petitions in a manner identical to that provided in Section 4-4 of this Charter. The City Clerk shall publish notice of the last day, time and place for filing nominating petitions as required by law.

(j) In the case of recall, vacancies shall be filled in accordance with the law, except as provided in paragraph (i) of this section.

CHAPTER 3 Legislation

Section 3-1. Legislation

City Council shall adopt by ordinance all legislation deemed necessary to carry out the activities of the City as authorized by law and this Charter. The legislative power of the City is vested exclusively with the City Council, except as otherwise provided by law. The forms of legislation shall be as follows:

- (1) Resolutions or motions: A resolution or motion shall be limited to matters required or permitted to be done by the Charter, or by state or federal laws or pertaining to the internal affairs or concerns of the city government. A resolution is an official City Council action in the form of a motion adopted by an affirmative vote of at least four (4) members of the City Council.
- (2) Ordinances: An ordinance is an official City Council action by an affirmative vote of at least four (4) members. An ordinance is a legislative act establishing a more permanent influence on the City than a resolution and requiring greater formalities in its adoption.

Section 3-2. Ethics

Within two (2) years after the effective date of this Charter, the City Council shall adopt an ethics ordinance by which all persons in the municipal service, whether compensated or voluntary, shall abide. It shall encourage such persons to place the public interest above self-interest.

Section 3-3. Action requiring an ordinance

In addition to other acts required by law or by specific provision of this Charter to be adopted by ordinance, acts which do any of the following shall be by ordinance:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency;
- (2) Amend or repeal any ordinance previously adopted;
- (3) Grant, renew or extend a franchise, except as otherwise provided by law;
- (4) Authorize the borrowing of money;
- (5) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (6) Regulate land use and development.

Section 3-4. Ordinance enactment, amendment, repeal, publication and recording

All legislation by ordinance shall comply with the following requirements:

- (1) Each proposed ordinance shall be introduced in written or printed form, shall be identified by a number and a short title and shall contain no more than one subject.

- (2) The enacting clause shall be "The City of Port Huron Ordains."
- (3) An ordinance may provide for new legislation, amend or repeal an existing ordinance or a part or parts of an ordinance. It shall identify the ordinance, sections or subsections to be amended or repealed and shall clearly indicate the matter to be omitted and new matter to be added. An ordinance may be repealed by reference to its number and title only.
- (4) The City Council may adopt provisions of state law, or any code of technical regulations, by reference thereto in an adopting ordinance in the manner and to the extent provided by law.
- (5) No ordinance shall be finally passed at the same meeting at which it is introduced, unless it is declared to be an emergency ordinance or is allowed by law to be adopted at the same meeting at which it is introduced.
- (6) An ordinance or amendment shall become effective upon its publication, as provided in this Charter, but not less than five (5) days after its passage, unless a different effective date is provided by law or unless it shall be passed as an emergency ordinance.
- (7) Within five (5) days, ordinances shall be published as determined by the City Council unless the law prescribes a specific mode of publication.
- (8) An enacted ordinance shall be authenticated by the Mayor and the City Clerk with their signatures and shall be recorded by the City Clerk in a book of ordinances.
- (9) Copies of adopted ordinances or codes adopted by reference shall be made available by the City Clerk for inspection or distribution at the City's cost for the copy.

Section 3-5. Emergency ordinances

The City Council may enact one or more emergency ordinances under the following circumstances and subject to the following requirements:

- (1) An emergency ordinance may only be enacted to meet a public emergency;
- (2) An emergency ordinance shall be deemed necessary for the preservation of the public peace, health or safety;
- (3) An emergency ordinance may be adopted on the date of its introduction;
- (4) Emergency ordinances may only be adopted by an affirmative vote of not less than five (5) members of the City Council;
- (5) Emergency ordinances shall become effective immediately upon publication by posting a copy thereof on the City's web site and in three (3) public places within the City.
- (6) Emergency ordinances shall be published in the same manner as ordinances, but not as a requirement for effectiveness.
- (7) An emergency ordinance shall expire at the end of sixty (60) days unless subsequently enacted as a non-emergency ordinance or is amended or repealed prior to its expiration.

Section 3-6. Penalties for violation of ordinances

The City Council may provide by a specific ordinance, or by general ordinance, for the penalties to be assessed for a violation of an ordinance. The violation of an ordinance may be classified as a misdemeanor, a civil infraction or a municipal civil infraction and penalties for such violation shall be provided in accordance with the law.

Section 3-7. Compilation and codification

(a) Copies of all ordinances which are in effect and all amendments to the Charter shall be kept in the office of the City Clerk and be available for public inspection or distribution at the City's cost for the copy.

(b) Copies of ordinances and publications referred to in paragraph (a) shall be certified by the City Clerk under the authority of the City Council and shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

(c) At least once in every ten (10) years, the City Council shall direct the compilation or codification of all current City ordinances in a manner consistent with the law.

Section 3-8. Severability of legislation

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or its application to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance.

Section 3-9. Right to initiatives and referendums

The electors of the City shall have the powers of initiative and referendum on all matters within the scope of the powers of the City. Initiative means the power to propose and to enact ordinances. Referendum means the power to reject ordinances adopted by the City Council.

Section 3-10. Rules governing initiative or referendum petitions

An initiatory or a referendum petition shall be governed by the following rules:

- (1) It shall be governed by law unless otherwise provided in this section.
- (2) It shall be signed by qualified and registered electors of the City in a number equal to five percent (5%) of the registered voters on the date the City's attorney has filed the written opinion on the proposal's compliance with the law.
- (3) It shall be substantially in the form required by law for initiation of constitutional amendments or legislation, or referendum of legislation, except as may otherwise be provided in this Charter.
- (4) An initiatory or referendum petition shall set forth in full the ordinance it proposes to initiate or on which it seeks referendum and no petition shall propose to initiate or seek referendum on more than one ordinance.
- (5) Before being circulated, a petition for initiative or referendum shall be submitted to the City Clerk who shall submit the petition to the City's attorney for an opinion on the proposal's compliance with the law. The City's attorney shall file a written opinion with the City Clerk within fifteen (15) days.

