

# **City Charter**

  

# **Frankenmuth, Michigan**

STATE OF MICHIGAN

County of Saginaw

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Harold Roedel, Village Clerk of the Village of Frankenmuth, Saginaw County, Michigan, being duly sworn, says that, at the election held in the Village of Frankenmuth on Monday, March 9, 1959, the following named persons were elected to and comprised the Charter Commission for the City of Frankenmuth, as required by Act No. 279 of the Public Acts of 1909, as amended, namely: Arnold R. Bernthal, Dr. Harold Braeutigam, Ralph A. List, Franklin Rittmueller, Carl A. Satow, Elmer P. Simon, Ray F. Weiss, Wallace E. Weiss, James E. Wickson.

s/HAROLD ROEDEL  
Village Clerk  
Frankenmuth, Michigan

Subscribed and sworn to before me this 4<sup>th</sup> day of June, 1959.

s/Marlene B. Hensler,  
Notary Public, Saginaw County, Michigan  
My commission expires 6-29-62

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**TABLE OF GENERAL CONTENTS**

(Note: First figure of section number refers to chapter.)

<b>CHAPTER TITLE</b>	<b>CHAPTER</b>
INCORPORATION AND BOUNDARIES	1
DEFINITIONS AND GENERAL PROVISIONS	2
MUNICIPAL POWERS AND LIABILITIES	3
OFFICERS	4
THE CITY COUNCIL	5
CITY LEGISLATION	6
THE ADMINISTRATIVE SERVICE	7
GENERAL FINANCE	8
TAXATION	9
SPECIAL ASSESSMENTS	10
MUNICIPAL COURT	11
COUNTY SUPERVISORS	12
ELECTIONS	13
CONTRACTS	14
PUBLIC UTILITY SERVICES AND FRANCHISES	15
SCHEDULE                      LAST CHAPTER	Unnumbered

**PREAMBLE**

We, the people of the City of Frankenmuth, mindful of the ideals and labors of our fathers in founding and developing this community, grateful to God for the blessings of freedom, peace, health, safety, and justice, and desirous of further securing these blessings to ourselves and our posterity under the Home Rule prerogatives and spirit of the Constitution of the State of Michigan, do hereby ordain and establish this charter for the City of Frankenmuth.

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## CHAPTER 1 INCORPORATION AND BOUNDARIES

### **Incorporation.**

Section 1.1. The Village of Frankenmuth, as it existed on the effective date of this charter is hereby incorporated as a fifth class city of the State of Michigan under Act No. 279 of the Public Acts of 1909, as amended, without change of boundaries.

### **Corporate Name of City.**

Section 1.2. The city shall be and continue as a municipal corporation of the State of Michigan under the name: "The City of Frankenmuth."

### **Boundaries of the City.**

Section 1.3. (a) The city shall be one ward and shall embrace the territory constituting the Village of Frankenmuth on the effective date of this charter, together with such annexations thereto and less detachments therefrom as shall be made from time to time. Such territory is described as follows:

Commencing at the center of Section 22, T11N, R6E, Frankenmuth Township, Saginaw County, Michigan; thence south along the north and south ¼ line of said Section 22, 1,320 feet, more or less, to the south 1/8 line; thence east along said line 2,640 feet, more or less, to the east line of Section 22; thence east along the south 1/8 line of Section 23, 2,640 feet, more or less, to the north and south ¼ line of Section 23; thence south along said line 1,320 feet to the quarter post between Sections 23 and 26; thence south on the quarter line in Section 26, 3,168 feet to the north bank of the Cass River; thence northwesterly along said bank about 2,475 feet to a point that would meet the section line between Sections 26 and 27 on the south side of the Cass River extended north to the north bank of the river; thence south on said line extended 3,770 feet, more or less, to the corner of Sections 26, 27, 34, and 35; thence south, 1,320 feet on the line between Sections 34 and 35; thence west through Section 34, on a line parallel with the north section line 3,564 feet; thence on a line north 1,320 feet to a point on the north line of Section 34 which is 924 feet west of the quarter post between Sections 27 and 34; thence north in Section 27, 2,070 feet, more or less, on a line to the north bank of the Cass River at its intersection with the quarter section line running north and south through the center of Section 27 on the north side of the river; thence north along said quarter line 440 feet, more or less, to the center line of Tuscola Road; thence south 69 degrees 12'00" west, along the center line of Tuscola Road 60.93 feet to a deflection point; thence continuing north 89 degrees 05' 00" west along said center line 850.90 feet; thence along a line north 00 degrees 34' 30" east 483.12 feet; thence along a line south 89 degrees 04' 30" east 40.52 feet; thence along a line north 00 degrees 32' 30" east 2,105.52 feet to the south line of said Section 22; thence north 89 degrees 27' 30" west 38.28 feet, more or less, to the west line of the east 52 acres of the southwest ¼ of Section 22; thence north along said line 2,664 feet, more or less, to the east and west ¼ line of Section 22; thence east along said line 850.2 feet to the point of beginning.

(b) Upon the annexation or detachment of territory, the boundaries shall be changed without amendment of this section.

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**CHAPTER 2**  
**DEFINITIONS AND GENERAL PROVISIONS**

**Definitions and Construction.**

Section 2.1. Except as otherwise specifically provided or indicated by the context, for the purposes of this charter:

- (1) The word “board” shall include the word “Commission”;
- (2) The word “city” shall mean the City of Frankenmuth and all of its departments;
- (3) The word “Clerk” shall mean the City Clerk or recorder of the city, as those terms may be used in any law;
- (4) The word “Council” shall mean the City Council of the City of Frankenmuth;
- (5) The word “law” shall denote applicable federal law, the Constitution and statutes of Michigan, the applicable common law, and this charter;
- (6) The word “officer” shall include, but shall not be limited to, the Mayor, the members of the Council, the Justice of Peace or Justices, the administrative officers named in this charter and their deputies, and members of city boards and commissions created by or pursuant to this charter;
- (7) The word “person” may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- (8) The words “printed” and “printing” shall include printing, engraving, stencil duplicating, lithographing, typewriting, photostating, or any similar method of written expression;
- (9) The words “publish” or “published” shall include publication of any matter, required to be published, in the manner provided by law, or, where there is no applicable law, at least once in one or more newspapers of the city qualified by law for the publication of legal notices, or by posting in at least one public place in each election precinct;
- (10) The words “public utility” shall include all common carriers in the public streets, water, sewage disposal, electric light, gas, electric power, telephone and telegraph lines and systems, garbage collection, garbage disposal and reduction plants, and such other and different enterprises as the law or the Council may determine to be or designate as public utilities;
- (11) The word “Treasurer” shall mean the City Treasurer as that term may be used in any law;
- (12) Except in reference to signatures, the words “written” and “in writing” shall include had written script, printing, typewriting, and teletype and telegraphic communications; signatures may be by facsimile when authorized by the Council;
- (13) All words indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement to which the provision is applied;
- (14) The singular shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

**Records to be Public.**

Section 2.2. All papers, books, or other records of any matter pertaining to the conduct of the affairs of the city shall be public records unless otherwise provided by law, shall be kept in city offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available at city offices for inspection, copying, or reproduction at all reasonable times. Such records, or copies duly certified by the Clerk, shall be prima facie evidence of their contents.

**Quorum.**

Section 2.3. Except as otherwise expressly provided in this charter, a quorum of any board or commission created by or under authority of this charter shall consist of a majority of the number of its members, as established by this charter or by the ordinance creating such board of commission. The concurring vote of a majority of such established number of members of each such board shall be necessary for official action by it.

**Sundays and Holidays.**

Section 2.4. Except as otherwise expressly provided in this charter, whenever the date fixed by law or ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day, which is not a Sunday or legal holiday.

**Penalties for Violations of Charter.**

Section 2.5. Unless the violation is otherwise covered by an ordinance governing the same subject matter, any person found guilty of any violation of this charter may be punished by a fine which, in addition to court costs, shall not exceed five hundred dollars, or imprisonment for not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. Imprisonment for violations for this charter may be in the city or in any correctional institution which is authorized by law to receive prisoners of the city. Punishment imposed under this section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this charter.

**Chapter and Section Headings.**

Section 2.6. The chapter and section headings used in this charter are for convenience only, and shall not be considered as part of this charter for the purpose of judicial construction, or otherwise.

**Severability of Charter Provisions.**

Section 2.7. If any provision, section, or clause of this charter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any remaining portion or application of the charter, which can be given effect without the invalid portion or application, and, to this end, this charter is declared to be severable.

**Liberal Construction.**

Section 2.8. It was the intent of the Charter Commission in drafting this charter and of the electors of the City of Frankenmuth in adopting it that the provisions of this charter should be liberally construed so as to afford a maximum of local self government in accordance with the spirit and intent of Article VIII of the Michigan Constitution and with the home rule history and traditions of cities in Michigan.

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**CHAPTER 3**  
**MUNICIPAL POWERS AND LIABILITIES**

**General Powers**

Section 3.1. (a) Unless otherwise provided or limited by law, the city shall possess and be vested with all the powers, functions, privileges, and immunities, expressed or implied, to which cities are, or hereafter may be, entitled under and in the spirit of the Constitution of Michigan and the home rule traditions of the State, and may exercise all legislative power not prohibited by or in contravention with law. In the exercise of such powers, functions, and privileges, the city shall manage and control its finances, rights, interests, buildings, and property; enter into contracts; acquire by purchase, grant, lease, or condemnation, hold, and utilize any property, both within and without the limits of the city; acquire, own, and operate any utility, unless the power to do so is denied by law; do any act to advance the interests, good government, and prosperity of the city and its inhabitants; and protect the public peace, morals, health, safety, and general welfare.

