

## CHARTER

### HISTORY OF THE CITY AND ITS CHARTER

The site of the present downtown area of the City of DeWitt was settled in 1833, preceding the official formation of the surrounding Township of DeWitt, which was created by Act of Michigan Legislature in 1836.

Clinton County incorporated in 1839. The county seat was at the DeWitt settlement from 1839 until 1857, when it moved to St. Johns.

The boundaries of the City of DeWitt include what was formerly the Village of DeWitt, which became a home rule village in 1929. Seeking to expand services to its residents, the village incorporated as a home rule city at the adoption of the first city charter on June 9, 1965.

No governing document is static. Since DeWitt was settled the State of Michigan has had four constitutions. The Constitution of the United States has been amended twenty-seven times.

The DeWitt City Charter has been amended several times. Other provisions were made obsolete by operation of law. After extensive review of the entire charter, an independent study group appointed by the city council recommended its revision.

The citizens of DeWitt voted for charter revision on August 4, 1992, and elected members to a charter commission, which proposed this document for presentation to the community at the regular election on November 8, 1994. The effective date of the revised charter is January 1, 1995.

#### Members of the 1992-1994 City Charter Commission:

Chair:	Carmen L. Seats	Clerk of the Commission:
Vice Chair:	Virginia L. Martlew	Margie N. Lotre
	Margaret B. Arbanas	City Clerk-Treasurer
	Peggy A. Brown	
	Rodger F. Brown	Legal Advisor:
	Cathy H. Harris	Daniel C. Matson
	Hazel J. Myers	City Attorney
	Susan G. Thayer	
	Wayne H. Verspoor	

**PREAMBLE  
TO THE CHARTER  
OF THE CITY OF DEWITT**

This first revision of the Charter of the City of DeWitt includes concepts which were not stated in the former charter. The revision reflects present concerns and sensitivities of local government in its current work and as it prepares for the future. The document is a further expression of Michigan home rule which provides community self-determination within the framework of law.

The Charter recognizes the need to plan for inevitable change, and to direct it where possible. Expansions of law and technology signal changes in the governing process. Persons in municipal service are therefore advised to continue related education and training programs.

As the community becomes more populous and the demand for services intensifies, imperatives arise for joint venture with neighboring municipalities. The Charter recognizes the need for cooperative efforts.

Conservation of precious resources, both natural and human, is a health, safety and welfare consideration central to local government. It is hoped that policy-making will focus on the protection of the environment at every step.

Plans which affect citizens generally are to be shared by government. The City will undertake to keep the public informed. An ethics ordinance is mandated by the Charter; its guiding principle is to place community interest above private interest.

The movement away from the use of courts for dispute resolution is a developing dynamic. The net effect is to save government and citizens time and money, and to reconcile neighbors to each other. The Charter addresses that prospect.

The community is the composite of its culture. The municipality recognizes the economic and social importance of having cultural amenities within it, including the arts, which allow a desired quality of life to be enjoyed here.

The Charter claims the broadest powers available within the home rule framework. It is hoped that the advantages afforded by this system will be valued by further generations who live and prosper within the City of DeWitt.

**ARTICLE 1. NAME AND BOUNDARIES**

**Section 1. Corporate name.**

The municipal corporation organized and known as the City of DeWitt shall continue as a home rule city.

**Section 2. Municipal boundaries.**

The boundaries of the City of DeWitt when this charter takes effect shall continue until changed in accordance with law.

**State law reference**—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq., MSA 5.2085 et seq.

**ARTICLE 2. GENERAL PROVISIONS****Section 2.1. Article and section headings and index.**

The article, section and other headings in this charter, and the index, are for convenience only and are not part of the text of the charter.

**Section 2.2. Form of government.**

The form of municipal government provided in this charter is that of mayor-council.

**Section 2.3. Counting days.**

In all places in this charter where a number of days is referred to, it shall be presumed that consecutive calendar days are intended, unless the context clearly indicates otherwise.

**Section 2.4. Business days.**

Whenever the date fixed by law or ordinance for the doing or completion of an act falls on a legal holiday or other non-business day of the city, the act shall be done or completed on the next business day of the city.

**Section 2.5. Trusts.**

The city, by action of the council, shall have discretion to receive, hold, and use any property in trust for municipal purposes. All trusts established for municipal purposes shall be used and continued in accordance with their terms, subject to the cy pres doctrine.

**Section 2.6. Estoppel.**

The assertion of estoppel, as defined by law, shall have no legal effect against the city.

**Section 2.7. Process against city.**

All process against the city shall be in the corporate name of the city and served by leaving a true copy with the mayor, the clerk, or the attorney.

**Section 2.8. Severability of Charter provisions.**

If any portion of this charter is found to be invalid, the determination shall not invalidate the remainder of the charter.

**Section 2.9. Continuation of powers, rights, and actions.**

All powers, rights, and causes of action of the city existing when this charter is adopted shall continue.

**Section 2.10. Orientation sessions.**

After every regular city election the city administrator shall schedule an orientation session for elected officials, administrative officers, their deputies, and others at the direction of their officers. The session shall include a review of local government documents, and shall be open to the public.

**Section 2.11. Reading the Charter.**

Each elected official and administrative officer, their deputies, and the heads of all city boards, commissions, and authorities, shall, upon taking office, read this charter, and shall certify their reading to the clerk.

**Section 2.12. Violation of Charter.**

A violation of this charter is declared to be a misdemeanor and is punishable by the same maximum fine and imprisonment as provided by statute for ordinance violations. The council may provide by ordinance that a violation of a charter provision is a civil infraction, and is punishable as a municipal civil infraction, as provided by statute.

**State law references**—Authority to designate certain violations as municipal civil infractions, MCL 117.41(3), (4), MSA 5.2083(2), (3), (4); limitation on penalties, MCL 117.4i(10), MSA 5.2082, (10); municipal civil infractions, MCL 600.8 et seq., MSA 27A.8701 et seq.

**Section 2.13. Nondiscrimination and civil rights.**

In the exercise of their powers or in the performance of their duties, all officials, officers, appointees, and employees of the city shall ensure that no person engaged in the conduct of official business or seeking to do business with the city is discriminated against because of race, creed, political orientation, color, national origin, marital status, sex, age, handicap or for any cause not reasonably related to the accomplishment of a legitimate governmental purpose, and shall take whatever action is necessary to accomplish this purpose.

**Section 2.14. Public meetings.**

The business of "public bodies" of the city, as the term is defined by the Open Meetings Act, Act No. 267 of the Michigan Public Acts of 1976, as amended, shall be conducted in compliance with the Act, or a future such act. All public meetings shall be accessible to the public. Citizens shall have reasonable opportunity to be heard at all open meetings.

**State law reference**—Mandatory that Charter provide that all sessions of the legislative body shall be public, MCL 117.3(l), MSA 5.2073, (l).

**Section 2.15. Records.**

Records of the city shall be made available to the general public in compliance with the Freedom of Information Act, Act No. 440 of the Michigan Public Acts of 1976, as amended, or a future such act.

**State law reference**—Mandatory that Charter provide that all sessions of the legislative body shall be public, MCL 117.3(1), MSA 5.2073, (1).

**Section 2.16. Public streets and other public places.**

The right to use, control, and regulate use of its streets, walks, paths, bridges, parks, cemetery, buildings, and other public places, and the space above and beneath them, is reserved to the city.

**State law reference**—Permissible that Charter provide for the use, regulation, improvement and control of streets and public ways, MCL 117.4h, MSA 5.2081.

**Section 2.17. Condemnation of private property for public purpose.**

The city may acquire private property by condemnation for any public use or purpose within the scope of its powers, provided that just compensation is made.

**State law reference**—Permissible that Charter provide for condemnation, MCL 117.4e(2), MSA 5.2078, (2).

**Section 2.18. Person in default to the city.**

The city shall not contract with, or give an official position to, one who is in default to the city. An official position shall include all elective officials and appointive officers and department heads of the city.

The word "default" is defined to include delinquency in payment of taxes, assessments, and other indebtedness to the city.

No person who is in default to the city shall take or hold any official position unless the default is resolved. Written notice describing the default shall be filed with the clerk and verified by the treasurer and served upon the candidate before the oath of office is given, or upon the officeholder. The term "default" shall not apply if the candidate or officeholder shall, within 30 days after receiving the notice, resolve the default, or if the person shall contest it by recognized means of legal procedure before a court or tribunal of competent jurisdiction. In the event the indebtedness is upheld, the person shall have 30 days after final determination of the obligation is made to pay it in full.

**State law reference**—Restriction on giving an official position to one who is in default to the city, MCL 117.5(f), MSA 5.2084, (f).

**Section 2.19. Providing for the public peace, health and safety.**

The city shall provide for the public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, the city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, township, or another city for services considered necessary by the council.

**State law reference**—Permissible that in providing for the public peace, health and safety, a city expend funds or enter into contracts with a private organization, the federal or state government, a county, village or township, or another city for services considered necessary by the municipal body vested with legislative power, MCL 117.3(j), MSA 5.2073, (j).

**ARTICLE 3. DEFINITIONS AND INTERPRETATIONS**

Except as otherwise specifically provided or indicated by the context:

*Section 3.1* "Assessor" means the city assessor.

*Section 3.2* "Attorney" means the city attorney.

*Section 3.3* "Charter" means the Charter of the City of Dewitt.

*Section 3.4* "City" means the City of DeWitt.

*Section 3.5* "City Administrator" means the city administrator of DeWitt.

*Section 3.6* "Clerk" means the clerk of the city.

*Section 3.7* "Council" means the city council.

*Section 3.8* "Default" includes delinquency in payment of taxes, assessments, and other indebtedness to the city.