- (6) Signed petitions for initiative or referendum shall be filed with the City Clerk who shall give a receipt showing the date of the filing, the number of petition sheets filed and the number of signatures claimed by the filer. This shall constitute the total filing and the City Clerk shall not accept additional petition sheets.
- (7) The City Clerk shall within fifteen (15) business days of receiving the signed petitions, determine if the petition is in proper form and shall determine the number and validity of the signatures on the petition in accordance with the law and so certify.
- (8) Any petition signature is null and void if the signature was made more than one hundred eighty (180) days before the petition is filed with the Office of the City Clerk.
- (9) If the petition is found sufficient and proper, the City Clerk shall present the petition to the City Council at its next regular meeting.
- (10) If the petition is found to be insufficient, the City Clerk shall notify the person or organization sponsoring the petition of the insufficiency of the petition.

Section 3-11. City Council procedure

Within thirty (30) days of the City Council receiving the petition for initiative or referendum from the City Clerk, the City Council shall:

- (1) Adopt the ordinance as submitted in the petition if it is an initiatory petition or repeal the ordinance to which the petition refers if it is a referendum petition; or
- (2) Submit the proposal to the electors at the next available election date as provided by law. The result shall be determined by a majority vote of the electors voting at the election, except where a greater number is required by the Constitution, this Charter or the law.

Section 3-12. Procedure and effectiveness of approved initiative or referendum

(a) Upon certification of the Board of Canvassers to the City Clerk of the approval of the initiative or referendum, the City Clerk shall within five (5) days publish each ordinance passed by the electorate in the manner provided in this Charter for the publication of ordinances. Such initiatory ordinance or ordinances shall take effect immediately upon publication.

(b) Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

(c) An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed, except by initiatory or referendum proceedings, for a period of two (2) years from its adoption.

(d) An ordinance containing the same provisions as that rejected by the electorate through initiatory or referendum proceedings cannot be adopted, except by initiative or referendum proceedings, for a period of two (2) years from the date of the election rejecting the provisions.

Section 3-13. Marijuana

Nothing in the Code of Ordinances shall apply to the use, possession, or transfer of less than 1 ounce of marijuana, on private property, or transportation of 1 ounce or less of marijuana, by a person who has attained the age of 21 years. *[The electorate approved an initiatory petition ballot proposal on Nov. 4, 2014, to add Section 3-13.]*

CHAPTER 4 Elections

Section 4-1. State laws to govern

General election laws shall apply to and control all procedures relating to qualifications and registration of electors, nomination of candidates for elective offices in the City and to the conduct of general and special elections, unless otherwise provided herein. In any circumstance where the application of said laws may be uncertain, the Election Commission shall construe the same and prescribe the procedure.

Section 4-2. Election Commission

The Election Commission shall consist of the City Clerk, the Chief of Police and the City Attorney, or in the absence of a City Attorney, the Director of Finance will serve. The City Clerk shall be the Chairperson. The Election Commission shall have charge of all activities and duties relating to the conduct of elections in the City in accordance with the law and this Charter.

Section 4-3. City general elections; Special elections

(a) The City Council may by ordinance establish convenient election precincts.

(b) The election of City Council shall be at-large on a nonpartisan basis and shall be held on the first Tuesday following the first Monday of November of odd-numbered years in accordance with the law. The City shall not hold a primary election for elected City offices.

[Effective Jan. 1, 2014, Council elections will be held in even-numbered years beginning in November 2016 as provided for in Act 523 of 2012 and in accordance with City Council resolution PH#13-032 dated June 24, 2013.]

(c) At each November odd-numbered City general election, there shall be elected from the City three (3) City Councilmembers and one (1) Mayor. The three (3) candidates receiving the greatest number of votes for the position of City Councilmember shall be elected. The candidate receiving the highest vote for the position of Mayor shall be elected.

[Effective Jan. 1, 2014, Council elections will be held in even-numbered years beginning in November 2016 as provided for in Act 523 of 2012 and in accordance with City Council resolution PH#13-032 dated June 24, 2013.]

(d) Special elections shall be held when called by resolution of the City Council to be held on the dates and in the manner provided by law. Such resolution shall set forth the purpose of the election. In no case shall there be more than two (2) special elections within one (1) year.

Section 4-4. Nominating petitions; Approval of petitions

(a) All candidates for City elective offices shall be nominated by petition. Any qualified and registered elector of the City may be nominated for election.

(b) The City Clerk shall furnish nominating petition forms, which shall be substantially similar to that designed by the Secretary of State for the nomination of nonpartisan officers, upon receipt of written consent by a candidate. No other petition forms shall be used for the nomination of persons for City offices.

(c) Affidavits of candidacy required by MCL §168.558 shall be signed and submitted in accordance with the law. Petitions shall be circulated, signed and submitted in accordance with the law unless otherwise provided herein. Each candidate's petition must be signed by at least seventy-five (75) but no more than one hundred twenty-five (125) qualified and registered electors of the City. Petitions shall be filed with the City Clerk's office not later than 4:00 o'clock in the afternoon of the twelfth Tuesday preceding the general election date.