(b) The city may join with any municipal corporation or with any other unit of government, or with any number or combination thereof, by contract, or otherwise as may be permitted by law, in the ownership, operation, or performance, jointly, or by one or more on behalf of all, of any property, facility, or service which each would have the power to own, operate, or perform separately.

(c) The enumeration of particular powers, privileges, or immunities in this chapter or elsewhere in this charter shall not be held or interpreted to be exclusive.

**Permitted and Other Powers.**

Section 3.2. Under authority of Act No. 279 of the Public Acts of 1909, as amended, and other provisions of law, the power of the city shall include, but shall not be limited to, the following:

- (1) To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including, but not limited to, the accumulation of rubbish and the growing of noxious weeds, which is or may be dangerous to the health, safety, morals, or welfare of the inhabitants of the city; to provide for the abatement thereof; and to provide that the costs of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located.
- (2) To provide for the public welfare by:
  - (a) Regulating trades, occupations, and amusements within the city, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;
  - (b) Regulating the preparation, storage, transportation, and sale of foods, drugs, and beverages for human consumption;
  - (c) Collecting and disposing of garbage and rubbish;
  - (d) Regulating and restricting the locations of oil and gasoline stations;
  - (e) Licensing, and regulating the number of vehicles, which carry persons or property for hire, fixing the rates of fare and charges, and determining the location of stands for such vehicles;
  - (f) Licensing and regulating billboards and advertising signs and the locations thereof;
  - (g) Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;
  - (h) Establishing zones within the city and regulating therein the use and occupancy of lands or structures; the height, area, size, and location of buildings; the required open spaces for light and ventilation of buildings, and the density of population;

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- (i) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires;
  - (j) Regulating and controlling the use of streams, waters, and water courses within the city in any manner consistent with the provisions of law.
  - (3) To establish and reasonably control streets, alleys, bridges, and public places, and to space above and beneath them, and the use thereof by:
    - (a) Creating and vacating the same and acquiring and disposing of land, or any interest in land, required therefore, including any surplus land which may be incidental to or necessary for the purchase of land required;
    - (b) Providing a plan of future city development within and for a reasonable distance beyond the limits of the city;
    - (c) Regulating the construction of public sidewalks and assessing the cost thereof against adjoining property as a special assessment;
    - (d) Providing for the grade of streets and requiring public utility users of the streets to conform thereto with respect to their facilities located on, above, or under the streets;
    - (e) Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property;
    - (f) Regulating the location of buildings and structures and of trees and shrubbery at and near street corners and street intersections with alleys, so as to provide for the public safety and welfare in the use of streets and alleys;
    - (g) Providing for and regulating the number of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;
    - (h) Providing for the use by other than the owner, of property located on, above, or under the streets, alleys, and public places, in the operation of a utility, upon the payment of a reasonable compensation therefore to the owner thereof;
    - (i) Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the city and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the city.
  - (4) To undertake any public work or make any public improvement or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unity or agency;
  - (5) To construct, provide, maintain, extend, operate, and improve:
    - (a) Within the city: such municipal facilities or structures as the needs of the city may require;
    - (b) Either within or without the corporate limits of the city or of Saginaw County: public parks; recreation grounds; public grounds; cemeteries; landings upon navigable waters; levees, embankments, and structures for flood control and other purposes related to the public health, safety, and welfare; waterworks and water treatment plants and systems; sewage disposal plants and systems; storm sewers; rubbish disposal facilities; and any other future structures or facilities which are devoted to or intended for public purposes within the scope of the powers of the city;
  - (6) To acquire by purchase, gift, condemnation, lease, or otherwise, real and personal property, and interests in property, either within or without the corporate limits of the city or of Saginaw County, for any public use or purpose within the scope of its powers, including, but not by way of limitation, the uses and purposes set forth in this section.

### **Vested Rights and Liabilities.**

Section 3.3. The city shall be the successor of the Village of Frankenmuth and all credits, effects, and to the records, files, books, and papers belonging to such village on the effective date of this charter. No right or liability, contract, lease, or franchise, either in favor of or against the Village of Frankenmuth, existing at the time this

charter becomes effective, and no suit or prosecution of any character, shall be affected in any manner by any change resulting from the adoption of this charter or by the reincorporation of the Village of Frankenmuth as a city, but the same shall stand or proceed as if no change had been made. All taxes, debts, and liabilities due to the Village of Frankenmuth from any person, and all fines and penalties, imposed and existing at the time of such change, shall be collected by the city. All trusts established for any municipal purpose shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

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## **CHAPTER 4 OFFICERS**

### **Elective City Officers**

Section 4.1 The elective officers shall be the Mayor, the six Councilmen, and the Justice of the Peace.

### **Appointive City Officers and Employees.**

Section 4.2. (a) The appointive city officers and the method of their appointment shall be as follows:

- (1) The City Manager, the City Attorney, the Fire Chief, and the Chief of Police shall be appointed by and shall hold office at the pleasure of the Council, which body shall also set their compensation;
- (2) The Assessor, the Clerk, the Treasurer, and all other officers who are not appointed by the Mayor or the Council shall be appointed by the City Manager, subject to the approval of the Council, and shall serve at the pleasure of the City Manager who shall also set their compensations, subject to budget appropriations;
- (3) Members of all boards and commissions of the city shall be appointed by the Mayor, subject to the approval of the Council.
  - (b) Any removal from office by the City Manager shall constitute a suspension from office, until the removal is confirmed by the Council.
  - (c) All persons who are not elective or appointive officers shall be deemed to be employees of the city.

### **Eligibility for Elective City Office.**

Section 4.3. Except as otherwise provided in this charter, a person is eligible to hold any city office if he is (1) over twenty-five years of age, (2) a registered elector of the city, and (3) a resident of the city or of territory annexed to the city, or both, for a least two consecutive years immediately preceding his election or appointment, as the case may be. As to appointive officers, other than members of city boards and commissions, the foregoing requirements, other than as to age, may be waived by a vote of five or more members of the Council.

### **Persons Ineligible for City Office.**

Section 4.4. (a) A person who is in default to the city or who has been found guilty by a court of competent jurisdiction of a felony involving moral turpitude or of any oath of office shall not be eligible to hold any city office.

(b) A person who holds or has held an elective city office shall not be eligible for appointment to an appointive office or employment, for which compensation is paid by the city, until one year has elapsed following the term for which he was elected, or appointed in case of a vacancy.

### **Terms of Office.**

Section 4.5. (a) The terms of office of the Mayor shall be for 2 years and of members of the Council shall be for four years, commencing on a dating from the second Monday following the date of their election.

(b) Each appointive officer, except members of boards or commissions, shall serve for an indefinite term.

(c) Terms of office of persons appointed to fill vacancies on boards and commissions shall commence at the time of appointment, and shall continue until the end of the term of office vacated.

(d) With the consent of the Council, and for so long as the Council shall permit, an elective officer may continue in the office held by him after the expiration of his term, until his successor has been elected or appointed and has qualified for the office.

**Notice of Election and Appointments.**

Section 4.6. Within three days after the canvass of the vote of the election at which a person has been elected to office, or after the Council has made or confirmed an appointment, the Clerk shall mail to the person elected or appointed a certificate of such election or appointment.

**Compensation of Officers.**

Section 4.7. The Council shall fix the compensation for all officers, except as otherwise provided by law. They shall receive no other compensation from the city. Within budget appropriations, reasonable expenses may be allowed to officers when actually incurred and after they have been audited by the Finance Officer and approved by the Council.

**Oath of Office.**

Section 4.8. Every officer, before entering upon his duties, and all employees designated by the Council, before entering upon their employment, shall take the oath prescribed by Section 2 of Article XVI of the Constitution, and shall file the same with the Clerk.

**Surety Bonds.**

Section 4.9. The Council may require any officer or employee to give a bond, to be approved by the City Attorney, in such sum as the Council determines. The bond shall be conditioned upon the faithful and proper performance of the duties of the office or employment concerned. All officers and employees who receive, distribute, or are responsible for city funds or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or the appointment of another person to the office or employment, shall not exonerate the officer or employee or his sureties from any liability incurred by them. All official bonds shall be corporate surety bonds, and the premiums thereof shall be paid by the city. No official bond shall be issued for a term exceeding three years, except bonds which are required of officers serving terms of office which are longer than three years. The terms of bonds required by this section shall not be extended by the renewal thereof. Upon the expiration of the term of any such bond, a new bond shall be furnished. The bonds of all officers and employee shall be filed with the Clerk. The requirements of this section may be met by the purchase by the city of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the city. Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office.

**Giving or Becoming Surety Forbidden.**

Section 4.10. Except for himself or his immediate family, no officer shall give or furnish any bail or recognizance in connection with any complaint or warrant charging the violation of this charter or any ordinance of the city. No officer or employee of the city shall give or become a surety, nor shall he be the agent of any surety or insurer in connection with any bond or insurance required by the Council, this charter, or any ordinance of the city.