*Section 3.9* "Elector" means a resident of the city having the qualifications of an elector in the State of Michigan, and who has resided in the city at least 30 days.

*Section 3.10* "Employee" means an individual employed by the city other than an official, officer, appointee, volunteer, independent contractor, or employee of an independent contractor.

*Section 3.11* "Law" shall include applicable Federal law, the Michigan Constitution and statutes, and applicable common law in effect at the time the provision of the charter containing the word "law" is to be applied.

*Section 3.12* "Mayor" means the mayor of the city.

*Section 3.13* "Newspaper" means a newspaper in the English language in general circulation within the city.

*Section 3.14* "Officer" means an appointive officer of the city.

*Section 3.15* "Official" means an elective official of the city.

*Section 3.16* "Person." The word "person" may extend and be applied to an individual, a partnership, corporation, association, other legal entity, or a combination of them.

*Section 3.17* "Publish." The word "publish" means publication as provided by this charter, ordinance, or council resolution.

*Section 3.18* "Singular and Plural." The singular shall include the plural and the plural shall include the singular, unless the context indicates otherwise.

*Section 3.19* "State." The word "state" means the State of Michigan.

*Section 3.20* "Statutes." All references to statutes shall include statutes as amended.

*Section 3.21 "Tax Day."* The "tax day" shall be December 31 of each year, unless changed by law.

*Section 3.22 "Treasurer"* means the treasurer of the city.

## ARTICLE 4. MUNICIPAL POWERS

### **Section 4.1. General powers.**

The city, its officials, and its officers, are vested with all powers and immunities, mandatory and permissive, expressed and implied, present and future, provided by the constitution and law of the State of Michigan for home rule cities and their officials and officers, to the same extent as if the powers were set forth in this charter in detail. The city incorporates them by reference in this charter.

The city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated in this charter or not; and may take any action to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, may pass all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of this state.

**State law reference**—Permissible that Charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, MCL 117.4j(3), MSA 5.2083, (3).

### **Section 4.2. Liberal construction.**

The powers of the city under this charter shall be construed liberally in favor of the city. The specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this article.

### **Section 4.3. Intergovernmental relations.**

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

**State law reference**—Permissible that in providing for the public peace, health and safety, a city expend funds or enter into contracts with a private organization, the federal or state government, a county, village or township, or another city for services considered necessary by the municipal body vested with legislative power, MCL 117.3(j), MSA 5.2073, (j).

### **Section 4.4. Relations with municipalities of other countries.**

The city may establish relationships with municipalities of other nations, as may enrich its culture through the exchange of ideas and customs.

**ARTICLE 5. ELECTIONS\***

**Section 5.1. State law to apply.**

Except as otherwise provided by this charter or ordinance, state law applies to the procedures relating to registration of electors, filing for office by candidates, and the conduct and canvass of city elections.

**State law reference**—Michigan election law, MCL 168.1 et seq., MSA 6.1001 et seq.

**Section 5.2. Elections at large, one ward.**

All officials of the city are elected at large. The city shall consist of one ward.

**State law references**—Mandatory that Charter provide for the establishment of one or more wards, MCL 117.3(e), MSA 5.2073, (e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

**Section 5.3. Non-partisan elections.**

The election of all city officials as provided in this charter shall be non-partisan.

**Section 5.4. Qualifications of electors.**

Every person having the qualifications of an elector, or who will have those qualifications at the next election or primary election, shall be entitled to register as an elector of the city.

**State law references**—Mandatory that Charter provide for the registration of electors, MCL 117.3(c), MSA 5.2073, (c); registration of electors, MCL 168.491 et seq., MSA 6.1491 et seq.; qualifications for registration as an elector, MCL 168.492, MSA 6.1492.

**Section 5.5. City elections.**

*Section 5.5.1 Regular City Election.*

The regular city election shall be held in each even numbered year on the same date as state and federal general elections.

**State law reference**—Provisions pertaining to odd year general elections inapplicable to certain home rule cities, MCL 168.644j, MSA 6.1644(10).

*Section 5.5.2 City Primary Election.*

The city primary election shall be held on the same day of the regular state primary election in every even numbered year, except as otherwise provided in this charter.

*Section 5.5.3 Candidates Nominated.*

Candidates in number equal to twice the number of persons to be elected to each city office, who receive the highest number of votes at the primary election, shall be declared the nominees for election to the respective offices for which they are candidates.

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\***State law reference**—Mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073, (c).

*Section 5.5.4 When No Primary Election Necessary.*

If, upon the expiration of the time for filing nomination petitions, the number of candidates on the petition do not exceed twice the number of candidates to be elected to an office, then no primary election shall be held for the office and the clerk shall publish notice of that fact.

*Section 5.5.5 Special City Elections.*

Special city elections shall be called by resolution of the council, to be held on a date in accordance with the general laws of the state. Any resolution calling a special election shall set forth the purpose of such election. No more than two special city elections shall be called by the council in any twelve month period.

**State law references**—Restrictions on number of special elections, MCL 117.5(c), MSA 5.2084, (c); special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

**Section 5.6. Time of taking office and holding office.**

All persons elected to city offices at the regular city election shall take office at the first regular council meeting in January following the election, unless the time for taking office is extended by the council for a period of not more than 10 days, or is otherwise provided by this charter. If the regular city election date provided in this charter changes by more than 30 days, the councilmembers-elect and mayor-elect, as the case may be, shall take office at the regular council meeting commensurate with the timing stated in this Section.

**Section 5.7. Election commission.**

An election commission is hereby created, consisting of the clerk, and two other city officers to be appointed by the council at least ninety (90) days before each regular city election. The clerk shall be the chair. The commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

The election commission shall, before each election, appoint a board of inspectors of election. The board shall consist of not less than three qualified electors of the city. When a city election is held on the same day as a national, state or county election or primary, the same election officials shall act in both the city and the national, state, or county election or primary.

**State law references**—Boards of city election commissioners, MCL 168.25, MSA 6.1025; precinct election inspectors, MCL 168.674 et seq., MSA 6.1674 et seq.

**Section 5.8. Compensation of election inspectors.**

The compensation of election inspectors shall be determined by the council in advance of their appointment.

**Section 5.9. Notice of election.**

Notice of the time and place of holding any city election and of the officials to be nominated or elected, and the questions to be voted upon, shall be given by the clerk as provided by state law.

**State law reference**—Notice of election, MCL 168.653a, MSA 6.1653(1).

**Section 5.10. Voting hours.**

The polls shall be opened and closed at all elections at the time prescribed by law for the opening and closing of polls at state elections.

**State law reference**—Opening and closing of polls, MCL 168.720, MSA 6.1720.

**Section 5.11. Nominating petitions.**

Persons desiring to qualify as candidates for any elective office under this charter shall file a petition with the clerk, signed by not less than fifteen (15) nor more than thirty (30) registered electors of the city, not later than the date and time for the filing of nominating petitions for state and county offices. The form of the petition shall be substantially as that designated by the state for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the clerk. Before the clerk shall furnish a form of nominating petition to any person, the clerk shall place upon it in ink the name of the candidate and the title of the office for which the person is to be a candidate. No petition which has been altered with respect to such entries shall be received by the clerk for filing.

The clerk shall publish notice of the last day and time for filing nomination petitions at least one (1) week before, and not more than three (3) weeks before, that day.

No person shall sign his or her name to a greater number of petitions for any one office than there will be persons elected to the office. Where a petitioner signs more petitions than there are candidates to be elected to the office, the name shall be counted only upon the earliest petitions signed corresponding to the number of openings for that office.

**State law references**—Mandatory that Charter provide for the nomination of elective officers, MCL 117.3(b), MSA 5.2073, (b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

**Section 5.12. Approval of petitions.**

The clerk shall accept only nomination petitions which conform with the forms provided and maintained by the clerk, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by this charter. When a petition is filed by a person other than the person whose name appears on it as a candidate, it may be accepted only when accompanied by the written consent of the candidate. After the petition is filed, the clerk shall promptly give written notice to any candidate whose petition does not meet the requirements of this section. Failure to notify a candidate shall not prevent a final determination that the petition does not meet such requirements. Within five days after the last date for filing petitions the clerk shall make final

determination of the validity and sufficiency of each petition and whether or not the candidate has the qualifications required by this charter for elective city offices. The clerk shall certify the determination and shall notify the candidate of the determination in writing.

**Section 5.13. Public inspection of petitions.**

All nomination petitions filed shall be open to public inspection in the office of the clerk.

**Section 5.14. Form of ballots.**

The form of the ballots used in any city election shall conform to that prescribed by state law, except that no party designation or emblem shall appear upon any city ballot. The names of qualified nominees for each office shall be listed in a single column and shall be rotated on the ballots as prescribed by state law.

**State law reference**—Arrangement of ballot, MCL 168.706, MSA 6.1706.

**Section 5.15. Delivery of registration books and supplies.**

The clerk shall be responsible for the custody and safe keeping of all registration books and supplies. On election day, the clerk shall deliver them to the respective board of inspectors of election, and obtain a receipt for them.

**Section 5.16. Absentee ballots.**

The electors of the city shall be entitled to vote by absentee ballots at any city election under the circumstances and in the manner provided by law.

**State law reference**—Absent voters, MCL 168.758 et seq., MSA 6.1758 et seq.

**Section 5.17. Board of canvassers.**

If required by law the mayor, with confirmation of the council, shall appoint a qualified board of canvassers. The board shall have all the powers and duties provided by law.

**State law references**—Boards of canvassers for cities; contracts with county permissible, MCL 168.30a, MSA 6.1030(1).

**Section 5.18. Tie vote.**

If two or more candidates for the same city office receive an equal number of votes, the outcome of the election shall be determined as provided by law.