(d) The City Clerk shall accept for filing only properly executed official nominating petitions from qualified candidates and which contain at least the minimum required number of signatures. The City Clerk shall within three (3) business days determine the sufficiency of the signatures on each petition filed in accordance with the law. If the City Clerk finds any petition does not contain the required number of genuine signatures on the petition as allowed by law, he or she shall immediately notify the candidate of the insufficiency of his or her petitions. Within the regular time for filing petitions, additional official nominating petitions may be filed to meet the required number of signatures as long as the maximum threshold number has not been met.

(e) All nominating petitions filed shall be preserved by the City Clerk until the first day of January following the general election for which the same were filed. At the expiration of that period, the City Clerk may destroy all nominating petitions unless a candidate has asked for the return of said petitions.

Section 4-5. Board of Canvassers; Canvass of vote

(a) The general election laws of the state shall apply to and control, as near as may be, the membership of the City Board of Canvassers and all procedures relating to the canvassing of the vote at all elections under this Charter.

(b) *Repealed by Act 51 of 2013; County Board of Canvassers to canvass City elections.* ~~Except as provided in paragraph (c) of this section, the City Board of Canvassers shall meet in the office of the City Clerk on the Wednesday next succeeding any City general or special election. The City Board of Canvassers shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what person or persons have been elected based on the person or persons receiving the greatest number of votes. In any circumstance where the application of said laws may be uncertain, the Election Commission shall construe the same and prescribe the procedure.~~

(c) *Repealed by Act 51 of 2013; County Board of Canvassers to canvass City elections.* ~~At the discretion of the City Council, the County Board of Canvassers may canvass City general or special elections as allowed by law.~~

Section 4-6. Tie vote

If at any election it shall appear that two or more persons have an equal number of votes and that a failure to elect to any City office is caused thereby, the successful candidate shall be determined by lot by the board of canvassers used to canvass the election in accordance with the general election laws of the state, or as otherwise provided by law. Such determination, however, shall not preclude the right of a defeated candidate to a recount of the votes cast as provided by law.

Section 4-7. Recall

A member of City Council, including the Mayor, may be recalled as provided by law. A vacancy created by a recall shall be filled by election in the manner prescribed by law. A member of City Council, including the Mayor, who has been removed from office by recall, or who has resigned from office while recall proceedings are pending against him or her, shall not be a candidate to fill the vacancy created by the recall nor be appointed to any City elected office during the term of office from which the officer was recalled or within two (2) years after such recall or resignation, whichever is longer.

CHAPTER 5

Administrative Service

Section 5-1. Appointment and duties of City Manager

The City Council shall appoint a City Manager who shall be the Chief Administrative Officer and the head of the administrative branch of the city government. The City Manager shall:

- (1) Serve at the pleasure of the City Council, pursuant to a written employment agreement establishing such things as salary, notice of termination, severance pay, vacation, pension benefits and related conditions of employment.
- (2) Attend City Council meetings. The City Manager shall have the right to take part in discussions but shall not vote.
- (3) Keep the City Council fully advised as to the financial condition and future needs of the City.
- (4) Submit the City budget to the City Council, in consultation with administrative officers and/or other employees.
- (5) Make recommendations to the City Council concerning the affairs of the City.
- (6) Perform such other duties and make such reports as are specified in this Charter or may be required by the City Council.
- (7) Possess such other powers as may be granted or required by the City Council, so far as may be consistent with the provisions of the law.
- (8) Direct and supervise the administration of all departments, offices and agencies of the City under the direction and supervision of the City Manager, except as otherwise provided by this Charter or by law and shall carry out the policies formulated by the City Council.
- (9) Appoint and, when necessary for the good of the service, suspend or remove all City employees under the direction and supervision of the City Manager, including administrative officers as provided in Section 5-4, except as otherwise provided by law. The City Manager may authorize any administrative officer, subject to the City Manager's direction and supervision, to exercise these powers with respect to subordinates of that officer's department, office or agency.
- (10) Be charged with the preservation of the public peace and health and the safety of persons and property, and shall see to the enforcement of City ordinances, this Charter and state laws.
- (11) Establish any rules necessary to carry out the duties of the office of City Manager.
- (12) File notice with the City Clerk designating a qualified City administrative officer to exercise the powers and perform the duties of City Manager during any temporary absence or disability of thirty (30) days or less. When said absences or disabilities exceed thirty (30) days, an Acting City Manager shall be appointed by the City Council.
- (13) Provide clerical support services for the City Council.

Section 5-2. Qualifications of City Manager

The City Manager shall be chosen on the basis of his or her executive and administrative qualifications with special reference to his or her training and actual experiences in municipal administration. No member of the City Council shall be eligible for appointment as City Manager until two (2) years subsequent to the termination of his or her service on the City Council.

Section 5-3. Removal of City Manager

(a) The City Manager may be removed by a majority vote of the members of the City Council as herein provided, except that no City Manager who has been in the service of the City for one (1) year or more prior to a City general election for City Council shall be removed within the ninety (90) days subsequent to such election unless by an affirmative vote of five (5) members of the City Council.

(b) At least thirty (30) days before removal of the City Manager, the City Council shall adopt a resolution stating its intention to remove him or her and the reasons therefor, a copy of which shall be served forthwith on the City Manager, who may within ten (10) business days demand a public hearing, in which event the final resolution removing the City Manager shall not be adopted until such public hearing has been held. Upon passage of a resolution stating the City Council's intention to remove the City Manager, the City Council may suspend him or her from duty, but his or her pay shall continue until his or her removal. The action of the City Council in removing the City Manager shall be final.

Section 5-4. Administrative officers and employees

(a) The City Manager shall have the power to appoint and remove, subject to the provisions of this Charter, the City Clerk, City Treasurer, City Assessor, City Attorney, Director of Finance, Police Chief, Fire Chief and such other administrative officers and employees of the City as may be deemed necessary. The City Manager may authorize administrative officers responsible to him or her to appoint and remove subordinates in such department or office. The appointments made by or under authority of the City Manager shall be based on the experience, training and ability of such appointees for the work they are to perform.