**Vacancies in Office.**

Section 4.11. (a) A city office shall become vacant upon the occurrence of any of the following events: (1) Expiration of the term of office, except as provided in Section 4.5 (d); (2) Death of the incumbent; (3) Resignation; (4) Removal from office; (5) Ceasing to be an inhabitant of the city; (6) Conviction of an infamous crime, or of an offense involving a violation of oath of office; (7) Default to the city, unless such default is eliminated within thirty days after notice thereof by the Clerk upon the direction of the Council, or, unless the officer in good faith contests, by recognized means of legal procedures, his liability for the default; (8) A decision of a competent tribunal declaring the officer's election or appointment void; (9) Failure to take the oath or file the bond required for the office within ten days from the date of election or appointment or within such other time, thereafter, as the Council may fix; (10) In the case of a Councilman, including the Mayor, absence from four consecutive regular meetings of the Council, unless such absences, with reasons therefore stated at the time and appearing in the journal of the meeting from which the member was absent, be excused, or twenty-five per cent of such meetings in any calendar year, unless such absences are so excused; (11) Absence from the city or failure to perform the duties of such office for sixty consecutive days, unless such absence from the city or failure to perform the duties of office shall be excused by the Council prior to the expiration of such sixty day period; or (12) Any other event which, by law, creates a vacancy.

(b) The Council may remove any member of a city board or commission for misfeasance, nonfeasance, or malfeasance by a vote of not less than five of its members.

**Resignations.**

Section 4.12. Resignations of elective officers shall be made in writing to the Clerk. Resignations of appointive officers shall be made in writing to the appointing authority. The appointing officer or the Clerk, as the case may be, shall announce the resignation of any officer to the Council at its next meeting.

**Recall.**

Section 4.13. An elective officer may be recalled, and the vacancy so created shall be filled, in the manner prescribed by law.

**Filling Vacancies.**

Section 4.14. (a) If a vacancy occurs in the office of the Mayor, any Councilman, or the Justice of the Peace, the Council shall, within thirty days thereafter, fill the vacancy until the second Monday following the next regular city election.

(b) Except as otherwise provided in this charter, if a vacancy occurs in an appointive office, such vacancy shall be filled within thirty days thereafter in the manner provided for making the original appointment. Such time may be extended once, for not to exceed sixty days, by resolution of the Council setting forth the reasons therefore. If no appointment has been made within such time and the extension thereof, the Council may appoint a committee of three of its members to make such appointment in the stead of the officer required by this charter to make such appointment.

**Delivery of Office to Successor.**

Section 4.15. Whenever an officer or employee resigns or is removed from office, or his tenure in office expires, he shall deliver, forthwith, to his successor in the office or to the Clerk, all books, papers, moneys, and effects in his custody which were necessary to or were obtained as a part of the performance of his duties.

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## **CHAPTER 5 THE CITY COUNCIL**

### **City Governing Body.**

Section 5.1. All legislative or policy forming powers of the city shall be vested in, exercised, and determined by a Council of seven members, including the Mayor.

### **Election of Council.**

Section 5.2. At each regular city election there shall be elected a Mayor and three Councilmen from the city at large.

### **Judge of Qualifications of Members.**

Section 5.3. The Council shall be the judge of the eligibility and qualification of its own members according to the terms of this charter, subject only to review by the courts.

### **Remuneration of Member of the Council.**

Section 5.4. Each member of the Council, including the Mayor, shall receive a per diem of \$5.00 for each regular meeting of the Council actually attended by him for his services to the city during any term of office to which he has been elected. Upon authorization of the Council, reasonable expenses may be allowed to its members when actually incurred on behalf of the city.

### **Functional Duties of the Mayor.**

Section 5.5. The Mayor shall, in addition to any powers and duties otherwise provided or required of him by law, have powers and duties as follows:

- (1) He shall be the ceremonial head and chief officer of the city;
- (2) He shall be the presiding officer of the Council;
- (3) He shall have all of the powers and duties of a Councilman, including the power and duty to vote;
- (4) He shall give the Council information concerning matters concerning the legislative and policy functions of the Council and give his recommendations thereon;
- (5) He shall, in emergencies, have the powers conferred by law upon peace officers and shall exercise such powers to correlate the work of the city's officers and departments to prevent disorder, to preserve the public peace and health, and to provide for the safety of persons, and
- (6) He shall execute or authenticate by his signature such instruments of the city as the Council, this charter, or any State or Federal law may require, and
- (7) He shall make appointments of members of committees, boards, and commissions of the city which are authorized by law or direction of the Council.

### **Selection of Mayor Pro Tem.**

Section 5.6. The Council shall, at its first regular meeting following each regular city election, select one if its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor when, on account of absence from the city, disability, or otherwise, the Mayor is temporarily unable to perform the duties of his office, and in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. The Mayor Pro

Tem shall preside over the meetings of the Council at the call of the Mayor. In the event of a vacancy occurring in the office of Mayor or Mayor Pro Tem, the Council shall appoint one of its elected members to fill such vacancy.

### **Meetings of the Council.**

Section 5.7. (a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting in each calendar month. If any time set for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

(b) Special meetings of the Council may be called by the Clerk on the written request of the Mayor, the City Manager, or any two members of the Council, on at least six hours written notice to each member of the Council, designating the time, place, and purpose of such meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have waived in writing, the requirement that notice be given at least six hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present shall be a legal meeting. Such waiver may be made either before or after a meeting has been held.

(c) No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

(d) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

(f) The Council shall determine its own rules and order of business and shall keep a journal of all its proceedings, in the English language, which shall be signed by the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Any citizens or taxpayer of the city shall have access to the minutes and records of all regular and special meetings of the Council during the regular business hours of the city.

(g) Each member shall vote on each question before the Council for a determination, unless excused therefrom by the affirmative vote of at least four of the members, but no member of the Council shall vote on any question upon which he has a private or financial interest other than as a citizen or the city. If a question is raised under this section at any Council meeting, such question shall be determined before the main question shall be voted on, but the Council member affected shall not vote on such determination.

(h) Except in those cases where a larger majority is required by law, no ordinance or resolution shall be adopted or passed by the Council, nor shall any other official action be taken, except by the affirmative vote of at least four members.

### **Public Health and Safety.**

Section 5.8. Through the established departments and agencies of the city government, together with any such departments or agencies as may be created under authority of this charter, the Council shall provide for the public peace, health, and recreation, and for the safety of persons and property.

### **Health.**

Section 5.9. To the extent that public health functions are exercised by the County of Saginaw, there shall be no duplication thereof by the city. In all other respects, the Council shall constitute the Board of Health of the city. The Board of Health shall have supervision of all matters relating to the sanitary condition of the city and the

preservation of the life and health of its inhabitants to the extent that such functions are not exercised by the County of Saginaw.

### **Licenses.**

Section 5.10. The Council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require an exact payment of such reasonable sums for any license, as it may deem proper, of persons receiving any license from the city. The person or persons receiving any such license shall before the issuing thereof, execute a bond to the city, when required by ordinance, in such sum and with such securities as prescribed in such ordinance, conditioned for the faithful observance of this charter of the city, and the ordinance under which the license is granted.

### **Public Works.**

Section 5.11. The Council shall be charged and entrusted with all responsibility for the control of the water works, the water distribution system, sewers, sewage system, sewage disposal, and other public works of the city, whether the same were in existence at the time this charter became effective or may be thereafter acquired.

### **Cemetery Regulations**

Section 5.12. The Council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with improvements thereon and appurtenances thereto, owned or hereafter acquired by the city either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city belonging to, or under the control of, any church or religious society, or any corporation, company, or association. The city may cause any bodies buried within the city, in violation of any rule or ordinance made in respect to such burials, to be taken up and reburied in such a manner as shall conform to the ordinances of the city, a plan for the platting, sale, and perpetual care of all lots, plots, and lands therein shall be provided.

### **House Trailers.**

Section 5.13. The Council may, by ordinance, provide for the prohibition or regulation of the use, occupancy, sanitation, and parking of house trailers within the city. The right of the Council to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to the ground by means of any temporary or permanent foundation, or in any manner whatsoever.

### **Restriction on Powers of the Council.**

Section 5.14. Neither the Council, nor any of its members, shall direct the appointment of any person to, or his removal from, any city office or employment by the City Manager or any of his subordinates. The Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately.

### **Investigations**

Section 5.15. The Council, or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office, or officer of the city and make investigations as to municipal affairs, and for that purpose may summon witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer of the city to obey such summons or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a violation of this charter.

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## **CHAPTER 6 CITY LEGISLATION**

### **Legislative Power.**

Section 6.1. The legislative power of the city is vested exclusively in the Council, except as otherwise provided by law.

### **Prior Legislation Preserved.**

Section 6.2. All ordinances, resolutions, and rules of the Council, to the extent that they are consistent with the provisions of this charter, which are in force on the effective date of this charter, shall continue in full force, until repealed or amended.

### **Introduction, Consideration, and Style of Ordinances.**

Section 6.3. (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, "The City of Frankenmuth Ordains:"

(b) No ordinance shall be passed at the same meeting at which it is introduced, unless the same is declared to be an emergency ordinance by a vote of not less than five members of the Council.

(c) An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number and title only.

(d) If a section of an ordinance is amended, the section shall be reenacted and published at length. This requirement shall not apply to the schedules of one-way streets and of parking limitations contained in any traffic ordinance.