**State law reference**—Determination of election by lot, MCL 168.851 et seq., MSA 6.1851 et seq.

**Section 5.19. Recount.**

A recount of the votes cast at any city election for any office or upon any proposition may be taken as provided by law. Unless otherwise provided by law the petition for a recount of the votes cast at any city election shall be filed with the clerk within six (6) days after the board

of canvassers has made its official report of the result of the election at which the votes were cast. Any counter petition shall be filed within forty-eight hours after the petition for recount was filed.

**State law reference**—Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

#### **Section 5.20. Recall.**

Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state.

**State constitutional reference**—Recalls, Mich. Const. 1963, Art. II, § 8.

**State law references**—Permissible that Charter provide for recall of its officers, MCL 117.4i(g), MSA 5.2082, (g); recall generally, MCL 168.951 et seq., MSA 6.1951 et seq.

### **ARTICLE 6. ELECTIVE AND APPOINTIVE OFFICES**

#### **Section 6.1. Eligibility for office.**

The council shall be the judge of eligibility for all elective and appointive offices.

#### **Section 6.2. Oath of office.**

Each elective official, and appointive officer and deputy, shall take an oath of office before assuming office. Violation of the oath of office shall constitute a violation of this charter and shall be subject to penalties prescribed by this charter or by ordinance.

**State constitutional reference**—Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

#### **Section 6.3. Elective officials.**

The elective officials of the city shall be the members of the council and the mayor.

**State law reference**—Mandatory that Charter provide for election of certain officers, MCL 117.3(a), MSA 5.2073, (a).

#### **Section 6.4. Qualifications of elective office.**

Elective officials shall be registered electors of the city, who shall have resided within the city for six months or more, and shall be at least 21 years of age on the date the office is to be filled.

**State law reference**—Mandatory that Charter prescribe qualifications of officers, MCL 117.3(d), MSA 5.2073, (d).

#### **Section 6.5. Nominations by council.**

In the event a valid nominating petition is not filed for an elective office, the council shall within 10 days after the last day for filing petitions for the office, meet at the call of the clerk as a nominating caucus and nominate at least one qualified elector for the office.

**Section 6.6. Appointive officers.**

The mayor shall appoint all administrative officers, subject to confirmation by the council. Administrative officers shall hold indefinite terms and shall serve at the pleasure of the mayor. Primary consideration shall be given to electors of the city in making appointments of administrative officers.

**State law reference**—Mandatory that Charter provide for the appointment of certain officers, MCL 117.3(a), MSA 5.2073, (a).

**Section 6.7. Members of boards, commissions, authorities and other agencies.**

The mayor shall appoint all members of boards, commissions, authorities and other agencies, subject to confirmation by the council. All members of such agencies shall be electors of the city.

**Section 6.8. Resignations.**

Resignations of all elective officials and appointive officers shall be made in writing and filed with the clerk, and shall be acted upon at the next regular or special meeting of the council following their filing.

**Section 6.9. Vacancies in office.**

An elective office shall become vacant upon the occurrence of any of the following events:

Expiration of term of office; death; extended disability; resignation; removal from office; ceasing to possess qualifications of office required by this charter or by law; conviction of a felony; a court declares election to office is void; failure to take oath of office between the date of the certification of election and commencement of term unless extended by the council; absences from four consecutive regular meetings, unless excused, or absence from 25% of all meetings within a year unless excused and the reason stated in proceedings of each meeting; absence from the city or failure to perform duties of office for 60 days, unless excused by the city council; recalled from office as provided by law; or any other event which, by law, creates a vacancy.

**Section 6.10. Filling of vacancies.**

A vacant elective office shall be filled within 30 days by a person having the qualifications for elective office required by this charter. A vacancy in the office of a councilmember shall be filled by appointment of the mayor and confirmation by the council. A vacancy in the office of mayor shall be filled by resolution of the council. The person filling the vacancy shall hold office until the next regular city election, at which election the office shall be filled for the remainder of its unexpired term. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

**State law reference**—Recall generally, MCL 168.951 et seq., MSA 6.1951 et seq.

**Section 6.11. Change in terms of office.**

The terms of the elective officials of the city shall not be shortened, nor shall their terms be extended beyond the period for which any such official was elected.

**Section 6.12. Change in compensation.**

The council shall not grant or authorize extra compensation to any city officer, agent or contractor, after the service has been rendered or the contract entered into.

**Section 6.13. Forfeiture of office and removal for cause.**

The council shall declare the forfeiture of the office of any elective official and may remove such person from office for a cause specified in the following subsection. In every case there shall be a public hearing before the council with notice to the individual involved and to the public. An official charged with conduct constituting grounds for forfeiture may not preside or sit with the council in its resolution of the charge.

The office of an elective official shall be forfeited if the person:

6.13.1 while holding office lacks any qualifications required by this charter;

6.13.2 is guilty of misfeasance, malfeasance, or nonfeasance of the office;

6.13.3 is convicted of a felony while holding the office or appointment;

6.13.4 intentionally violates or aids another person in the violation of a provision of this charter.

**Section 6.14. Judicial review.**

Decisions made by the council resulting in forfeiture of office are subject to judicial review in a hearing de novo.

**ARTICLE 7. CITY GOVERNMENT****CITY COUNCIL****Section 7.1. Composition and powers.**

There shall be a city council of six members.

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

The council shall provide for the public peace and health and the safety of persons and property.

**State law reference**—Mandatory that Charter provide for a body vested with legislative power, MCL 117.3(a), MSA 5.2073, (a).

**Section 7.2. Terms of office.**

Members of the council shall be elected to four year terms from the city at large by the electors of the city. Three members of the council shall be elected at the regular city election in November of each even numbered year.

**State law references**—Mandatory that Charter provide for election of certain officers, MCL 117.3(a), MSA 5.2073, (a); provisions pertaining to odd year general elections inapplicable to certain home rule cities, MCL 168.644j, MSA 6.1644(10).

**Section 7.3. Rules.**

The council shall determine its own rules and order of business. The rules shall provide that citizens shall have a reasonable opportunity to be heard at all council meetings.

**Section 7.4. Council meetings.**

All meetings of the council shall be public.

**State law references**—Mandatory that Charter provide for public meetings, MCL 117.3(l), MSA 5.2073, (l); open meetings act, MCL 15.261 et seq. MSA 4.1800(11) et seq.

**Section 7.5. Regular meetings.**

The council shall provide by resolution for the time and place of its regular meetings, and shall hold at least one regular meeting each month.

**Section 7.6. Special meetings.**

Special meetings shall be called by the clerk on request of the mayor or any two council members. Written notice stating each matter to be considered at a special meeting shall be given each council member and the mayor, as provided by council rules, unless the entire council and the mayor are present and waive notice.

**Section 7.7. Record of meetings.**

The clerk shall keep a printed journal of each council meeting in the English language. Minutes of meetings of the council shall be available within 5 days after approval by the council, or as otherwise provided by law.

**State law references**—Mandatory that Charter provide for keeping of a journal of each session, MCL 117.3(m), MSA 5.2073, (m); freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

**Section 7.8. Quorum.**

Four members of the council present in person shall be a quorum for meetings. A smaller number of members may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties provided by rules of the council.

**Section 7.9. Voting.**

Voting shall be by roll call of "yes" or "no" on all matters acted upon by the council, except when the vote is unanimous it shall only be necessary to so state. The affirmative votes of four members, including that of the mayor in the case of tie, shall be necessary to take action on any matter, including passage of ordinances and resolutions, unless a greater number is required by this charter, or by law. The mayor shall vote only in the case of a tie, except as otherwise provided by this charter. Every council member present shall vote on all questions, unless a member has a conflict of interest, in which case the member's conduct shall be governed by law.

**State law references**—Conflicts of interest as contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq. MSA 4.1700(71) et seq.

**Section 7.10. Sergeant at arms.**

The chief of police or a designee of the chief shall serve as sergeant at arms at each council meeting.

**Section 7.11. Officer and staff oversight.**

Except for purposes of inquiries and investigations, the council and its members shall deal with city officers and employees who are subject to the direction and supervision of the mayor solely through the mayor, and neither the council nor its members shall give orders to any such officer or employee either publicly or privately.

**Section 7.12. Investigations.**

The council, or any person or committee authorized by it, may make investigations into affairs of the city and the conduct of any person in the municipal service, and may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before the council or any of its committees. Failure to obey a subpoena or to produce evidence shall constitute misconduct in office. The council shall apply to the appropriate court to enforce a subpoena or order for production of evidence or to impose any penalty for failure to obey a subpoena or order.

**Section 7.13. Compensation and expenses.**

The council shall establish the compensation of its members and the mayor by ordinance, or by creation of a local officers compensation commission as provided by law. If the council makes a change in compensation, it shall not be effective during the term of office for which any member of the council at the time of the change was elected. The mayor and members of the council shall be allowed reasonable expenses when actually incurred in the course of city business and accounted for to the city.

**State law references**—Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073, (d); authority to establish a local officers compensation commission, MCL 117.5c, MSA 5.2084(3).

## MAYOR

**Section 7.14. Chief executive officer.**

The mayor shall be the chief executive officer of the city and the official head of the city for ceremonial purposes. The mayor shall preside at council meetings. The mayor shall direct and supervise all administrative officers, except for the attorney, who shall be accountable to the council and the mayor.

**State law reference**—Mandatory that Charter provide for the election of a mayor, who shall be the chief executive officer of the city, MCL 117.3(a), MSA 5.2073, (a).