(b) All administrative officers and employees of the City shall perform such duties as are provided by law, this Charter, City ordinances and/or directives of the City Manager. Administrative officers shall exercise and possess all of the powers, privileges and immunities granted to officers exercising the same general duties under the law.

(c) The compensation of administrative officers and employees shall be recommended by the City Manager and approved by the City Council in accordance with budget appropriations.

Section 5-5. City Council not to interfere in appointments or removals

Neither the City Council, nor any of its individual members, shall direct or request the appointment or removal of any person from office or employment by the City Manager or any of his or her subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager; and neither the City Council, nor any individual members thereof, shall give orders to any subordinate of the City Manager either publicly or privately.

Section 5-6. Administrative departments

The administrative service shall be divided into such departments, divisions and bureaus as may be provided by ordinance upon recommendation of the City Manager. Such ordinance shall be known as "Administrative Code." Pending the passage of any code or amendments, the City Manager may establish temporary regulations. Each administrative officer or director shall, subject to approval by the City Manager, have supervision and control of his or her department and shall have power to prescribe rules and regulations not inconsistent with this Charter and the Administrative Code.

Section 5-7. Merit system

The City Council shall provide by ordinance for a merit system of personnel management for employees in the service of the City and for a Personnel Appeals Board for all employees not covered by a collective bargaining agreement.

CHAPTER 6

General Finance

Section 6-1. Compliance with state law

All financial procedures shall comply with state law.

Section 6-2. Fiscal year

The fiscal and budget year of the City shall begin on July 1 and end on June 30 of the following year.

Section 6-3. Financial control

The Director of Finance shall have charge of the administration of the financial affairs of the City. He or she shall provide a system of accounts which shall conform to such uniform system of accounts as may be required by law. He or she shall maintain such accounting control over the finances of the City, make such financial reports and perform such other duties as may be required by law, this Charter, City ordinance or by the City Manager. No money shall be drawn from the treasury of the City without an appropriation therefore and without the approval of the Director of Finance. All checks or vouchers for the payment of money from the treasury of the City shall be approved by the City Manager and the Director of Finance.

Section 6-4. Depository

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

Section 6-5. Official bonds

Elective and appointive officers shall be bonded in accordance with law and in a manner acceptable to the City Council. The City Treasurer and any employee handling funds of the City in the regular course of business shall be bonded in accordance with the law. The City Council shall be empowered to set further conditions for bonding of officers and employees. Bond premiums shall be paid by the City.

Section 6-6. Proposed budget

At such times as may be required by the City Manager or specified by ordinance, each administrative officer or director of a department shall submit to the Director of Finance an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his or her control. The Director of Finance shall prepare and submit to the City Manager a complete budget for the next fiscal year in such detail and supporting schedules as the City Manager shall require. The City Manager shall submit the proposed budget to the City Council on or before the second regular meeting in April.

Section 6-7. Budget hearing

A public hearing on the proposed budget shall be held before its final adoption by the City Council. Notice of the time and place of holding the hearing shall be in accordance with law. A copy of the proposed budget shall be on file in the office of the City Clerk for public review during normal business hours at least one (1) week prior to the public hearing.

Section 6-8. Adoption of budget

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

Section 6-9. Budget control

After each quarterly period during the fiscal year, the City Manager shall submit to the City Council data showing the relation between the estimated and actual income and expenses to date. If it shall appear that the income is less than anticipated, the City Council shall reduce appropriations for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within available revenue. If the revenues exceed the amounts estimated in the budget, the City Council may make supplemental appropriations.

Section 6-10. Appropriations

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation. Except as otherwise provided in this Charter, the City Council may transfer any unencumbered appropriated balance or any portion thereof from one department, fund or agency to another.

Section 6-11. Issuance of bonds

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

Section 6-12. Proceeds of bonds

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

Section 6-13. Emergency bonds

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

Section 6-14. Special assessment bonds

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

Section 6-15. Deferred payment contracts

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

Section 6-16. Independent audit

(a) An independent audit shall be made of all City accounts at least annually, and more frequently if deemed necessary by the City Council and in accordance with the law. Such audit shall be made by Certified Public Accountants experienced in municipal accounting and selected by the City Council.

(b) Copies of such audit and annual report shall be made available for public inspection at the office of the City Clerk within thirty (30) days after the receipt of the audit.

(c) The Director of Finance shall prepare an annual financial report of the City and provide the report to the City Council.

CHAPTER 7 General Taxation

Section 7-1. Power to tax

The City shall have the power to assess, levy and collect ad valorem taxes, rents, tolls and excise or specific taxes. The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. City taxes shall be assessed, levied, collected and returned in the manner provided by law, except as otherwise provided by this Charter.

Section 7-2. Tax limits

(a) Exclusive of any levies authorized by law to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed twelve (12) mills on the dollar of state taxable value of all real and personal property in the City, as such tax rate may be adjusted from time to time by operation of law.

(b) In addition to the twelve (12) mill tax provided for above, the City shall have the power to levy an additional ad valorem tax in an amount not to exceed two (2) mills for ten (10) years for a period commencing July 1, 2014, and expiring June 30, 2024, as such tax rate may be adjusted from time to time by operation of law, for the purpose of providing funds solely for resurfacing and reconstruction of City streets.

[Paragraph 7-2(b) above was amended by the electorate on Nov. 5, 2013.]

Section 7-3. Assessment

The City Assessor shall annually place a value, in accordance with the law, upon all property, both real and personal, in the City which is subject to taxation. Values shall be determined in accordance with established assessment rules, techniques and procedures, including those promulgated by the State of Michigan.