(e) Each ordinance, after adoption, shall be identified by a number.

(f) Each ordinance shall be recorded by the Clerk forthwith in the Ordinance Book, and the enactment of such ordinance shall be certified by him therein.

### **Publication of Ordinances.**

Section 6.4. (a) Before an ordinance may become effective, it shall be published in one or more newspapers of general circulation in the city or as may be otherwise provided or permitted by law. Such publication may be as a part of the proceedings of the meeting at which it was adopted. The effective date of an ordinance shall be stated therein, but shall not be less than twenty days from the date of its adoption, unless it is declared by the affirmative vote of not less than five members of the Council to be an emergency ordinance.

(b) In the event of the codification of the ordinances, the deposit of ten or more printed copies in the office of the Clerk, available for public inspection, shall constitute the publication thereof.

### **Penalties.**

Section 6.5. The Council shall provide in ordinances adopted by it for the punishment of violations thereof. Such punishment may be by a fine of not to exceed five hundred dollars or imprisonment for not more than ninety days, or both, in the discretion of the court. Imprisonment for violations of ordinances may be in the city or county jail, or in any workhouse of the state which is authorized by law to receive prisoners of the city.

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**Time Limit for Prosecution of Ordinance Violations.**

Section 6.6. No prosecution for the violation of an ordinance shall be commenced after the expiration of two years after the commission of the offense.

**Proceedings for Prosecution of Ordinance Violations.**

Section 6.7. Except as may be inconsistent with or otherwise provided in Chapter 12 of this charter, all proceedings relative to the arrest, custody, and trial of persons accused of the violation of ordinances shall be governed by and conform as nearly as may be with the provisions of law relating to proceedings in criminal cases cognizable by justices of the peace.

**Initiative and Referendum.**

Section 6.8. An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had by a petition, as hereinafter provided.

**Initiatory or Referendary Petitions.**

Section 6.9. An initiatory or a referendary petition shall be signed by not less than fifteen per cent of the registered electors of the city on the date of the filing of such petition. The Clerk shall provide and make available to any registered elector of the city general petition forms upon which any initiatory or referendary petition may be set forth by such elector or others interested therein. Such petition may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name, and shall place thereon after his name the date of his signing and his place of residence by street and number and compliance with the requirements of this sentence shall be jurisdictional to the validity of any petition or petition paper. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten days, canvass the signatures thereon to determine the genuineness and the sufficiency thereof. Any signature obtained more than sixty days before the filing of such petition with the Clerk shall not be counted. If an initiatory petition be found to contain an insufficient number of genuine signatures of registered electors of the city, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify, forthwith, the person filing such petition, and ten days from such notification shall be allowed for the filing of supplemental petition papers. When in initiatory or referendary petition is found to be sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

**Same – Council Procedure**

Section 6.10. Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within sixty days, either:

- (a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors; or
- (b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors.

**Same – Submission to Electors.**

Section 6.11. 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 thereon, except in cases where otherwise required by law.

**Same – Status of Ordinances Adopted.**

Section 6.12. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

**Same – Ordinance Suspended.**

Section 6.13. The certification by the Clerk of the sufficiency of a referendary petition within thirty 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.

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**CHAPTER 7**  
**THE ADMINISTRATIVE SERVICE**

**The City Manager.**

Section 7.1. (a) The City Manager shall be the chief administrative officer of the city government, in conformity with the provisions of this charter. He shall be selected by the Council and shall serve at the pleasure of, and be subject to removal by the Council at any time.

(b) The Council shall designate a qualified person to perform the duties of City Manager during a vacancy in the office. With the consent and approval of the Council, the City Manager may designate an administrative officer or employee of the city to act as City Manager if he is temporarily absent from the city or unable to perform the duties of his office.

**Eligibility and Duties of the City Manager.**

Section 7.2. (a) To be eligible for appointment as City Manager, a person must have had previous experience in city, industrial, or business administration, in which he was in responsible charge of the functions administered by him.

(b) The City Manager shall be the administrative agent of the Council, shall be vested with all administrative powers of the city not inconsistent with the provisions of this charter, and shall perform the duties of his office under the authority of and be accountable to the Council.

(c) It shall be the duty of the City Manager to:

- (1) Supervise and coordinate the work of the administrative officers and departments of the city, except as otherwise provided in this charter, and, as to the City Attorney and the Clerk so far as his work is that required of him by Section 7.3. (a) hereof;
- (2) Prepare the annual budget proposals of the city, together with supporting information in explanation thereof;
- (3) Establish and maintain a central purchasing service for the city;
- (4) Subject to any employment ordinance of the city, employ or be responsible for the employment of all city employees, and supervise and coordinate the personnel policies and practices of the city;
- (5) Maintain an inventory of city-owned property;
- (6) Keep informed and report to the Council concerning the work of the several offices and departments of the city and, to that end, he may secure from the officers and heads of all administrative departments such information and periodical or special reports as he or the Council may deem necessary;
- (7) In case of conflict or authority between officers and administrative departments or, in case of absence of administrative authority occasioned by inadequacy of charter or ordinance provisions, resolve the conflict or supply the necessary authority so far as may be consistent with law and the ordinances of the city, and direct the necessary action to be taken in conformance therewith; making a full report immediately to the Council;
- (8) Attend all meetings of the Council, with the right to be heard in all Council proceedings, but without the right to vote;
- (9) Recommend to the Council, from time to time, such measures as he deems necessary or appropriate for the improvement of the city or its services;
- (10) Prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the city which, when adopted as an ordinance by the Council, shall supplement this charter in establishing the duties and functions, as established in this charter, of each officer and department of the city;
- (11) Furnish the Council with information concerning city affairs and prepare and submit such reports as may be required or which the Council may request, including an annual report which shall consolidate the reports of the several departments;
- (12) Possess such further powers and perform such additional duties as may be granted or required of him, from time to time by the Council, so far as may be consistent with the provisions of law;

(13) Establish any rules necessary to carry out any of the foregoing duties.

**City Clerk.**

Section 7.3. (a) The Clerk shall be the clerk and clerical officer of the Council. He shall attend all meetings of the Council, and shall keep its journal.

(b) He shall have power to administer all oaths required by law and the ordinances of the city.

(c) He shall be custodian of the city seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided for by this charter.

(d) He shall give to the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements to which the city is a party.

(e) He shall notify the Council of the failure of any officer or employee required to take an oath of office or to furnish any bond required of him or to file any statement of election expenses required by law.

(f) He shall certify all ordinances and resolutions adopted by the Council.

(g) Until the city attains a population of 15,000 inhabitants, and thereafter, until the Council provides otherwise by ordinance, the Clerk shall be the finance officer of the city.

(h) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council, or by the City Manager.

**City Treasurer.**

Section 7.4. (a) The Treasurer shall have the custody of all moneys of the city, the Clerk's bond, and all evidences of value belonging to or held in trust by the city.

(b) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same to the Finance Officer.

(c) He shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and moneys as are provided by law.

(d) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council, or by the City Manager.

**Deputy Clerk or Treasurer.**

Section 7.5. The Clerk and the Treasurer may appoint and remove their deputies, subject to the budget allowances therefore and the approval of the City Manager in the case of appointments. Each deputy shall possess all the powers and authorities of his superior officer.

**Finance Officer.**

Section 7.6. (a) The Finance Officer shall be the general accountant of the city, shall keep the books of account of the assets, receipts, and expenditures of the city, and shall keep the Council and the City Manager informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform systems as may be required by law.

(b) He shall examine and audit all accounts and claims against the city. No withdrawal shall be made from any city fund which, after deduction of previous withdrawals and outstanding claims, does not have a sufficient amount therein to pay such proposed withdrawal.

(c) He shall balance all the books of account of the city at the end of each calendar month, and shall make a report therein to the City Manager.

(d) He shall examine and audit the books of account of the Treasurer and the Justice of the Peace at least once each month. He shall, upon direction of the City Manager, examine and audit all books of account kept by any other official or department of the city.

### **City Attorney.**

Section 7.7. (a) The City Attorney shall act as the legal advisor of and be responsible to the Council. He shall advise the City Manager concerning legal problems affecting the city administration and the Clerk, Treasurer, and Assessor concerning their statutory and charter duties, when so requested, and shall file with the Clerk a copy of all written opinions given by him.

(b) He shall prosecute ordinance violations and shall represent the city in cases before courts and other tribunals.

(c) He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments as may be required by this charter or by the Council, and shall promptly give his opinion as to the legality thereof.

(d) He shall defend all officers and employees in all actions arising out of the performance of their official duties.

(e) He shall perform such other duties as may be prescribed for him by this charter or the Council.

(f) Upon the Attorney's recommendation, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the city has an interest, or to assist the City Attorney.

### **Assessor.**

Section 7.8. (a) The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by law.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or the ordinances of the city.

(c) He shall perform such other duties as may be prescribed by law or the ordinances of the city.

### **Police Department.**

Section 7.9. (a) The Police Department shall be in the charge of the Chief of Police, who, except as otherwise provided by law, shall be appointed by and responsible to the Council. To be eligible for appointment as Chief of Police, a person must be qualified for such office by education, training, or experience.