**Section 7.15. Voting.**

The mayor shall vote to break a tie in any matter before the council, unless the mayor has a conflict of interest in the matter, in which case the mayor's conduct shall be governed by law.

**State law references**—Conflicts of interest as contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

**Section 7.16. Terms of office.**

The mayor shall be elected by the electors of the city to two year terms.

**Section 7.17. Emergency powers.**

In emergencies the mayor shall have the powers conferred by law upon peace officers and shall exercise such powers, as chief executive officer, to prevent disorder, to preserve the public peace and health and to provide for the safety of persons and property.

**Section 7.18. Veto power.**

The mayor shall have veto power over every ordinance and resolution adopted by the council.

7.18.1 To exercise a veto the mayor shall write the word "vetoed," the date and the mayor's signature on the ordinance or resolution adopted by the council, before the beginning of the next regular council meeting. An ordinance or resolution not so marked shall stand approved.

7.18.2 The mayor shall inform the council of the veto and shall state reasons for the veto at the next regular council meeting after the veto.

7.18.3 The council may override the veto at any of its three regular meetings following the veto by the affirmative vote of five council members. The ordinance or resolution shall have the same effective date as when adopted if the veto is overridden.

**Section 7.19. Authentication of documents.**

The signature of the mayor shall authenticate all documents of the city requiring authentication unless otherwise provided by law or this charter.

**Section 7.20. Mayor pro tempore. (mayor pro tem).**

The mayor shall appoint one of the council members to serve as mayor pro tem, at the first regular council meeting at which the mayor takes office. The mayor pro tem shall serve at the pleasure of the mayor. A subsequent vacancy in the office of mayor pro tem shall be filled by the mayor. In the event the mayor does not fill a vacancy in the office, the council shall elect one of its members to fill the vacancy until the mayor shall appoint a mayor pro tem. The mayor pro tem shall perform the duties of the mayor in the absence or disability of the mayor or at the request of the mayor. The mayor pro tem shall preside over the council in the absence, or at the call, of the mayor. The mayor pro tem shall not lose the right to vote as a member of the council by reason of presiding over the council, but shall not have veto power. Resignation from the office of mayor pro tem shall be by written notice to the mayor.

**ARTICLE 8. LEGISLATION\*****Section 8.1. City legislation preserved.**

All ordinances, resolutions, rules and regulations of the city which are consistent with the provisions of this charter, in force and effect at the time this charter is adopted, shall continue in force and effect until amended or repealed.

**Section 8.2. Legislation.**

All city legislation shall be by ordinance or by resolution of the council.

**Section 8.3. City action requiring an ordinance.**

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

- 8.3.1 Provide a penalty or establish a rule or regulation for violation of which a penalty is imposed.
- 8.3.2 Provide for the levying and collecting of excises and taxes, except as provided in this charter concerning property taxes authorized by a budget resolution.
- 8.3.3 Amend or repeal any ordinance previously adopted.
- 8.3.4 Adopt, with or without amendment, ordinances proposed under initiative power.
- 8.3.5 Grant, renew or extend a franchise.
- 8.3.6 Regulate rates charged by a public utility.

Other acts of the council may be done either by ordinance or by resolution.

**\*State constitutional reference**—General authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

**State law reference**—Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073, (k).

**Section 8.4. Preparation of ordinances.**

The attorney shall draft or approve all drafts of ordinances and their amendments.

**Section 8.5. Ordinance requirements.**

Every proposed ordinance shall be in writing. No ordinance may contain more than one subject. Each ordinance shall have a number, a title and a preamble. The title and preamble must clearly express the subject. The enacting clause shall be: "The City of DeWitt Ordains."

**Section 8.6. Passage of ordinances.**

No ordinance shall be finally passed at the same meeting at which it is introduced, unless it is declared to be an emergency ordinance.

**Section 8.7. Emergency ordinances.**

An emergency ordinance may be enacted to meet a public emergency affecting life, health, property or the public peace. An emergency ordinance shall be introduced in the form and manner required for ordinances generally, except that it shall contain, after the enacting clause, a declaration that an emergency exists and describe it in clear and specific terms.

**Section 8.8. Amendment or repeal of ordinance.**

An ordinance may amend or repeal an existing ordinance or a part or parts of an ordinance or ordinances. 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.

**Section 8.9. Technical codes.**

The city may adopt a law, or a code or rules that have been promulgated and adopted by a department, board or other authorized agency of the state, or by an organization or association that is organized and conducted for the purpose of developing codes, by reference to the law, code or rules in the adopting ordinance. The purpose of the law, code or rules shall be clearly identified in the ordinance. The ordinance, or a summary of the ordinance, shall be published. A sufficient number of copies shall be available in booklet form for public inspection or distribution at cost.

**State law reference**—Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073, (k).

**Section 8.10. Penalties.**

The council shall provide by ordinance the civil or criminal penalties for ordinance violations. No civil or criminal penalty shall exceed the maximum fine, or imprisonment, or both, provided by statute.

**State law references**—Limitation on penalties, MCL 117.4i(10), MSA 5.2082, (10); authority to designate certain violations as municipal civil infractions, MCL 117.4l(3), (4), MSA 5.2083(2), (3), (4); municipal civil infractions, MCL 600.8701 et seq., MSA 27A.8701 et seq.

**Section 8.11. Effective date.**

An ordinance shall become effective upon publication, unless it shall provide an effective date later than the date of publication.

**Section 8.12. Publication.**

Ordinance publication shall be made in a newspaper in general circulation within the city, within fifteen (15) days after adoption. A summary of an ordinance approved by the attorney may be published, in which case the publication shall include a location in the city where a true copy of the ordinance can be inspected or obtained. Emergency ordinances shall first be published by posting copies of the entire ordinance in ten conspicuous public places within the city as soon as practicable after enactment, and further published in full or in summary form as in the case of ordinances generally.

**State law reference**—Mandatory that Charter provide for publication of all ordinances before they become operative, MCL 117.3(k), MSA 5.2073, (k).

**Section 8.13. City Code.**

Within two years after the effective date of this charter the council shall contract for the preparation of a general codification of all city ordinances and resolutions having the effect of law. The ordinance adopting the code, including its purpose, as well as subsequent ordinances repealing, amending, continuing or adding to the code, shall be published as required by law. Printed copies of the code shall be available in the office of the clerk for public inspection, and for sale at a reasonable charge, and shall constitute publication. The code shall be continually reviewed and changed as needed.

**State law reference**—Codification authority, MCL 117.5b, MSA 5.2084(2).

**Section 8.14. Ethics.**

Within two years after the effective date of this charter the council shall adopt an ethics policy 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 8.15. Authentication and record of ordinances.**

The mayor and the clerk shall authenticate by signature, and the clerk shall record, all ordinances and resolutions in a book properly indexed and kept for that purpose.

**Section 8.16. Severability of ordinances.**

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

given effect without the invalid portion or applications, provided the remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

**Section 8.17. Specific legislation.**

The council is further authorized to provide legislation to implement the following, which are declared to be municipal concerns in the public interest:

*Section 8.17.1 An Informed Public.*

Enhancement of ongoing public awareness of city business through the use of news releases, cable television, public appearances and other forms of communication.

*Section 8.17.2 Planning for Change.*

Continual planning for the effects of inevitable change upon city government, and upon the provision of services to the public.

*Section 8.17.3 Continuing Education.*

Providing programs for instruction and training of persons within the municipal service, related to their positions with the city.

*Section 8.17.4 Environmental Resources.*

Preserving and protecting environmental resources of the city.

*Section 8.17.5 Cultural Enhancement.*

Promoting the distinctive cultural assets of the city, including its history, natural beauty, and the arts.

*Section 8.17.6 Intergovernmental Relations.*

Establishing and maintaining liaison with other governmental units, to promote common goals and understanding.

*Section 8.17.7 Alternative Dispute Resolution.*

Making available a program of resolving claims, disputes, and conflicts between members of the public and the city, and between persons within the municipal service, by out of court means in appropriate cases.

**ARTICLE 9. INITIATIVE AND REFERENDUM\***

**Section 9.1. Powers reserved to electors.**

The electors of the city reserve to themselves the powers of initiative and referendum.

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\***State law reference**—Permissible that Charter provide for initiative and referendum, MCL 117.4i(6), MSA 5.2082, (6).

**Section 9.2. Initiative.**

Initiative means the power to propose ordinances and to enact ordinances.

**Section 9.3. Referendum.**

Referendum means the power to reject ordinances adopted by the council.

**Section 9.4. Restrictions on powers.**

The powers of initiative and referendum do not include the power to propose or reject ordinances of taxation or appropriation of city funds.

**Section 9.5. Initiative and referendum.**

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

**Section 9.6. Petitions.**

An initiatory or referendary petition shall be signed by not less than fifteen (15) percent of the registered electors of the city. The petition shall be signed within ninety (90) days before the date of its filing with the clerk. The petition shall include or have attached to it the exact statement of the ordinance proposed or to be rejected. All such petitions shall be approved as to form by the clerk before being circulated for signatures. No such petition need be on one paper but may be the aggregate of two (2) or more petition papers, provided that each such paper shall contain the same wording. Each signer of a petition shall sign his or her name, the date of signature and place of residence by street and number. The circulator shall attach to each petition an affidavit stating the number of signers, that each signature is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the circulator. The petition shall be filed with the clerk, who shall within ten (10) business days, canvass the signatures sworn to by the circulator to determine their sufficiency. If the clerk finds the petition contains an insufficient number of signatures of registered electors of the city, or that they are improper as to form, or not in compliance with the provisions of this section, the clerk shall promptly notify the person filing the petition in writing. A period of ten (10) days after the notice shall be allowed for filing supplemental petition papers. The clerk shall present a petition found to be sufficient and proper to the council at its next regular or special meeting.