Section 7-4. Assessment roll

As soon as practicable each year, but not later than any deadline provided by law, the City Assessor shall prepare and certify an assessment roll of all property in the City, in the manner and form provided by law.

Section 7-5. Notice of assessment

As soon as practicable each year, but not later than any deadline provided for by law, the City Assessor shall provide a notice of any change in value to the owner of record. The notice shall also show the times and places of the meetings of the Board of Review. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Section 7-6. Board of Review

(a) There shall be a Board of Review, consisting of three (3) registered electors in the City, at least one (1) member of this Board shall be a licensed real estate professional, with a licensed real estate broker preferred, to be appointed by the City Manager, subject to the approval of the City Council. Board member terms shall commence on the first day of March following their appointment and shall continue through the last day of February of the following year. Vacancies may be filled by the City Manager, subject to the approval of the City Council. The compensation of the Board of Review shall be set by the City Council at the time of its appointment.

(b) On the first day of its meeting in each year, the Board of Review shall elect its own chair and a majority of its members shall constitute a quorum. The City Assessor shall be clerk of the Board and shall consult with and advise the Board and take part in its deliberations, but shall not be entitled to vote. It shall be the duty of the clerk of the Board to keep a permanent record of all proceedings. The Board shall have the same powers and perform like duties in all respects as are by general law conferred upon and required of boards of review.

(c) The Board of Review shall meet in accordance with the law. The notice of the time and place of the sessions of the Board shall be provided in accordance with the law.

Section 7-7. Certification of tax roll

(a) After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April or as otherwise provided by law, a majority of its members shall endorse the assessment roll as provided by law and sign a certificate to the effect that the same is the assessment roll of the City for the year for which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. The completed assessment roll shall be delivered to the county equalization director in accordance with the law. Such roll shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the laws of the state.

Section 7-8. Creation of tax roll

(a) The certified assessment roll, as finally equalized, shall be used by the City Treasurer in preparation of the tax roll. The City Clerk shall certify to the City Treasurer after adoption of the City budget for the ensuing year the millage rates to be levied against the tax roll to support the budget, together with other assessment and other lawful charges which may be included on the tax roll as provided by the City Council or by law.

(b) The City Treasurer shall establish a schedule for receiving from other authorities their warrants certifying millage rates to be levied on their behalf.

Section 7-9. Collection of taxes

(a) The City Treasurer shall have like power and duty to collect City taxes as is granted to and required of township treasurers in the collection of county taxes. The City Treasurer shall send a statement of the tax due by first class mail to each person named in the tax roll as provided by law. The failure to give any such notice, or of the owner to receive it, shall not invalidate the tax or liability for nonpayment.

(b) City taxes shall be due and payable on the first day of July of each year. Taxes shall be collected without additional charge through July 31, or thirty (30) days after the mailing of the tax bill, whichever is later. A penalty of one (1%) percent on the unpaid tax will be added on the first day of August, and on the first day of each month thereafter in the succeeding months, until the delinquent tax roll is returned to the County Treasurer.

Section 7-10. Tax becomes lien on property

The taxes thus levied shall become on July 1 or as soon thereafter as levied, unless an earlier date has been designated by the City Treasurer as provided by law, a debt to the City from the persons against whom they are levied and the amount levied together with all charges thereon shall become a continuing lien, until paid, on the property of the taxpayer of the same character and extent as the lien created by general law for state and county taxes.

Section 7-11. Tax Roll to County Treasurer

All taxes, special assessments, charges, penalties and collection fees on the City tax roll, including all additional assessments, charges and fees provided in this Charter, which remain unpaid on the first day of March following the date when said roll was received by the City Treasurer shall, on that date, become delinquent and shall be returned to the County Treasurer for collection. The taxes thus returned shall be collected by the County Treasurer as provided for in the general tax laws of the state. The taxes, fees, penalties, interest and other charges submitted to the County Treasurer to be collected under the provisions of the general laws of the state shall be and remain a lien upon the lands against which they are assessed until paid. At the time of making the return of all unpaid taxes, the City Treasurer shall retain a copy of the return of unpaid taxes and shall record subsequent collections or reassessments as returned to him or her by the County Treasurer.

Section 7-12. State, county and school taxes

The levy, collection and return of taxes for state, county and school purposes shall occur in conformance with the general law, except that the preparation of the assessment roll, the meeting of the Board of Review and the confirmation of the assessment roll shall take place at the times provided in this Charter.

CHAPTER 8

Special Assessments

Section 8-1. General authority

The City Council shall have the power to make special assessments for public improvements and other public purposes in accordance with the law. The whole or any part of the expense of any public improvement may be defrayed by special assessment upon the property especially benefitted in proportion to the benefits derived or to be derived.

Section 8-2. Procedure

(a) The City Council shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method. Such ordinance shall be consistent with the requirements of law and provide for the enforcement of the following restrictions:

- (1) A meeting of the City Council to review each special assessment roll and to hear objections to the special assessments shall be held. The public notice of such a meeting shall advise all persons having objections to the special assessment roll that objections must be filed with the City Clerk in writing at or prior to the meeting of the City Council.
- (2) No special assessment district or districts shall be created by the City Council for any one public improvement which includes property having an area in excess of twenty-five percent (25%) of the total area of the City. No public improvement project shall be divided geographically for the purpose of circumventing this provision.
- (3) No special assessment roll shall be finally confirmed until after a meeting of the City Council has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten (10) days after notice thereof has been sent by first class mail to all owners of property affected by the special assessment as shown by the current assessment roll of the City.
- (4) No public improvement to be financed in whole or in part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

Section 8-3. Disposition of excessive special assessments

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the City if such excess is five percent (5%) or less of the assessment. Should the assessment prove larger than necessary by more than five percent (5%), the entire excess shall be refunded on a pro rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

CHAPTER 9

Property, Parks and Cemeteries

Section 9-1. Power to acquire and own property

The City shall have the power to acquire private property of every type and nature by purchase, gift, condemnation, lease, construction, or in any manner permitted by law, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not and whether located within or outside of its corporate limits or within or outside of St. Clair County.