(b) Police Officers shall have all the powers, immunities, and privileges granted to peace officers by law for the making of arrests, the preservation of order, and the safety of persons and property in the city and on lands and premises owned by the city outside its corporate limits. Any person arrested shall be taken before the proper magistrate or court for examination or trial, without unnecessary delay. Police officers shall make and sign complaints to or before the proper officers and magistrates concerning violations of this charter and the ordinances of the city. For purposes of making arrests, violations of city ordinances shall be deemed to be misdemeanors.

### **Fire Department.**

Section 7.10. (a) The Fire Department shall be in the charge of the Fire Chief, who, except as otherwise provided by law, shall be appointed by and responsible to the Council. To be eligible for appointment as Fire Chief, a person must be qualified for such office by education, training, or experience.

(b) The Fire Department shall be responsible for the prevention and extinguishment of fires and the protection of persons and property against damage and accident resulting therefrom. The Fire Chief shall be responsible for the use, care, and management of the city's fire fighting apparatus and property. He shall conduct supervisory and educational programs to diminish the risk of fires within the city. He, or any of his authorized

subordinates, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of life or property. If any person willfully disobeys any such lawful requirement, he shall be deemed guilty of a violation of this charter.

(c) The Fire Chief or any of his authorized subordinates may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of a fire. In such case no action shall be maintained against the city or any person therefore. If any person having an interest in such a building shall apply to the Council within three months after the fire, for damages or compensation for such building, the Council may pay him such compensation as it may deem just. The Council may ascertain the amount of such damage or compensation by agreement with the owner of the property or by the appraisal of a jury selected in the same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid on account of any loss which would probably have occurred to a building if it had not been pulled down or destroyed under authority of this section.

#### **Additional Administrative Powers and Duties.**

Section 7.11. From time to time, upon the recommendation of the City Manager, the Council may, by ordinance, prescribe additional powers and duties or diminish any powers and duties in a manner not inconsistent with this charter, to be exercised and administered by appropriate officers and departments of the city.

#### **Employee Welfare Benefits.**

Section 7.12. The Council shall have power to make available to the administrative officers and employees of the city a pension plan and any recognized standard group plan of life, hospital, health, or accident insurance, or any one or more thereof.

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## CHAPTER 8 GENERAL FINANCE

### **Fiscal Year.**

Section 8.1. The fiscal and budget year of the city shall begin on the first day of July of each year.

### **Budget Procedure.**

Section 8.2. No later than the first day of February of each year, each officer, department, and board of the city shall submit to the City Manager an itemized estimate of its expected income and expenditures during the next fiscal year for the department or activities under its control. The City Manager shall compile such information and list the same upon a budget proposal form. No later than the first meeting of the Council in March of each year he shall submit to the Council a recommended budget for the next fiscal year which, considering any anticipated unexpended balance or deficit at the end of the current fiscal year, is within the tax limit and other anticipated revenue of the city.

### **Further Budget Procedure.**

Section 8.3. The budget proposal of the City Manager, together with his recommendations and its supporting schedules and information shall be available for public inspection in the office of the Clerk.

### **Budget Hearing.**

Section 8.4. A public hearing on the budget proposal shall be held before its final adoption, at such time as the Council shall direct. Notice of the public hearing shall be published by the Clerk at least one week in advance thereof.

### **Adoption of Budget.**

Section 8.5. (a) At a regular meeting held not later than the first Monday in April of each year, the Council shall, by resolution, adopt a budget for the ensuing fiscal year and make an appropriation of the money needed therefore. Such resolution shall designate the sum to be raised by taxation for the general purposes of the city and for the payments of principal and interest on its indebtedness. Failure to adopt such resolution within the time herein set shall not invalidate either the budget or the tax levy therefore.

(b) A copy of the appropriations for each fiscal year, certified by the Clerk, shall be furnished to the Finance Officer within ten days after the date of the adoption of the budget resolution.

(c) In the event that the Council shall not adopt a budget for any fiscal year by the second Monday in April preceding the commencement of such fiscal year, the budget proposal for that year, as presented to the Council by the City Manger in accordance with the provisions of this chapter shall be deemed to be the budget for that fiscal year and there shall be an appropriation therefore, without the necessity of Council action.

### **Budget Control.**

Section 8.6. (a) Except for purposes which are to be financed by the issuance of bonds or by special assessments, no money shall be drawn from the treasury of the city, except in accordance with the appropriation for such purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation during the fiscal year. The Council, upon the written recommendation of the City Manager and by the affirmative vote of not less than six of its members, may

appropriate unappropriated funds or transfer any unencumbered appropriation balance, including the contingent account of the general fund of the city, or any portion thereof, from any budget item or account, department, or agency to another.

(b) Expenditures shall not be charged directly to any contingent or general account. Instead, the necessary amount of the appropriation from such account shall be transferred to the appropriate budget item or account and the expenditure than charged thereto.

(c) During each month, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to the end of the preceding month; and, if it shall appear that the revenues are less than anticipated, the Council may, by resolution, reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(d) Within thirty days following the end of each fiscal year, the City Manager shall file with the Council a schedule of all encumbrances upon the budget appropriations existing at the end of the fiscal year, with his recommendations thereon and the Council shall provide for the payment of such thereof as constitute valid claims against the city from corresponding budget items from the then current fiscal year.

### **Special Accounts.**

Section 8.7. (a) The Council may, by ordinance, establish and maintain accounts for accumulating moneys to be used for acquiring, extending, altering, constructing, or repairing public improvements and for the purchase of equipment of any type, in each case either for a specific item or items or for future unspecified public improvements or equipment, or both.

(b) Appropriations to such accounts may be made by the Council either in the annual appropriation resolution or, from time to time during the fiscal year, from available funds, from whatever source derived, which are not required for other appropriations or obligations of the city. Such accounts shall be continuing accounts and the balances therein at the end of each fiscal year shall remain a part thereof.

(c) Moneys which are accumulated for the purpose of public improvements, as set forth in subsection (a) hereof, shall be used only at the direction of the Council, and only for the purpose provided in the original ordinance establishing such account, unless their use for some other municipal purpose be authorized by a majority vote of the electors of the city who vote on the proposition to amend such ordinance to provide for a change of the use of the moneys in such account. After the purpose of any such account has been fulfilled, any balance remaining therein may be transferred by the Council to any other special account or to the general fund of the city.

(d) Moneys which are accumulated for the purpose of purchasing equipment, as set forth in subsection (a) hereof, shall be expended only for the purpose provided in the ordinance establishing any such account, or as such ordinance may be amended from time to time, and, when no longer required for such purpose such moneys or any part thereof may be transferred to the general fund by a resolution adopted by the affirmative vote of not less than six members of the Council.

### **Withdrawal of City Moneys.**

Section 8.8. (a) Unless otherwise provided by law or by ordinance, all moneys drawn from the treasury shall be drawn pursuant to the authority and appropriations of the Council. The City Manager, where necessary to expedite operating procedures, may authorize, in writing, other officers and employees of the city to make minor disbursements from petty cash accounts, which disbursements shall be accounted for and shall be audited by the Finance Officer.

(b) Checks or warrants for the disbursement of city funds shall be signed by the Clerk and countersigned by the Treasurer, except, if the Clerk and Treasurer are the same individual, they shall be countersigned by the Mayor.

(c) Checks may be issued prior to authorization by the Council for such purposes and up to such amounts as the Council shall provide by ordinance.

**Notice to City of Claim for Injuries.**

Section 8.9. (a) The city shall not be liable in damages for injury to person or property by reason of negligence of the city, its officers, or employees, or by reason of any defective highway, public work, public service improvement, or facility of the city, or by reason of any obstruction, ice, snow, or other encumbrance thereon unless, within sixty days after such injury occurred, the person damaged or his representative causes a written notice to be served upon an officer of the city upon whom process may be served by law. Such notice shall state that such person intends to hold the city liable for such damages, and shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. No person shall bring action against the city for damages to person or property arising out of any of the reasons or circumstances aforesaid, unless brought within the period prescribed by law, nor unless he has first presented to the Clerk a claim in writing and under oath, setting forth specifically the nature and extent of the injury and the amount of damages claimed. The Clerk shall present such claim to the Council for action. It shall be a sufficient bar to any action upon any such claim that the notice of injury and the claim in writing under oath, required by this section, were not filed within the time and in the manner herein provided.

**Municipal Borrowing Power.**

Section 8.10. (a) 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 therefore.

(b) 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 such of said bonds as 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 therefrom, moneys shall be advanced from the general funds of the city to meet such deficiency, and shall be replaced in the general funds when the special assessment fund shall be sufficient therefore.

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

(1) For the retirement of such bond issue, or

(2) If such 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, such funds shall be refunded to the owners of property against which special assessments therefore were made, pro rata according to payments made toward the total cost of the improvement for which the bonds were issued; or

(3) For such other purposes as may be permitted by law, subject to the proviso in paragraph (2) above; or

(4) If such funds cannot be used as above permitted, than in any manner approved by a vote of not less than five members of the Council.

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

(e) 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 Finance Officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled" or otherwise defaced by the Finance Officer, to indicate payment.

**Limitations Upon Borrowing Power.**

Section 8.11. (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten per cent of the assessed value of all the real and personal property in the city: Provided, That, in computing such 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 thereof. 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.

(b) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and, if such bonds are not sold within three years after authorization, such authorization shall be null and void.