**Section 9.7. Council procedure.**

Upon receiving an initiatory or referendary petition from the clerk, the council shall, within thirty (30) calendar days:

- 9.7.1 If it is an initiatory petition, either adopt the ordinance as proposed in the petition or determine to submit the proposal to the electors of the city.

9.7.2 If it is a referendary petition, either repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the city.

**Section 9.8. Submission to electors.**

Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any purpose, or, in the discretion of the council, at a special election. The result shall be determined by a majority vote of the electors voting on the issue, except in cases where a different vote is required by law.

**State law references**—Restrictions on number of special elections, MCL 117.5(c), MSA 5.2084, (c); special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

**Section 9.9. Status of ordinance adopted.**

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the council for a period of two (2) years after the date of the election at which it was adopted.

**Section 9.10. Ordinance suspended.**

The certification by the clerk of the sufficiency of a referendary petition filed within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the council or final determination by the electors, as the case may be.

**Section 9.11. Multiple ordinances.**

Should two or more ordinances which have conflicting provisions be adopted at the same election, the one receiving the greatest affirmative vote shall prevail.

## ARTICLE 10. ADMINISTRATIVE SERVICE

**Section 10.1. Departments.**

The council shall establish by ordinance such departments of the city it determines necessary and advisable, and shall prescribe by ordinance or resolution the organization and functions of departments.

**State law reference**—Permissible that Charter provide for the establishment of a city department, MCL 117.4j, MSA 5.2083.

**Section 10.2. Administrative officers.**

The administrative officers of the city shall be the city administrator, clerk, treasurer, assessor, attorney, police chief, fire chief and such additional administrative officers as may be created by ordinance or resolution. The council may combine any administrative offices and departments, or separate, or eliminate them, in any manner it considers advisable for the proper and efficient operation of the city, except as may be otherwise provided by law.

Administrative officers shall perform such duties prescribed by the mayor, this charter, by ordinances, resolutions, and by law.

All administrative officers shall be appointed by the mayor and confirmed by the council, to serve at the pleasure of the mayor. The mayor may suspend administrative officers, and may recommend their dismissal to the council, which shall have the sole authority to dismiss. The council shall be notified by the mayor of any suspension not later than the next council meeting. The suspension or dismissal of the attorney shall require the vote of the mayor and four or more members of the council in favor of suspension or dismissal.

The council shall provide for the qualifications and compensation of administrative officers.

**State law reference**—Mandatory that Charter provide for the appointment of certain officers, MCL 117.3(a), MSA 5.2073, (a).

### **Section 10.3. Deputy administrative officers.**

Positions of deputy administrative officers may be created and combined or separated or eliminated in the same manner as those of administrative officers. The appointment of deputies shall be by their superior administrative officers. Deputies shall in each case possess all the powers and authority of their superior administrative officers, except as they may be limited by their superior administrative officers or by the mayor.

### **Section 10.4. City administrator.**

The city administrator shall be a person professionally qualified to perform the following duties and shall:

- 10.4.1 Have responsibility for the day to day operations of the city, except for those functions of other administrative officers prescribed by this charter, the council, ordinances, resolutions, or by law.
- 10.4.2 Be liaison for the mayor and council to city commissions, boards, authorities, committees, departments and other organizational components of the city, and shall be a representative of the mayor and council with other governments.
- 10.4.3 Be the chief financial officer, and shall develop the city budget in consultation with department heads and other administrative officers for presentation to the mayor and council. Upon authorization of the council the city administrator shall direct the transfer of city funds for municipal purposes.
- 10.4.4 Serve as the purchasing agent of the city.
- 10.4.5 Be the supervisor of city employees within the departments managed by the city administrator.
- 10.4.6 Be the personnel officer for the city, with specific responsibilities as provided by ordinance or resolution.

**State law reference**—Mandatory that Charter provide for duties of certain officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.5. City clerk.**

The city clerk shall be the clerk of the city council, the chief elections and voter registration officer, and the custodian of city records and the city seal. The clerk shall administer the oath of office.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.6. City treasurer.**

The city treasurer shall be the general accountant of the city and shall have custody of city funds, money, and securities, and be responsible for the deposit and safekeeping of city funds, money and securities. The treasurer shall have all powers and immunities for the collection of taxes as provided by law.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.7. City assessor.**

The city assessor shall be certified and shall possess all qualifications for the position required by law. The assessor shall have all power vested in and shall be charged with all duties imposed upon assessing officers by general laws of the state. The assessor shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by the general laws of the State.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.8. City attorney.**

The city attorney shall serve as chief legal advisor to the council, mayor, administrator and all city departments, commissions, boards, authorities, offices and agencies, unless such representation is held to be incompatible or a conflict of interest exists. It shall be recognized that the attorney is bound by professional ethical constraints. The attorney shall represent the city in all legal proceedings and shall perform any other duties as the council shall prescribe. The council may, upon recommendation of the attorney, retain special legal counsel in any matter in which the city is a party or in which the city has an interest.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.9. Chief of police.**

The chief of police shall be the chief executive officer of the police department, and shall administer the department under the policies, rules, and regulations established by this charter, the council, and by law.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.10. Fire chief.**

The fire chief shall be the chief executive officer of the fire department, and shall administer the department under the policies, rules and regulations established by this charter, the council, by law, and by other governing documents approved by the council.

**State law reference**—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

**Section 10.11. Surety bonds.**

All officials and officers of the city whose duties involve the custody and handling of public funds, and all other officers and employees required by the council, shall, before they enter their respective offices, file with the city an official bond in such form and amount as the council shall direct and approve. The bonds shall be corporate surety bonds and their premiums paid by the city.

**ARTICLE 11. CONTRACTS AND PURCHASING****CONTRACTS****Section 11.1. Power to contract.**

The power to contract on behalf of the city is vested in the council and shall be exercised in accordance with law.

**Section 11.2. Authorization, signing contracts.**

All contracts, except as otherwise provided in this Article for contracts of purchase and sale, shall first be authorized by the council and shall be signed by the mayor and the clerk.

**Section 11.3. Construction contracts.**

Contracts for construction of public improvements shall be let only after opportunity for competitive bidding.

**Section 11.4. Bidding.**

The council shall provide detailed bidding procedure by ordinance or resolution. All bids shall be reported to the council at its next regular meeting after the deadline for submission. The council shall have discretion to reject any and all bids.

**Section 11.5. Disposal of city real estate.**

The city shall not sell, lease, or transfer any real estate if any part of the land is a park or cemetery unless it meets statutory guidelines regarding approval through a vote of city electors.

**Section 11.6. Person in default to city.**

The city shall not contract with a person who is in default to the city.

**State law reference**—Restriction on making contracts with persons in default to city, MCL 117.5(f), MSA 5.2084, (f).

**Section 11.7. Certification of appropriation or funding.**

The council shall require the administrative officer whose department is to be charged with the expenditure to certify that an appropriation has been made for the amount to be contracted.

**Section 11.8. Attorney's approval.**

The attorney shall review and approve all contracts as to legality and form before they are entered into by the city.

**Section 11.9. Contract amendment.**

No contract shall be amended after it has been entered into by the city unless such amendment is approved by the council.

**Section 11.10. Contracts with city officials, officers, and employees.**

An official, officer, employee, or other public servant of the city who intends to contract with the city, or who has a personal interest in a proposed contract with the city, for purposes other than remuneration for official duties, shall first have a determination by the city attorney whether the contract is permitted under statutory law. In all such cases the public servant shall observe the disclosure requirements and the council shall observe the voting requirements, as provided by statute.

**Section 11.11. Contracts when charter is adopted.**

All contracts entered into by the city when this charter is adopted shall continue in effect.

**PURCHASE AND SALE OF PROPERTY****Section 11.12. Purchasing agent.**

The city administrator is the purchasing agent of the city, and shall be responsible for the purchase and sale of all personal property of the city, and shall obtain comparative prices for the purchase or sale of all equipment, materials and supplies, except when the city administrator shall determine that no advantage to the city would result.

**Section 11.13. Council approval of purchases and sales.**

The council shall from time to time establish by ordinance or resolution a dollar limit for purchases and sales above which:

11.13.1 The purchase or sale shall be approved by the council.

11.13.2 Specifications shall be required and sealed bids solicited, unless the council determines that no advantage to the city would result from competitive bidding, unless otherwise required by law. The council may reject any and all bids.

11.13.3 The treasurer shall have first certified that an appropriation has been made.

11.13.4 The opinion of the attorney, approving the legality and form of the agreement of purchase and sale, has been received.

**Section 11.14. Emergency purchases.**

The city administrator shall have authority in cases of emergency to purchase essential equipment, materials and supplies above the established limit, and shall make a full report of such purchase to the council at its next meeting.

**Section 11.15. Procedural guidelines.**

The council may establish detailed purchasing, sale and contract procedure by ordinance or resolution.

**ARTICLE 12. GENERAL FINANCE\***

**Section 12.1. Fiscal year.**

The fiscal year of the city and all of its agencies shall commence at the beginning of the first day of July each year and end at the end of the thirtieth day of June of the following year. The fiscal year may be changed by ordinance, which shall provide for a revised schedule of budget and other fiscal timing, to coincide with the fiscal year. All purchases shall be from funds which have been appropriated for the intended purpose.

**Section 12.2. Budget procedures.**

The city administrator shall be the budget officer. Each board, commission, authority, or other agency, officer and department head shall submit a recommended budget with supporting explanation for the next fiscal year to the budget officer on or before the first day of March of each year.