Section 9-2. Development, lease and sale of property

(a) The City may maintain, develop, operate, lease and dispose of its property subject to any restrictions placed thereupon by law or by this Charter.

(b) The City Council shall designate by ordinance all property which is an officially dedicated park or cemetery. Once property is so dedicated, no park, cemetery or any part thereof, shall thereafter be sold unless approved by a majority of the electors voting thereon at a regularly scheduled or special election.

(c) The City shall not engage in a business enterprise requiring an investment of money in excess of the amount provided by law unless approved by a majority of the electors voting at a regularly scheduled or special election.

(d) The City shall not have the power to develop, lease, sell or otherwise dispose of any waterfront property, or property contiguous to the waterfront, unless such action is approved by a majority of the electors voting thereon at a regularly scheduled or special election.

(e) The City shall not have the power to vacate any street or public place leading to a waterfront unless such action is approved by a majority of the electors voting thereon at a regularly scheduled or special election.

Section 9-3. Parks and cemeteries

The City Council shall have power to enact all ordinances deemed necessary for the establishment, maintenance and protection of all cemeteries and parks, together with improvements thereon and appurtenances thereto, owned or acquired by the City, either within or without its corporate limits

Section 9-4. Trusts

All trusts established for cemeteries, parks or other purposes shall be used and continued in accordance with the terms of such trusts. The City may, in its discretion, receive and hold any property in trust for cemeteries, parks or other public purposes and shall apply the same to the execution of such trusts and for no other purposes whatsoever.

CHAPTER 10

Contracts, Purchases, Sales and Leases

Section 10-1. Authority of City Council

(a) The authority to authorize the making and letting of contracts on behalf of the City for any purpose whatsoever is vested in the City Council, except that purchases, sales and leases may be made by the City administration as provided by ordinance adopted in accordance with provisions of this Charter.

(b) The City Council shall establish by ordinance contract procedures for the purchase, sale or lease of property and services by the City. These procedures shall not be in conflict with any law that regulates contract procedures or the purchase, sale or lease of property and services by a political subdivision of the state.

(c) All contracts, except as otherwise provided in the ordinance adopted in accordance with the provisions of this Charter, shall be authorized by the City Council and signed on behalf of the City as follows:

- (1) signed by the Mayor;
- (2) attested to by the City Clerk;
- (3) approved as to substance by the City Manager;
- (4) approved as to form by the City's Attorney; and
- (5) certified as to sufficiency of funds by the Director of Finance.

Section 10-2. Establishment of procedures by ordinance

(a) The City Council shall establish by ordinance the procedures for the purchase, sale or lease of real and personal property and services for the City for the direction of the City Manager. The ordinance shall provide a dollar limit within which purchases, sales or leases of real and personal property may be made without the necessity of securing competitive bids and the dollar limit within which purchases, sales or leases may be made without the necessity of prior City Council approval.

Section 10-3. City may perform public work

The City Council shall have the power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials with separate accounting as to each improvement so made.

Section 10-4. Modification in contracts

Modifications, amendments or changes in contracts to which the City is a party which required City Council approval, in accordance with ordinances establishing contract procedures for the purchase, sale, lease or services by the City, become effective upon approval of the City Council. However, notwithstanding the above, when it becomes necessary in the completion of any public work or public improvement done under a public works contract to make an alteration or modification in such contract, such alteration or modification shall be made by a change order agreed upon in writing and signed by the City Manager, the City Engineer and the Contractor. Authorization for the making of a change order in a public works contract as described above shall be provided for in the original public works contract approved by the City Council.

Section 10-5. Interest in contracts

(a) The Contracts of Public Servants with Public Entities Act, MCL §15.321, *et seq.*, shall govern the conduct of public servants of the City in respect to contracts with the City.

Section 10-6. In default

No contracts shall be made, nor shall any payment be made, with any person who is in default to the City. As used in this Charter, “in default” means delinquent in payment of property taxes, assessments, a debt owed to the City, or the failure to fulfill a contractual obligation, whether monetary or conditional. If the person has not been provided at least thirty (30) days notice of the obligation, they shall be given a thirty (30) day period to rectify the obligation. The person shall be considered to be in default if one of the following applies:

- (1) Property taxes remain unpaid after the last day of February in the year following the year in which they are levied, unless the taxes are the subject of an appeal.
- (2) Income taxes remain unpaid after the last day of April in the year following the year in which they were prepared, unless the taxes are the subject of an appeal.
- (3) Another debt owed to the City, including unpaid utility bills or special assessments, remains unpaid thirty (30) days after the due date, unless the debt is the subject of an administrative appeal or a contested court case.
- (4) The failure to fulfill a contractual obligation remains uncorrected for a period of thirty (30) days, unless the failure to fulfill a contractual obligation is the subject of an administrative appeal or a contested court case.

CHAPTER 11

Public Utility Services and Franchises

Section 11-1. Utility franchises

All franchises for the use of the streets or other public places of the City for the furnishing of any public utility services to the City or its inhabitants in existence when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

Section 11-2. Granting of utility franchises

(a) The City shall have all rights, power and authority to grant, revoke, modify, purchase or condemn any franchise for the use of the streets and other public places of the City for furnishing of any public utility services and no public utility shall transact business in the City without first obtaining a franchise from the City.

(b) All public utility franchises, and all renewals, extensions and amendments thereof, shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after a request for such franchise has been filed with the City Council, nor until a full public hearing has been held thereon.