**Depositories.**

Section 8.12. The Council shall designate depositories for city funds in accordance with law, and shall provide for the regular deposit of all city moneys.

**Independent Audit.**

Section 8.13. An independent audit shall be made of all accounts of the city government at the close of each fiscal year, and shall be completed within ninety days thereafter. Special independent audits may be made at any time that the Council may designate. All such audits may be made at any time that the Council may designate. All such audits shall be made to the Council by a Certified Public Accountant designated by it. Each audit and reports supplemental thereto shall be made public in the manner that the Council determines and copies thereof shall be placed in the office of the Clerk.

**Annual Report.**

Section 8.14. The City Manager shall prepare an annual report of the affairs of the city, after the completion of the annual audit. The report shall include condensed financial statements showing the results of all city operations, including statements for each public utility owned or operated by the city. Copies of such report shall be made available for public inspection at the office of the Clerk and by any other method that the Council may determine.

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## **CHAPTER 9 TAXATION**

### **Power to Tax – Tax Limit.**

Section 9.1. The city shall have the power to assess taxes, levy, and collect rents, tolls, and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed two per cent (20 mills) of the assessed value of all real and personal property subject to taxation in the city.

### **Subjects of Taxation – Tax Procedure.**

Section 9.2. (a) The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law.

(b) Except as otherwise provided by this chapter, city taxes shall be assessed, levied, and collected in the manner provided by law.

### **Exemptions.**

Section 9.3. The power of taxation shall never be surrendered or suspended by any grant or contract to which the city shall be a party. No exemptions from taxation shall be allowed, except such as are expressly required or permitted by law.

### **Tax Day.**

Section 9.4. 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 the facts existing on the tax day for the year for which such roll is made and no change in the status or location of any such property after that day shall be considered by the Assessor or the Board of Review.

### **Personal Property – Jeopardy Assessment.**

Section 9.5. If the Treasurer finds or reasonably believes that any person, who is, or may be, liable to 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 there from personal property which is, or may be, liable for taxation; or to conceal or conceals himself or his property; or does any other act tending to prejudice, or to render wholly or partly ineffectual the proceedings to collect such tax, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

### **Preparation of the Assessment Roll.**

Section 9.6. Prior to the date of the meeting of the Board of Review in each year, the assessor shall prepare and certify and assessment roll of all property in the city. Such roll shall be prepared in accordance with the requirements of law, and may be divided into volumes, which the Assessor shall identify by number, for purposes of convenience in handling the assessment roll and for locating properties assessed therein. The attachment of any certificate or warrant required by this chapter to any volume of the roll, either as an assessment roll or as a tax roll, shall constitute the attachment thereof to the entire roll, provided the several volumes are identified in such

certificate or warrant. Values of property set forth on the assessment roll shall be determined according to recognized methods of systematic assessment.

### **Board of Review.**

Section 9.7. (a) A Board of Review is hereby created, composed of three members who have the qualifications for holding elective city office, as set forth in Section 4.3 of this charter.

(b) The members of the Board of Review shall be appointed by the Council and may be removed for reasons of nonfeasance or misfeasance by the vote of five members of the Council. The first members shall be appointed during the month of January, 1960, for terms expiring on July 1, 1961, 1962, and 1963. Thereafter, one member shall be appointed in the month of May of each year, for a term of three years, commencing on the following July first.

(c) The Board shall, annually, on the first day of its meeting, select one of its members chairman for the ensuing year. The Assessor shall be Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

### **Duties and Functions of Board of Review.**

Section 9.8. For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties, in all respects, as are, by law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter. At the time, and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessments. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the Board of Review shall make any change upon, or addition or correction to, the assessment roll. The Board shall make no such changes, additions, or corrections after it has certified the roll as provided and required by Section 9.11 of this chapter. The Assessor shall make a permanent record of all proceedings of the Board and enter therein all resolutions and decisions of the Board. Such record shall be filed with the Clerk or on before the first day of September following the meeting of the Board of Review.

### **Meetings of the Board of Review.**

Section 9.9. (a) The Board of Review shall convene in its first session on the third Monday in February of each year at such time of day and place as shall be designated by the Council and shall remain in session on said day for at least six hours for the purpose of considering and correcting the roll. Such meeting may be adjourned beyond said day until the consideration and correction of the roll is completed. In each case in which the assessed value of any property is changed by the Assessor or the Board of Review from the preceding year, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the day following the end of the first session of the Board. Such notice shall state the date, time, place, and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

(b) The Board of Review shall convene in its second session on the fourth Monday in February of each year at such time of day and place as shall be designated by the Council and shall continue in session for two days for the purpose of giving all interested persons an opportunity to be heard, making any adjustments in the assessment roll based upon such hearing, and confirming the assessment roll. In no case shall the Board meet for less than six hours on each day of such session.

**Notice of Meetings.**

Section 9.10. Notice of the time and place of the annual meeting of the Board of Review shall be published by the Assessor not less than one week nor more than three weeks prior thereto.

**Certification of Roll.**

Section 9.11. After the Board of Review has completed its review of the assessment roll, and not later than the third day following the fourth Monday in February, or such other date as may subsequently be required by law, the majority of its members shall sign a certificate to the effect that the same is the assessment roll of the city for the year in which it has been prepared, as approved by the Board of Review, which certificate, when attached to any volume of the roll shall constitute a conclusive presumption of the validity of the entire roll, as provided in Section 9.6 of this chapter. In the event that the Board of Review shall fail or refuse to so review the assessment roll of the city, such roll, as prepared and presented to the Board of Review by the Assessor shall be the assessment roll for the year for which it was prepared, and shall stand as though it had been certified by the Board of Review.

**Validity of Assessment Roll.**

Section 9.12. Upon the completion of the assessment roll, and from and after midnight ending the last day of the meeting of the Board of Review, it shall be the assessment roll of the city for county, school, and city taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all courts and tribunals to be valid, and shall not be set aside, except for cause set forth by law.

**Clerk to Certify Levy.**

Section 9.13. Within three days after the Council has made the appropriations for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem taxation, together with such other assessments and lawful charges and amounts which the Council requires to be assessed, reassessed, or charged upon the city tax roll against property or persons.

**City Tax Roll.**

Section 9.14. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a tax roll, or a combined assessment and tax roll, to be known as the "City Tax Roll." Upon receiving the certification of the several amounts to be raised, assessed, and charged for city taxes, as provided in the preceding section, the Assessor shall proceed forthwith (1) to spread the amounts of the general ad valorem tax according to and in proportion to the several valuations set forth in said assessment roll, and (2) to place such other assessments and charges upon the roll as are required and authorized by the Council.

**Taxes a Debt and Lien.**

Section 9.15. (a) The taxes on real and personal property shall become a debt to the city from the owner or person otherwise to be assessed, on the tax day provided by law. The amounts assessed on any interest in real property shall become a lien upon such real property on the first day of July next subsequent to the tax day, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof.

(b) All personal taxes levied or assessed shall also be a first lien, prior, superior, and paramount, on all personal property of persons so assessed on and after the first day of July next subsequent to the tax day, and shall so remain, until paid. Said tax liens shall take precedence over all other claims, encumbrances, and liens upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgment, or otherwise, and no transfer of personal property

assessed for taxes shall operate to devalue or destroy such lien, except where such property is actually sold in the regular course of retail trade.

**Tax Roll Certified for Collection.**

Section 9.16. After spreading the taxes and placing other assessments and charges upon the roll, the Assessor shall certify the tax roll, and attach his warrant thereto directing and requiring the Treasurer to collect, prior to March first on the following year, from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax, charge, or assessment on or before the last day of February of the next calendar year. Said warrant shall grant to and vest in the Treasurer, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. The tax roll shall be delivered to the Treasurer on or before the fifteenth day of May.

**Tax Payment Date.**

Section 9.17. City taxes shall be due and payable on July first of each year.

**Taxes Due-Notification Thereof.**

Section 9.18. The Treasurer shall not be required to make personal demand for the payment of taxes, but, upon receipt of the city tax roll, he shall forthwith mail a tax statement to each person named in the tax roll, which mailed statement shall be a sufficient demand for the payment of all taxes assessed. Neither the failure on the part of the Treasurer to mail such statement, nor the failure of any person to receive the same, shall invalidate the taxes on the tax roll or release any person or property assessed from the liabilities provided in this chapter in case of non-payment.

**Tax Payment Schedule.**

Section 9.19. The Council shall provide, by ordinance, the tax payment schedule for city taxes, the times when the same be paid without the addition of collection fees or interest, and the amount of collection fees and interest to be added thereafter. All amounts collected as collection fees and interest shall be paid into the city's treasury for the use and benefit of the city.

**Failure or Refusal to Pay Personal Property Tax.**

Section 9.20. If any person shall neglect or refuse to pay any tax on personal property assessed to him, the Treasurer shall collect the same by seizing any personal property of such person, to an amount sufficient to pay such tax, together with any charges and interest added thereto, wherever the same may be found in the State. No property shall be exempt from such seizure. He may sell the property seized, to an amount sufficient to pay taxes and all charges, fees, penalties, and interest, in accordance with statutory provisions. The Treasurer may also sue the person to whom a personal property tax is assessed, in accordance with the powers granted to him by law.