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\***State law reference**—Uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

The budget officer shall prepare and submit to the mayor and the council, on or before its first regular meeting in May of each year, a budget document covering the next fiscal year, tabulating the recommendations of the several officers, department heads and agencies, which shall include at least the following information:

- 12.2.1 Detailed estimates, with supporting explanations of all proposed expenditures for each department and office of the city, together with the expenditures for corresponding items for the last preceding fiscal year in full and for the current year to March 1 and estimated expenditures for the balance of the current fiscal year;
- 12.2.2 Statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- 12.2.3 Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to March 1, and estimated revenues for the balance of the current fiscal year;
- 12.2.4 A statement of the estimated balance or deficit for the end of the current fiscal year;
- 12.2.5 An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- 12.2.6 A proposed capital improvements program with estimated costs projected for the term of years related to each project.
- 12.2.7 Such other supporting schedules as the council may request.

**Section 12.3. Adoption of budget, tax limit.**

Not later than June 15 the council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution make an appropriation for the money needed for municipal purposes during the ensuing fiscal year of the city and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes. The levy shall not exceed two percent (2%) of the assessed valuation, as equalized, of all real and personal property subject to taxation in the city.

**State law references**—Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073, (h); restriction on rate of taxation, MCL 117.5(a), MSA 5.2084, (a).

**Section 12.4. Budget control.**

No money shall be drawn from the treasury of the city without an appropriation, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The council may transfer any unencumbered appropriation balance, or any portion of it, from one department,

fund or agency to another. In the case of emergency and when necessary to protect the public health, safety or welfare, the council may make additional appropriations to cover unanticipated expenditures required of the city because of such emergency. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund.

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

Within sixty days following the end of each fiscal year, the city administrator shall file with the council a schedule of all obligations upon the budget appropriations existing at the end of the fiscal year, with written recommendations. The council shall provide for the payment of those obligations which constitute valid claims against the city.

#### **Section 12.5. System of accounts.**

The city shall have a system of accounts that conforms to a uniform system of accounts as required by law.

**State law reference**—Uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

#### **Section 12.6. Independent audit.**

An independent audit shall be made of all accounts of the city government at the close of each fiscal year. Special independent audits may be made at any time that the council may designate. All audits shall be made by certified public accountants experienced in municipal accounting. All audits shall be presented directly to the council. The results of such audits shall be made public in such manner as the council may determine, but at a minimum, they shall be available for inspection at the office of the clerk.

**State law references**—Local units less than 1,000,000; annual audit, MCL 141.425, MSA 5.3228(25).

#### **Section 12.7. Depository.**

The council shall designate the depository or depositories for city funds, and shall provide for the regular deposit of all city funds. The council shall provide for such security for city deposits as authorized or permitted by the general laws of the state, except that personal security bonds shall not be deemed proper security.

**State law references**—Designation of depositories, MCL 129.12, MSA 3.752; deposit of public monies, MCL 211.43b, MSA 7.86.

**ARTICLE 13. TAXATION\*****Section 13.1. Power to tax.**

The city shall have the power to assess property and to levy and collect taxes, rents, tolls and excises.

**State law reference**—Mandatory that Charter provide for annual levy and collection of taxes, MCL 117.3(g), MSA 5.2073, (g).

**Section 13.2. Subjects of taxation.**

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

**State law references**—Mandatory that Charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes, MCL 117.3(f), MSA 5.2073, (f); general property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

**Section 13.3. Exemptions.**

No exemptions from taxation shall be allowed, nor shall exemptions be denied, except as expressly required or permitted by statute.

**State law reference**—Property exempt from taxation, MCL 211.7 et seq., MSA 7.7 et seq.

**Section 13.4. Tax day.**

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day. Values on the assessment roll shall be determined according to facts existing on the tax day for the year for which the roll is made, and no change in the status or location of any property after that day shall be considered by the assessor or the board of review.

**State law reference**—Designation of tax day, MCL 211.2, MSA 7.2.

**Section 13.5. Preparation of the assessment roll.**

On or before the first Monday in March of each year the assessor shall prepare and certify an assessment roll of all taxable and tax exempt property in the city. The roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of the personal property; and the method of estimating all values shall be as nearly uniform as possible.

**State law references**—Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073, (i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

\***State law reference**—General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

**Section 13.6. Notice of assessment.**

On or before the first Monday in March, but not less than ten days before the second session of the board of review, the assessor shall give a notice mailed first class to the owner, as shown by the assessment roll, of the assessed value of property for the year and the previous year, and the net change in assessment, or of the addition of any property to the roll. The notice shall show the time and place of the meeting of the board of review. The notice shall also specify the net change in assessment, the reason for the change, the state equalized valuation for the previous year, the net change between the tentative equalized valuation for the year and the state equalized valuation for the previous year, the taxable value, and the classification of property. The failure to give notice or of the owner to receive it shall not invalidate any assessment roll or assessment.

**Section 13.7. Personal property—Jeopardy assessment.**

If the treasurer finds or reasonably believes that any person, who is, or may be, liable for taxes upon personal property, the taxable situs of which was in the city on tax day, intends to depart or has departed from the city; or to remove or has removed from the city personal property which is, or may be, liable for taxation; or intends to conceal or conceals self or property; or does any other act tending to prejudice, or to render wholly or partly ineffectual the proceedings to collect such tax, the treasurer shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

**State law reference**—Jeopardy assessments of personal property taxes, MCL 211.691 et seq., MSA 7.51(1) et seq.

**Section 13.8. Board of review.**

There shall be a board of review composed of three, six or nine members, as determined by resolution of the council. No member of the board shall hold other public office with the city, nor be related by blood or marriage to the assessor.

The mayor shall appoint one-third of the members in January of each year to serve for a three year term, to begin the first day of February in the year of appointment. All vacancies shall be filled by appointment of the mayor. If the board consists of six or nine members, it shall be comprised of committees of three members each, which may meet on alternate days, or concurrently, as determined by the board.

The council shall determine compensation of board members. The mayor may remove board members for cause with approval of the council. The board shall annually select one of its members as chair for the ensuing year. The assessor shall be secretary of the board and shall be entitled to be heard at its meetings but shall have no vote on any matter. In the absence of the assessor the board shall appoint one of its members or a member of the clerical staff of the city to serve as secretary.

**State law reference**—Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073, (a).

**Section 13.9. Meetings of the board of review.**

The board of review shall convene in its first session on the Tuesday next following the first Monday in March of each year at the time of day and place designated by the council, and shall remain in session for whatever time is required for the purpose of considering and correcting the assessment roll. In each case in which the assessed value of any property is changed from the amount shown on the roll as prepared by the assessor, or any property is added to the roll by the board, or the board has resolved to consider at its second session increasing an assessment or adding any property to the roll, the assessor shall give notice thereof mailed first class to the owners, as shown by the roll, not later than the fifth day following the end of the first session of the board. The notice shall state the date, time, place and purpose of the second session of the board.

The failure to give any notice, or of the owner to receive it, shall not invalidate any assessment roll or assessment.

The council may authorize, by ordinance or resolution, a property owner or a duly authorized agent to file a protest before the board of review by letter without a personal appearance:

The board of review shall convene in its second session, for two meetings of at least six hours each. The first meeting shall occur on the second Monday in March of each year, and the second meeting within the same week. The meetings shall be at the times of day and places designated by the council. The board shall continue to meet on the designated day and on subsequent days as necessary until all interested persons who appeared at the first meeting of the second session have had an opportunity to be heard. At the second session, the board may not increase any assessment or add any property to the rolls, except in those cases in which the board resolved at its first session to consider the increase or addition at its second session.

At least one meeting of the board shall begin at 3:00 p.m. for the convenience of the public.

The council shall provide for additional meetings of the board of review to correct clerical errors or mutual mistakes of fact.

**State law reference**—Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073, (i).

**Section 13.10. Notice of meetings.**

The clerk shall cause notice of the times and place of the sessions of the board of review to be published in a newspaper in general circulation within the city, and shall post the notice in one or more public places, at least ten days before each session of the board.

**Section 13.11. Duties and functions of board of review.**

The board of review shall have the same statutory duties and powers for revising and correcting assessments, as township boards of review, except as otherwise provided in this charter. The board shall hear protests and may correct the assessment roll for just cause. The

board shall consider only those facts existing on the tax day in making its determination. Changes to the roll may be made only by the board, unless otherwise provided by statute. A permanent record of all board proceedings and actions shall be prepared by the assessor and filed with the clerk.

**Section 13.12. Endorsement of roll.**

The board of review shall complete its review of the assessment roll and adopt a resolution certifying it as the assessment roll not later than the first Monday in April. Members of the board of review in support of the resolution shall endorse the roll by signing a certificate to that effect which shall be attached to the roll. The assessor shall transmit the endorsed roll to the appropriate authority to be equalized as provided by law.

**State law reference**—Completion of review of assessments prior to first Monday in April required, MCL 211.30a, MSA 7.30(1).

**Section 13.13. Creation of tax roll.**

The endorsed assessment roll, as finally equalized, shall be used by the treasurer in preparation of the tax roll. The clerk shall certify to the treasurer within three days of adoption of the city budget the millage rates to be levied against that roll to support that budget, together with other charges which may be included on the tax roll as provided by the council or by law. The treasurer shall establish a schedule for receiving from other taxing authorities their warrants certifying millage rates to be levied on their behalf.

The treasurer shall be responsible for preparation of the tax roll utilizing the information in this section. The city may contract with outside agencies, public or private, for preparation of the tax roll and for printing and mailing of tax bills to owners of property included on the tax roll.

**Section 13.14. Taxes, lien on property.**

On July 1 the amount assessed on real or personal property shall become a first lien upon the property for the amount assessed. The lien shall include all penalties, interest, fees and charges. The lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest, fees and charges are paid.