(c) A franchise or grant which is not revocable at the will of the City Council shall not be granted or become operative until the same shall have been approved by three-fifths (3/5) of the electors voting on a proposition for the approval of such franchise at a regularly scheduled or special election. Any franchise not revocable at the will of the City Council shall not be submitted to the electors until grantee named in the franchise has filed with the City Clerk its unconditional acceptance of all the terms of such franchise; and if submission of a franchise to the electors is to be held on a special election date allowed by law, the expense of holding the election, as determined by the legislative body, shall be paid in advance to the City Treasurer by the grantee in the franchise before any expenses are incurred by the City.

(d) No exclusive franchises shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years.

(e) *Control and revocation* - 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 of the City, and may revoke, cancel or annul all franchises that may have been granted by the City, which for any reason have become inoperative, illegal or void and not binding upon the City.

(f) *Regulations* -

- (1) All public franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the rights of the City as follows:
 - (i) To repeal the same for misuse, or non-use, or for failure to comply with the provisions thereof;
 - (ii) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
 - (iii) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
 - (iv) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; and

- (v) To impose such other regulations as may be determined by the City Council to be conducive to the safety, welfare and accommodation of the public.
- (2) The enumeration of rights of the City in this section shall not be exclusive and shall not impair the right of the City Council to insert into such franchise any provision within the power of the City to impose or require.

(g) *Rates* - All public utility franchises shall make provision therein for fixing rates, fares and charges and for readjustments thereof at periodic intervals at the request of the City, subject to approval in accordance with the law. 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.

(h) *Use of City property* - Every public utility franchise shall be subject to the right of the City to use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use. A public utility may be required to permit joint use by the City and/or other utilities of its property and appurtenances that are located in the streets, alleys and public places provided such joint use is to be reasonably practicable and upon payment of a reasonable rental rate. In the absence of an agreement and upon application by any public utility, the City Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore. The arbitration award shall be final.

(i) *Temporary permits* - Temporary permits for public utilities, revocable at any time at the will of the City Council, may be granted by the City Council by ordinance 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.

Section 11-3. Municipally-owned utilities

(a) The City shall possess and hereby reserves to itself all the powers granted to cities by the Constitution and the general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain public utilities, either within or outside its corporate limits. The City may also sell and deliver water, sewage disposal services, light, heat, power and other public utility services outside its corporate limits in an amount not to exceed the limitations set by law. The City shall not acquire any public utility furnishing light, heat or power, which is not subject to revocation at the will of the City, unless the proposition shall first have been approved by three-fifths (3/5) of the electors voting on such proposition.

(b) *Control of utilities* - The City Council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the City now owns, or may, in any manner acquire, own or operate and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the City by the provisions of this Charter, including the fixing of just and equitable rates and charges as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power and with such other utility services as the City may acquire.

(c) *Utility charges - collection and accounts* - The City shall possess all of the powers and privileges granted by law to make effective the collection of any charges for any public utility services rendered by the City. Separate accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts, and in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues and expenses. The City Council shall annually cause a report be prepared showing the financial results of such City ownership or operation, or both. This report shall provide for each utility the information specified in this section and such other information as the City Council may deem appropriate.

(d) *Disposal of utility property* - The City shall not sell, exchange, lease, or in any way alienate or dispose of the property, easements, income or other equipment, privilege or asset belonging to and pertaining to any utility which it now owns or may acquire, unless and until the proposition for such purpose shall first have been submitted at an election held for that purpose in the manner provided in this Charter, to the electors of the City and approved by a three-fifths (3/5) majority vote of the electors voting on such proposition. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision, shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange of any articles or equipment of any City-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER 12

Transition

Section 12-1. Purpose

The purpose of this Chapter is to inaugurate the government of the City under this Charter and to accomplish the transition from the old to the new Charter and it shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

Section 12-2. Election to adopt revised Charter

This revised Charter shall be submitted to a vote of qualified electors of the City of Port Huron at the general election to be held November 2, 2010. Notice of election shall be given as provided by law and the vote shall be counted and canvassed and the results determined as provided by law.

Section 12-3. Publication of Charter

Prior to the submission of this revised Charter to the electors of the City of Port Huron, the revised Charter shall be published online and copies made available at the City Clerk's office. A newsletter with an overview of the Charter will be sent to households of all registered voters.

Section 12-4. Form of ballot

The form of the ballot for the submission of this Charter shall be as shown below:

CITY OF PORT HURON CHARTER PROPOSALS

Proposal # 1 (Proposed City Charter) seeks approval by the City voters of the proposed Charter drafted by the Charter Commission which provides for at-large election of 6 City Council members and the Mayor.

Proposal # 2 (At-large and District Representation Option) provides that the City will be divided up into 3 voting districts which will each elect 1 member of the City Council in addition to the at-large election of 3 other members of the City Council and the Mayor.

At this election, both of these proposals are being submitted to the City's voters.

If Proposal #1 (Proposed City Charter) is rejected, no revised City Charter will be adopted at this election.

If Proposal #1 (Proposed City Charter) is approved by the voters, but Proposal # 2 (At-large and District Representation Option) is rejected by the voters, then the revised Charter shall be adopted at this election to provide for at-large election of 6 City Council members and the Mayor.

If both Proposal #1 (Proposed City Charter) and Proposal #2 (At-large and District Representation Option) are approved by the voters, then the revised Charter shall be adopted at this election to provide for the City to be divided up into 3 voting districts which would each elect 1 member of the City Council and for the at-large election of 3 other members of City Council and the Mayor.