**State, County, and School Taxes.**

Section 9.21. For the purpose of assessing and collecting taxes for state, county, and school purposes, the city shall be considered the same as a township and all provisions of law relative to the collection of, and accounting for, such taxes and the penalties and interest thereon shall apply. For the purpose of collecting state, county, and school taxes, the Treasurer shall perform the same duties and have the same powers as township treasurers under state law.

**Protection of City Lien.**

Section 9.22. The city shall have power, insofar as the exercise thereof shall not conflict with or contravene the provisions of law, to acquire such an interest in any premises within the city, by purchase at any tax or other public sale, or by direct purchase from or negotiation with the State of Michigan or the owner, as may be necessary to assure to the city the collection of its taxes, special assessments, charges, and any interest thereon which are levied against any lot or parcel of real property or to protect the lien of the city therefore, and may hold, lease, or sell the same. Any such procedure exercised by the city to assure the collection of its taxes or the protection of its tax or other liens shall be deemed to be for a public purpose. The Council may adopt any ordinance which may be necessary to make this section effective.

**Collection of Delinquent Taxes.**

Section 9.23. All taxes and charges, together with fees, penalties, and interest upon real property on the tax roll, remaining uncollected by the Treasurer on the first day of March following the date when the roll was received by him shall be subject to one of the following procedures:

(1) The real property against which such taxes and charges are assessed shall be subject to disposition, sale, and redemption for the enforcement and collection of the tax lien against the same in the method and manner which may be provided by ordinance. The Council may provide by ordinance the procedure for the sale and redemption of real property for such unpaid taxes, assessments, and charges, together with fees, penalties, and interest, by judicial sale on petition filed in behalf of the city. Such procedures shall correspond substantially to the procedure provided by law for the sale by the State of tax delinquent real property and redemption therefrom, except that the acts performed by state and county officers shall be performed by appropriate city officers and that city tax sales shall be held not less than thirty nor more than ninety days prior to the dates of corresponding tax sales under the general law.

(2) If no ordinance is in effect pursuant to subsection (1) of this section, such taxes shall be returned to the County Treasurer, to the extent and in the same manner and with like effect as provided by law for returns by townships treasurers of township and county taxes. Such returns shall include all the additional assessments, charges, fees, penalties, and interest hereinbefore provided, which shall be added to the amount assessed in said tax roll against such property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

**Disposition of Real Property Held by City.**

Section 9.24. When the city has acquired any interest in property to protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract, shall have the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, fees, penalties, interest, and costs, paid by the city to protect its title in such property. After the lapse of ninety days after the date that the city acquires title to any such property, the Council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the Council by the Assessor.

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## CHAPTER 10 SPECIAL ASSESSMENTS

### **General Power Relative to Special Assessments**

Section 10.1. The Council shall have the power to make public improvements within the city and, as to public improvements which are of such a nature as to benefit especially any property or properties within a district, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon the property in proportion to the benefits derived or to be derived.

### **All Property Liable for Special Assessments.**

Section 10.2. All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefiting such property, unless specifically exempted from special assessments by law, and special assessments shall be levied thereon and collected in the manner provided by ordinance. Unpaid special assessments shall be returned to the County Treasurer, or otherwise collected in the same manner as unpaid city taxes, and the said premises against which unpaid special assessments exist may be sold or forfeited in the same manner as for nonpayment of city taxes.

### **Detailed Procedure to be Fixed by Ordinance.**

Section 10.3. The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of special assessments districts, notices and hearings, making and confirming of special assessment rolls, correction of errors in such rolls, the number of installments in which special assessments may be paid, collection of special assessments, refunds, and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall provide for the following:

- (1) The procedure for filing petitions for public improvements;
- (2) A survey and report by the City Manager concerning the need for, desirable extent of, and probable cost of each proposed public improvement, before any other action shall be taken thereon;
- (3) A public hearing by the Council on the making of such public improvement, at which all persons within the proposed special assessment district therefore, or who own property therein, may be heard: Provided, That no such hearing shall be required or notice thereof given if a petition for such public improvement is signed by all of the property owners to be assessed for the improvement;
- (4) A resolution of the Council determining to proceed with the proposed public improvement, finally fixing the special assessment district therefore, and ordering the Assessor to prepare a special assessment roll therefore: Provided, That, if, prior to the adoption of the resolution authorizing the making of the public improvement, written objections thereto have been filed by the owners of property in the district, which, according to estimates, will be required to bear more than fifty per cent of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted except by the affirmative vote of five members of the Council;
- (5) A public hearing by the Council on the special assessment roll for the project;
- (6) Publication of notice of each hearing required by this section to be given in a newspaper published within the city, not less than ten days prior to the date of the hearing;
- (7) A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefore, or the first installment thereof, if installment

- payments be allowed, shall be due and payable; the number of annual installments in which the special assessment may be paid; and the rate of interest to be charged upon each deferred installment;
- (8) That whenever any property is acquired by condemnation, or otherwise, for the purpose of any public improvement, the cost thereof, exclusive of that part of such cost representing damages for injury to improvements to such property and the cost of the proceedings required to acquire such property, may be added to the cost of such improvement; and
  - (9) That, except as provided in (10), no contract or expenditure, except for the cost of preparing necessary legal procedures and engineering plans and estimates, shall be made for the improvement, until the special assessment roll to defray the costs of the same has been confirmed;
  - (10) That, in the event that the proceeds of a special assessment or the proceeds of bonds sold which are to be paid by such special assessment are not required to defray the expense of any public improvement prior to the completion thereof, the special assessment roll therefore may be made within sixty days after the improvement is completed and shall be based upon the actual cost thereof.

#### **Additional Assessments and Correction of Invalid Special Assessments.**

Section 10.4. (a) Additional pro rata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incidental thereto, or to pay the principal and interest on bonds issued in anticipation of such assessment rolls: Provided, That any additional pro rata assessment shall not exceed ten per cent of the assessment as originally confirmed, unless a meeting of the Council be held to review such additional assessments, for which meeting notices shall be published as provided in the case of review of the original special assessment roll.

(b) Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for an original assessment and, whenever any sum or part thereof, levied upon any property in the assessment so set aside, has been paid and not refunded, the payment so made shall be applied upon the reassessment. If the payments exceed the amount of the reassessment, refunds shall be made.

#### **Limitation on Suits and Actions.**

Section 10.5. No suit or action of any kind shall be instituted for the purpose of contesting or enjoining the collection of any special assessment unless, (1) 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 on which it is claimed such assessment is illegal, and (2) such suit or action shall be commenced within ninety days after the confirmation of the roll.

#### **Lien and Collection of Special Assessments.**

Section 10.6. (a) Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed, for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created by this charter for city taxes.

(b) The Council may provide by ordinance for fees, penalties, and interest for late payment or nonpayment of special assessments, which fees, penalties, and interest shall be a lien and shall be collectible as are similar charges upon city taxes. The Council may provide that delinquent special assessments be placed upon the tax roll, together with any accrued fees, penalties, and interest thereon, to be collected in all respects as are city taxes on such roll or may make other provisions for the enforcement of the lien created by such special assessment.

**Special Assessment Accounts.**

Section 10.7. Moneys raised by special assessment for any public improvement shall be credited to a special assessment account and shall be used to pay for the costs of the improvement for which the assessment was levied and of expenses incidental thereto, to repay any principal or interest on money borrowed therefore, and to refund excessive assessments.

**Special Assessment Revolving Fund.**

Section 10.8. The Council may create and maintain a special assessment revolving fund, from which payment may be made for the cost of special assessment projects and into which the special assessments therefore and any interest thereon shall be paid when collected.

**Certain Postponements of Payments.**

Section 10.9. The Council may provide that any person who, in the opinion of the Assessor and Council, by reason of poverty, is unable to contribute toward the cost of the making of a public improvement, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by him and benefited by any public improvement, which lien will mature and be effective from and after the execution of such instrument, and shall be enforceable in the event that title to such property is thereafter transferred in any manner whatsoever. The Council shall establish by ordinance the procedure for making this section effective.

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## CHAPTER 11 JUSTICE COURT

### **Justice of the Peace.**

Section 11.1. There shall be elected from the city at large one Justice of the Peace who shall have and exercise the same jurisdiction and powers in all civil and criminal matters, causes, suits, and proceedings, and shall perform the same duties in all respects, so far as occasion may require, as are or may be conferred upon or required of justices of the peace in townships under the general laws of the state, except that the jurisdiction of the Justice of the Peace ex contractu and ex delicto shall be increased to five hundred dollars with such exceptions and restrictions as may be provided by law. He shall also have power to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures, imposed by this charter and the ordinances of the city, and to punish offenders for the violation of this charter and such ordinances, as in the charter of ordinances prescribed and directed.

### **Laws Governing Justice Court.**

Section 11.2. The proceedings in all suits and actions before the Justice of the Peace and in the exercise of the powers and duties conferred upon and required of him shall be according to the governed by the general laws applicable to justice's courts; and in all suits and prosecutions arising under this charter and the ordinances of the city, the right to appeal or certiorari from the court to the circuit court of Saginaw County, or to any court having jurisdiction, shall be allowed to the parties, or any or either of them, and the same recognizance or bond shall be given as is or may be required by law in case of certiorari from justice's courts in analogous cases.