**State law reference**—Lien for taxes, MCL 211.40, MSA 7.81.

**Section 13.15. Tax due—Notification.**

The treasurer shall send a statement by first class mail to each person named in the tax roll requesting payment of the tax due. Neither the failure to mail the statement or to receive it shall invalidate the tax or liability for non-payment.

**Section 13.16. Debt to city; collection.**

On July 1 the amount of the tax, fees, interest and other charges shall be due and payable, and shall be a debt of the property owners to the city.

The treasurer shall have all the powers and immunities of township treasurers for collection of taxes and assessments as provided by law. Taxes collected on or before September 30 shall be without penalty.

**State law reference**—Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.

**Section 13.17. Administration fee, penalty.**

To all taxes there shall be added one (1) percent as a property tax administration fee. To all taxes paid after September 30, there shall be added a three (3) percent penalty. The penalty rate may be adjusted by ordinance.

**Section 13.18. Delinquent tax roll to county treasurer.**

If the treasurer has been unable to collect any of the city taxes on the roll for real property before the first day of March following the date when the roll was received by the treasurer, the treasurer shall submit the tax roll and report unpaid taxes on real property to the county treasurer.

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.

**State law reference**—Return of delinquent taxes, MCL 211.55 et seq., MSA 7.99 et seq.

**Section 13.19. Failure or refusal to pay personal property tax.**

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

**State law reference**—Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

**Section 13.20. Protection of city lien.**

The city shall have the power to acquire by purchase any property within the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the city. The city may lease or sell the property for the purpose of securing from it the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power.

Any procedure exercised by the city in the protection of its tax lien shall be deemed to be for a public purpose. The council may adopt any ordinances that may be necessary to make this section effective.

**Section 13.21. State, county, and school taxes.**

For the purpose of assessing taxes in the city for state, county and school purposes, the city shall be considered the same as a township, and all provisions of state law relative to the collection of taxes and fees to be paid, accounting to the appropriate taxing units, and the return of taxes to the county treasurer for nonpayment, shall apply to the performance by the treasurer, who shall perform the same duties and have the same powers as township treasurers under the state law.

**State law reference**—Mandatory that Charter provide for levy, collection and return of state, county, and school taxes, MCL 117.3(i), MSA 5.2073, (i).

**ARTICLE 14. SPECIAL ASSESSMENTS**

**Section 14.1. General power relative to special assessments.**

The council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of its expense shall be defrayed by special assessment upon the property especially benefitted. The council shall so declare by resolution and shall provide that all special assessments levied shall be based upon or be in proportion to the benefits derived or to be derived. The resolution shall state the estimated cost of the improvement, what proportion of its cost shall be paid by special assessment, what part, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

**State law reference**—Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

**Section 14.2. Detailed procedure to be fixed by ordinance.**

The council shall prescribe by general ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, definition of total cost and expenses, notice of hearings, making and confirming assessment rolls in advance of starting the improvement, correction of errors, collection of special assessments, and any other matters concerning the making of improvements by the special assessment method, subject to the provisions of this charter, and applicable law.

**State law reference**—Special assessment notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.

**Section 14.3. Contested assessments.**

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (1) unless within thirty days after the

confirmation of the special assessment roll written notice is given to the council of intention to file such suit or action, stating the grounds which it is claimed such assessment is illegal, and (2) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

**Section 14.4. Disposition of excessive special assessments.**

The excess by which any special assessment proves larger than the total cost of the improvement and related expenses, as identified by ordinance, may be placed in the public improvements/public building fund or other fund of the city, if such excess is five percent or less of the assessment. If the assessment is larger than necessary by more than five percent, the entire excess shall be refunded on a pro rata basis to the current owners of the property assessed. The refund shall be made by credit against future unpaid installments to the extent such installments then exist, or the balance of the refund may be paid to the owners, in the discretion of the council. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by the special assessment.

**Section 14.5. Delinquent special assessments.**

From the date of confirmation of the roll until they are paid, special assessments and all interest and charges shall be and remain a lien upon the property assessed of the same character and effects as the lien created by general law for state and county taxes and by this charter for city taxes.

The council shall establish by resolution a delinquency date to follow the date the assessment roll is confirmed. After the delinquency date the same collection fees, penalties, and interest shall be paid on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this charter to be paid on delinquent city taxes. In case any assessment, or any part, shall remain unpaid on the first Monday of May following the date it becomes delinquent, the same shall be reported unpaid by the treasurer to the council, and such delinquent assessments, together with all accrued interest shall be transferred and reassessed on the annual tax roll in a column headed "special assessments" with a penalty added to the total amount which shall be determined by the council from time to time, and when so transferred and reassessed upon said tax roll, shall be collected in the manner provided for the collection of city taxes.

**Section 14.6. Deferred payment in special assessments.**

The council may provide by ordinance for the deferred payment of special assessments.

**State law reference**—Deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.

**Section 14.7. Additional procedures.**

In any case where the provisions of this charter may prove to be insufficient to carry into full effect the making of any special assessment for a public improvement, the council shall provide by ordinance any additional steps or procedures required to effect the improvement by special assessment.

**ARTICLE 15. BORROWING POWER\*****Section 15.1. Borrowing power.**

Subject to the applicable provisions of law, the city may borrow money for any purpose within the scope of its powers or which may be permitted by law, and may issue bonds or other evidences of indebtedness, of any kind authorized by law.

All collections on special assessment rolls or on any combination of such rolls shall be set apart in a separate fund and shall be used for the purpose for which levied, and for the payment of the principal and interest of bonds issued in anticipation of such special assessments. As to those bonds that are also a general obligation of the city, if there is any deficiency in any special assessment fund to meet the payment of the principal or interest to be paid from the fund, moneys shall be advanced from the general funds of the city to meet the deficiency, and shall be replaced in the general funds when the special assessment fund shall be sufficient to replace them.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued, and the proceeds from it shall not be used for any other purpose, except that, whenever the proceeds of any bond issue, or a part of it, remain unexpended and unencumbered for the purpose for which the bond issue was made, the council may, by the concurring vote of not less than six members, authorize the use of unexpended and unencumbered funds:

15.1.1 For the retirement of the bond issue, or

15.1.2 If the bond issue has been fully retired, then for the retirement of other bonds or obligations of the city provided for by this section: provided that in the case of special assessment bonds, Article 14 Section 14.4 of this charter shall govern, or

15.1.3 For such other purposes as may be permitted by specific law, or

15.1.4 If such funds cannot be used as above permitted, then in any manner approved by a vote of not less than six members of the council.

No bond or other evidence of indebtedness, regardless of type or purpose, shall bear interest at a rate exceeding that fixed by law.

All bonds and other evidences of indebtedness shall be signed by the mayor and countersigned by the clerk, under the seal of the city. Interest coupons may be executed with the facsimile signatures of the mayor and clerk. A complete and detailed record of all bonds and other evidences of indebtedness shall be kept by the treasurer. Upon the payment of any bond or other evidence of indebtedness, it shall be marked "Cancelled" or otherwise defaced by the treasurer, to indicate payment.

**State law references**—Authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a, MSA 5.2074; authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(7), MSA 5.2074, (7); cremation or disintegration of public obligations, MCL 129.121 et seq., MSA 3.996(1) et seq.

\***State law reference**—Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

**Section 15.2. Limitations upon borrowing power.**

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city: provided, that, in computing the net bonded indebtedness, there shall be excluded all money borrowed which, by law, does not constitute an indebtedness of the city within any constitutional or statutory debt limitation or which is permitted by law to be in excess of the limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized.

**State law reference**—Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(2), MSA 5.2074, (2).

**ARTICLE 16. PUBLIC UTILITIES AND FRANCHISES****PUBLIC UTILITIES****Section 16.1. Power reserved by city.**

The city shall possess and reserves to itself all the powers granted to cities by the constitution and general laws of the state to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities to supply its inhabitants, and to require connection of private property within the city to the utility systems.

**State constitutional reference**—Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25.

**State law reference**—Permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

**Section 16.2. Furnishing utilities outside corporate limits.**

Public utilities and services may be furnished by the city to properties and users outside the corporate limits of the city to the extent allowed by law.

**Section 16.3. Acquisition of public utilities.**

The city shall not acquire a public utility furnishing heat, light, or power unless the proposition to acquire the utility shall have first received an affirmative vote of three-fifths of the qualified electors of the city voting thereon at any regular or special election. The question of raising the money required for such purpose by borrowing and issuing bonds of the city, may be submitted at the same time, either as an independent question or as part of the same question.

**Section 16.4. Utility rates.**

The council shall establish rates from time to time as may be deemed advisable for supplying the inhabitants of the city, and others, with utility services as the city may provide.

**Section 16.5. Utility charges collection.**

The council shall provide by ordinance or resolution for the collection of all public utility charges made by the city. When any person or persons shall fail or refuse to pay the city any sums due on utility bills, the utility service or services upon which such delinquency exists, may be shut off or discontinued and suit may be instituted by the city for their collection in any court of competent jurisdiction. The city shall have as security for the Collection of utility rates for services furnished any person or persons a lien upon the real property for which a utility is supplied. The lien shall become effective immediately upon the supplying of the utility service, and may be enforced as provided by law.

**Section 16.6. Disposal of utility plants and property.**

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

**Section 16.7. Utility accounts.**

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in separate accounts under an appropriate fund caption, and classified in accordance with generally accepted utility accounting practice. Charges for all services furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be available for inspection at the office of the clerk.

**FRANCHISES****Section 16.8. Franchises remain in effect.**

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

**Section 16.9. Granting public utility franchises.**

Public utility franchises and all renewals, extensions and amendments shall be granted by ordinance. No exclusive franchise shall be granted. No franchise shall be granted for a period longer than thirty years.