**CITY OF PORT HURON
PROPOSED CITY CHARTER (PROPOSAL #1)**

SHALL THE CITY CHARTER PROPOSED BY THE PORT HURON CHARTER COMMISSION, WHICH PROVIDES FOR 6 MEMBERS OF THE CITY COUNCIL AND THE MAYOR TO BE ELECTED AT-LARGE, BE ADOPTED?

YES
NO

**CITY OF PORT HURON
AT-LARGE AND DISTRICT REPRESENTATION OPTION (PROPOSAL #2)**

This At-large and District Representation Option would provide, in place of at-large election of 6 City Council members and the Mayor, for a combination of at-large and district representation in the City Charter as follows:

- 3 City Council members and the Mayor elected from the City at-large;
- Establish 3 districts with 1 City Council member elected from each district.

SHALL THIS ALTERNATIVE METHOD OF ELECTING 3 CITY COUNCIL MEMBERS BY DISTRICT AND ELECTING AT-LARGE 3 CITY COUNCIL MEMBERS AND THE MAYOR BE ADOPTED?

YES
NO

Section 12-5. Effective date of Charter

If the canvass of the votes on the adoption of the revised Charter show it to have been approved, it shall take effect and become law as the City Charter of the City of Port Huron, a Michigan City, on January 1, 2011, at 12:01 a.m.

Section 12-6. Transition

(a) *Officers* - All officers, whether elected or appointed, holding office under the previous Charter shall continue in office and in the performance of their duties prescribed by this revised Charter until the termination of the term for which they were elected or appointed, and until their successors are elected and take the oath of office. After the effective date of this Charter, appointments of any City officer or any board or commission members shall be appointed in accordance with the provisions of this Charter.

(b) *Ordinances* -

- (1) All ordinances, by-laws, resolutions, rules and regulations of the City of Port Huron in full force and effect on the effective date of this Charter and which are not inconsistent with this Charter shall continue in full force and effect unless and until repealed or amended.
- (2) All zoning ordinances and regulations in effect on the effective date of this charter shall remain in full force and effect unless and until the City Council may lawfully adopt other zoning ordinances or regulations.
- (3) Provisions of any ordinance in effect on the effective date of this Charter which are inconsistent with this Charter are hereby repealed.

(c) *Headlee override* - Adoption of this Charter is not approval of a Headlee override. This means that the millage authority of the City Council shall not change because this Charter is adopted.

(d) *Rights, liabilities and remedies* - All rights and properties of any kind and description which were vested in the City on the effective date of this Charter shall be deemed and held to be vested in the City. No franchises or licenses granted or rights or liabilities, either in favor of or against the City on the effective date of this Charter, and no suit or prosecution of any kind shall be in any manner affected by the adoption or taking effect of this Charter, but the same shall stand or progress as if no such change had been made. All debts and liabilities of the City under its previous Charter shall be deemed to be debts and liabilities of the City under this Charter, and all taxes, and special assessments levied and uncollected on the effective date of this Charter shall be collected the same as if such change had not been made; provided, that when a different remedy is given in this Charter, which can be made applicable to any rights existing on the effective date of this Charter, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

(e) *Compensation* - City Council compensation as provided in this Charter shall begin on the effective date of this Charter.

(f) *Ordinances to be adopted* - Within nine (9) months of the effective date of this Charter, the City Council shall adopt or amend ordinances as may be required by various provisions of this Charter.

Section 12-7. First election under this Charter

At the first City general election under this Charter:

- (1) No primary election shall be held.
- (2) The Mayor shall be elected for a two (2) year term in accordance with the provisions of this Charter.
- (3) In order to effectuate the staggering of terms, City Council members shall be elected at-large as follows:
 - (i) The three (3) candidates for City Council receiving the highest number of votes shall be elected for a four (4) year term.
 - (ii) The next three (3) candidates for City Council receiving the next highest number of votes shall be elected for a two (2) year term.
 - (iii) Thereafter, all candidates for City Council member shall be elected at-large for four (4) year terms, except when filling an unexpired term caused by a City Council vacancy.

STATE OF MICHIGAN)
COUNTY OF ST. CLAIR) SS.
CITY OF PORT HURON)

I, SUSAN M. CHILD, City Clerk of the City of Port Huron, do hereby certify that the foregoing document is a true copy of the Charter of the City of Port Huron, which was approved on August 6, 2010, by the Charter Commission, which Commission consisted of the following persons:

Laurie Sample-Wynn, Chairperson
Karl S. Tomion, Vice Chairperson
Karen S. Jamison
Melinda K. Johnson
B. Mark Neal
Patrick D. Parcell
Gregory T. Stremers
Jeffrey L. Wine
Pauline M. Repp (resigned 11/9/09)

And, further, that the foregoing document was approved by the voters of the City of Port Huron at a general election held on Tuesday, November 2, 2010.

/s/
Susan M. Child, CMC
City Clerk

Charter Comparative Table

This page gives the location within this Charter of those sections from the 1969 Charter. This page is not a part of the official City Charter and is provided for convenience purposes only.

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Amendments/Revisions to the 2011 City Charter

Date	Chapter / Section(s)	Description
06-22-2013	4 - Elections 4-5(b) and (c)	Canvassing of City elections: Act 51 of 2013 repealed the canvassing of City elections by a City Board of Canvassers. County Board of Canvassers to canvass City election results.
11-05-2013	7 - General Taxation 7-2(b)	Street millage renewal: Voters approved a two (2) mill street millage renewal for 10 years through June 30, 2024.
01-01-2014	4- Elections 4-3(b) and (c)	Council elections changed to even-years: Pursuant to Act 523 of 2012 and Council Resolution PH #13-032 dated June 24, 2013, Council elections to be held in November even-years.
11-04-2014	3 - Legislation 3-13	Marijuana; added Section 3-13: Voters approved an initiatory petition ballot proposal to add this section.