A franchise ordinance which is not subject to revocation at the will of the city shall not be enacted nor become operative until it shall first have been referred to the people at a regular or special election and it has received the affirmative vote of three-fifths of the electors voting on it. No such franchise ordinance shall be approved by the council for referral to the electors before thirty days after it has been published and notice of its publication has been filed with the council, nor until a public hearing has been held nor until the grantee has filed with the clerk an unconditional acceptance of all terms of franchise: No special election for that purpose shall be ordered by the council unless the expenses of holding the election, as determined by the council, shall have first been paid to the treasurer by the grantee.

A franchise ordinance which is subject to revocation at the will of the city may be enacted by the council without referral to the voters, but shall not be enacted nor become operative unless it shall first be filed with the clerk in the form in which it is finally enacted and remain on file for public inspection for at least thirty (30) days before its final enactment.

**State constitutional references**—Franchises limited to thirty (30) years, Mich. Const. 1963, Art. VII, § 30; submittal to electors required if irrevocable, Mich. Const. 1963, Art. VII, § 25.

**State law references**—Restrictions on number of special elections, MCL 117.5(c), MSA 5.2084, (c); expenses of special elections to be paid by grantee, MCL 117.5(i), MSA 5.2084, (i); special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

#### **Section 16.10. Conditions of public utility franchises.**

All public utility franchises granted after the adoption of this charter, whether provided in the granting ordinance or not, shall be subject to the following rights of the city:

- 16.10.1 To their termination for misuse, nonuse, or failure to comply with franchise provisions;
- 16.10.2 To require reasonable and adequate extension of plant and service and their maintenance at the highest practicable standard of efficiency;
- 16.10.3 To establish reasonable and practicable standards for service and quality of products and to prevent unjust discrimination in service or rates;
- 16.10.4 To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout its entire period;
- 16.10.5 To impose such other reasonable regulations as may be conducive to the health, safety, and welfare of the public;
- 16.10.6 To use, control, and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. This enumeration of rights shall not be exclusive nor impair the right of the council to include in a franchise any provision within the power of the city to impose or require;
- 16.10.7 To require payment of franchise fees or rent for the use of the public right of way, or other public places;

16.10.8 To require the franchisee to pay a part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use of them, and to hold the city harmless from and indemnify it against all damages and costs arising from its use;

16.10.9 To require the franchisee to file with the city drawings and maps of the location and nature of its facilities, as the council may request.

**Section 16.11. Sale or assignment of franchises.**

The grantee of a franchise may not sell, assign, sublet, or allow another to use it, without written consent of the council. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor to restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this charter.

**ARTICLE 17. LIABILITY**

**Section 17.1. Liability.**

The provisions of this Article are not intended to waive any immunity from tort liability provided by statute or common law.

Any person having a claim against the city by reason of injury to person or damage to property shall give the city written notice of the claim within 120 days from the date of occurrence. The notice shall be served on the clerk, the mayor, or the attorney, and shall contain the time and place of such injury or damage, the manner in which it occurred, the extent of injury or damage as far as known, the names and addresses of witnesses, and a statement that the person sustaining injuries or damages intends to hold the city liable for them. The 120 day notice requirement corresponds with current state law. If the requirement is changed pursuant to law, the notice requirement in this section shall be amended by that change.

Failure to give notice as provided in this section may be reason to disallow any claim for injuries.

Upon receiving notice the city shall respond promptly to each claim. The claimant may be notified that the city is not liable because of immunity or other defense. The city reserves the right to assert all defenses if the claim is pursued in a court or other forum.

If the city recognizes the possibility of liability, the response shall specify the procedure for the resolution of the issue of liability and adjustment of the amount of damages by mediation, arbitration or other means designated to protect the public interest. A claimant's failure to

follow reasonable procedures designed to allow the city to fairly investigate the circumstances of the claim, determine liability and fix damage shall be disclosed to any court or official with discretionary authority over the award of costs.

**State law reference**—City liability for injuries, MCL 691.1401 et seq., MSA 3.996(101) et seq.

## **ARTICLE 18. CHARTER REVIEW, AMENDMENT, AND REVISION\***

### **Section 18.1. Charter review.**

A charter review committee of at least seven members shall be appointed by the mayor and confirmed by the council no later than seven years after this charter is adopted, and each seven years thereafter. The committee shall examine the charter and recommend to the council any amendments which appear to be necessary or desirable.

### **Section 18.2. Charter amendment.**

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

### **Section 18.3. Charter revision.**

The question of revision of this charter shall be placed before the electors of the city at the general election in the year 2010, and each 16 years thereafter. A proposal for revision may be presented at other times in the manner provided by statute.

## **ARTICLE 19. CHARTER ADOPTION, TRANSITION**

### **Section 19.1. Charter adoption.**

The proposed charter shall be submitted to a vote of the electors of the city at the regular election to be held Tuesday, November 8, 1994. Adoption of the charter shall require a simple majority of those voting on the question.

### **Section 19.2. Ballot proposition.**

The form of the ballot proposition shall be as follows: "Shall the city charter proposed by the charter commission of the City of DeWitt, elected August 4, 1992, be adopted?"

**\*State constitutional reference**—Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.

**State law reference**—Charter amendment procedure, MCL 117.2 et seq., MSA 5.2100 et seq.

**Section 19.3. Charter effective date.**

The effective date of this charter shall be January 1, 1995.

**Section 19.4. Elective officials, terms of office.**

This section shall apply to the election and the terms of office of officials to be elected at the general city elections to be held in 1994, 1996 and 1998.

19.4.1 The terms of members of the council elected on November 8, 1994, shall commence on the first Monday after the election, and continue until the first Monday after the election in November, 1998.

19.4.2 The terms of members of the council elected in November, 1996 shall commence on the Monday following the election and continue until the first regular meeting of the council in January, 2001.

19.4.3 The terms of members of the council elected in November, 1998 shall commence on the Monday following the election and continue until the first regular meeting of the council in January, 2003.

19.4.4 The term of the mayor elected at the November, 1994 election shall commence on the first Monday after the election and continue until the first Monday after the November election in 1996.

19.4.5 The term of the mayor elected in November, 1996 shall commence on the first Monday after the election and shall continue until the first council meeting in January, 1999.

**Section 19.5. Terms of appointive officers, city employees.**

After the effective date of this charter all appointive officers and all employees of the city shall continue in the office or employment which they held before the effective date, subject to the terms and conditions of their employment.

**Section 19.6. Boards, commissions, authorities, and other agencies.**

The boards, commissions, authorities and other agencies of the city shall continue after the adoption of this charter.

**Section 19.7. Transition.**

All matters of city government in transition from the previous charter to this charter, which are not otherwise addressed in this charter, shall be accomplished by resolutions and ordinances of the council.

RESOLUTION OF ADOPTION  
OF PROPOSED CHARTER OF THE CITY OF DEWITT

At a meeting of the Charter Commission of the City of DeWitt, held on the 23rd day of August, 1994, at which a quorum was present and voting, the following resolution was offered by Wayne H. Verspoor, a member of the Commission.

RESOLVED, that the Charter Commission of the City of DeWitt hereby adopts the foregoing proposed Charter for the City of DeWitt, dated August 23, 1994, and the Clerk of the Commission is directed to transmit two copies of the Charter to the Michigan Attorney General for recommendation to the Governor of the State of Michigan for his approval according to statute, to file a copy with the Clerk-Treasurer of the city, and to publish other copies in the DeWitt-Bath Review, a newspaper in general circulation within the City of DeWitt.

The Motion on the resolution was seconded by Virginia L. Martlew, a member of the Commission, and adopted by the following vote:

8 Yeas      0 Nays

Peggy A Brown, a member of the Commission, was absent from the meeting and excused by resolution of the Commission.

The Chair declared the resolution carried by the Commission and the Clerk and the members of the Commission authenticated the copies of the Charter to be presented to the Governor and to be filed with the Clerk-Treasurer, by their signatures, as follows:

/s/ _____ Carmen L. Seats, Chair	/s/ _____ Virginia L. Martlew, Vice Chair
/s/ _____ Margaret B. Arbanas	/s/ _____ Peggy Brown
/s/ _____ Rodger F. Brown	/s/ _____ Cathy H. Harris
/s/ _____ Hazel J. Myers	/s/ _____ Susan G. Thayer
/s/ _____ Wayne H. Verspoor	

I hereby certify on this 2nd day of September, 1994, that the foregoing is a true and complete copy of the proposed City Charter for the City of DeWitt as adopted by the DeWitt Charter Commission at its meeting of August 23, 1994, and that a copy was directed to be forwarded to the Governor of the State of Michigan for his approval, a

Reso.

DEWITT CODE

copy filed with the Clerk-Treasurer of the City of DeWitt, and that publication of other copies occur as provided in the adopting resolution.

/s/ \_\_\_\_\_

Margie N. Lotre  
Clerk of the Charter Commission  
City of DeWitt

CERTIFICATE OF ADOPTION  
BY ELECTORATE

I hereby certify that the Revised charter of the City of DeWitt, Michigan, effective January 1, 1995, adopted by the City of DeWitt Charter Commission on August 23, 1994, was adopted by the electors of the City of DeWitt at the general City election held Tuesday, November 8, 1994, and the votes cast in favor of the charter revision numbered 1,137, to 426 against the revision.

I authenticate the Certificate with my signature and the Seal of the City of DeWitt, this 22nd day of November, 1994.

/s/ \_\_\_\_\_

Margie N. Lotre  
Clerk-Treasurer  
City of DeWitt