### **Docket Entries and Disposition of Money.**

Section 11.3. The Justice of the Peace shall enter in the docket kept by him the title of all suits and prosecutions commenced or prosecuted before him for violations of this charter and ordinances of the city, except such as are settled in the Violations Bureau created under the provisions of Section 11.6 hereof, and all the proceedings and the judgment rendered in such cause, and the items of all costs taxed or allowed therein, and also the amounts and date of payment of all fines, penalties, and forfeitures, moneys, and costs received by him on account of such suit or proceeding. Such docket shall be submitted by the Justice of the Peace at all reasonable times for examination by any person desiring to examine the same, and shall be produced by him for examination by the Council, the Finance Director, and the auditors making the annual audit of the city whenever required. All fines, penalties, forfeitures, and moneys received by him for or on account of violations of this charter or the ordinances of the city shall be paid over to the Treasurer on or before the first day of the next month after the collection or receipt thereof, and the Justice of the Peace shall take the receipt of the Treasurer therefore, and file the same with the Clerk. The Justice of the Peace shall account for and remit all other moneys received by him in the manner provided and required by law.

### **Constable.**

Section 11.4. The Mayor shall appoint a Constable, subject to the approval of the Council. The term of each such appointment shall be as nearly coincident with the term of the Justice of Peace. The Constable shall have like powers and authority in matters of criminal and civil nature, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. He shall also have power to serve all process issued for breaches or violations of this charter and the ordinances of the city.

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**Compensation.**

Section 11.5. The compensation of the Justice of the Peace shall be the legal fees taxable or chargeable by justices of the peace under the general law pertaining to such offices. The Justice of the Peace shall be compensated by the city at a rate set by Council in lieu of any fees or costs which might otherwise be taxable or chargeable by him in cases settled in the violations bureau created by Section 11.6. As to cases settled in the violations bureau, no fees or costs shall be charged or taxed by the Justice of the Peace or by the city.

**Violations Bureau.**

Section 11.6. (a) There is hereby established a violations bureau within the justice court for the handling of cases involving violations of ordinances of the city regulating traffic on the streets or alleys or in the parks and public places of the city, other than driving while under the influence of intoxicating liquors or narcotics, failure to stop in the event of an accident, and reckless driving, and such other ordinance violations which may be lawfully handled by such bureau as the Council shall direct. The Justice of the Peace shall specify, by suitable schedules, the amount of such fines for first, second, and subsequent offenses and shall further specify what number of such offenses, not less than three, or other circumstances which shall require the appearance of the offender or violator in court. All notices and papers used in connection with offenses and violations which may be settled in the violations bureau shall advise all alleged violators of their right to a trial on the offense or violation charged, should such person so choose.

(b) In such bureau, any person who has received notice that he has violated any such ordinance may, prior to and without the necessity of the issuance of a warrant for his arrest for the alleged violation, and within the time specified in the notice, answer at the violations bureau to the violation set forth in such notice. Acceptance of the prescribed fine by the bureau shall be deemed to be a complete satisfaction for the violation, and the violator shall be given a printed receipt which clearly so states.

(c) Until otherwise provided by ordinance, upon the recommendation of the Justice of the Peace, a city officer or deputy designated by the Council shall conduct the violations bureau under the supervision of the Justice of the Peace.

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## CHAPTER 12 COUNTY SUPERVISORS

### **Number of Supervisors.**

Section 12.1. The City of Frankenmuth shall be entitled to such number of representatives on the Board of Supervisors of Saginaw County as shall be provided by law.

### **Selection of Supervisors.**

Section 12.2. The representatives of the city on the Board of Supervisors of Saginaw County shall be the Mayor or City Manager, as determined by the Council, and such number of electors of the city, including officers of the city, who possess the qualifications set forth in this charter for holding elective city office, as shall be required to complete the number of representatives to which the city is entitled. Such electors shall be appointed by the Mayor subject to confirmation by the Council at its first regular meeting in December of each even year and their terms of office shall commence on the first day of January following their appointment and shall continue for two years or until their successors are appointed and have qualified. In any case where an officer of the city is appointed as a Supervisor, he shall cease to be a Supervisor if his term of office is terminated prior to the end of the two year of his office as Supervisor.

### **Temporary Absences and Vacancies.**

Section 12.3. In cases of temporary absence or of the inability of any city representative on the Board of Supervisors to serve or perform the duties of his office, the Mayor shall appoint a qualified person to serve during the absence or inability. All vacancies in the office of Supervisors appointed by the Mayor shall be filled within thirty days after such vacancy occurs.

### **Compensation of Supervisors.**

Section 12.4. Each Supervisor shall be entitled to retain any compensation and mileage paid to him by the county.

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## **CHAPTER 13 ELECTIONS**

### **Regular City Elections.**

Section 13.1. A regular city election shall be held on the first Monday in April in each odd numbered year. A Justice of the Peace shall be elected at a regular city election for a term of four years.

### **Special Returns.**

Section 13.2. Special city elections shall be held when called by resolution of the Council, adopted at least forty-five days in advance of such election. If a special election is to be held on the date of any State primary or election, such election shall be called in ample time for the giving of notice to the County Clerk of questions to be voted thereat, as required by law. Any resolution calling a special election shall set forth the purpose of such election. Unless otherwise permitted by law, no more than two special city elections shall be held in any one calendar year.

### **Qualifications of Electors.**

Section 13.3. Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next election held in the city, shall be entitled to register as an elector of the city.

### **Election Procedure.**

Section 13.4. All city elections for the election of officers shall be nonpartisan. The general election laws of the State shall apply to and control, as nearly as may be, all procedures relating to notices for, to registrations for, and to the conduct of city elections, except as such general laws relate to political parties or partisan procedures, and except as otherwise provided by this charter. The compensation of all election personnel shall be determined by the Council.

### **Election Commission.**

Section 13.5. An Election Commission, consisting of the Clerk, the Assessor, and one other city officer appointed by the Council, is hereby created. The Clerk shall be chairman. The Commission shall have charge of all activities and duties required of it by law relating to the conduct of elections in the city. In the absence of a quorum, the member present may create a quorum as permitted by law. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to follow.

### **Nominating Petitions.**

Section 13.6. A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk an official nominating petition therefore. Official blank nominating petitions, in substantially the same form as required by law or by the Secretary of State for nonpartisan judicial officers, shall be prepared and furnished by the Clerk. Such petition shall be signed by not less than fifty nor more than one hundred of the registered electors of the city. Such petitions shall be filed with the Clerk not later than 5:00 o'clock in the afternoon on the seventh Monday preceding the election date. Before the Clerk shall furnish a form of nominating petition to any person, he shall enter thereon with typewriter or in ink the name of the candidate and the name of the office for which he is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Clerk for filing. Nominating petitions for the purpose of filling a vacancy shall so state in connection with the name of the

office for which they are to be used. If any person signs his name to a greater number of petitions for any office than there will be persons elected to that office, his signature shall be disregarded on all petitions for that office.

### **Approval of Petitions.**

Section 13.7. The Clerk shall accept for filing only nominating petitions on official blanks issued by him containing the required number of signatures for candidates having those qualifications required for elective city officers by this charter. Within five days after the filing of a petition, the Clerk shall determine the sufficiency of the number of genuine signatures on the petition. If he finds that any petition does not contain the required number of genuine signatures, he shall immediately notify the candidate, in writing, of the insufficiency of his petition. No additional signatures on any petitions shall be received by the Clerk after the final date and time fixed for filing nominating petitions. Each petition which is found by the Clerk to contain the required number of genuine signatures shall be marked "Valid", with the date of such finding.

### **Affidavit of Qualification for Office.**

Section 13.8. On or before the third day after the last day for filing nominating petitions, each person for whom a valid nominating petition has been filed, or someone acting on his behalf, shall file with the Clerk an affidavit that he is possessed of all of the qualifications set forth in this charter for an elective city office. Such affidavit shall be on a form provided by the Clerk. If such affidavit be not filed as herein required, the candidate shall be deemed to have withdrawn and his name shall not be placed on any election ballot.

### **Form of Ballots.**

Section 13.9. The form, printing, and numbering of ballots used in any city election shall conform, as nearly as may be, to that prescribed by law, except that no party designation or emblem shall appear thereon. The names of qualified nominees for each office shall be listed on the ballot under a separate heading for each office and shall be rotated on the ballots as required by law. Absentee ballots may be facsimiles of the format of the face of voting machines used by the city.

### **Delivery of Registration Books and Supplies.**

Section 13.10. It shall be the duty of the Clerk to take charge of all registration books and supplies and deliver them to the respective Boards of Inspectors of Election, taking their receipt therefore.

### **Absentee Ballots.**

Section 13.11. Except at any city election which is held at the same time as a primary or election at which state or county offices or questions are to be voted for or upon, the last day and time for receiving applications for absentee ballots shall be 5:00 o'clock, p.m. on the Friday preceding the date of such primary or election. In all other cases, the election law of the State of Michigan shall govern with respect thereto.

### **Canvass of Votes.**

Section 13.12. The Election Commission shall constitute the Board of Canvassers to canvass the votes cast at all elections. If any of such persons are candidates for office at an election to be canvassed, such person shall not be a member of the Board of Canvassers at such election, and the Council shall designate a person to act in his stead. A majority of the members of such board shall be a quorum for the transaction of the business of the board. The Board of Canvassers shall meet at the City Hall at 10:00 o'clock in the forenoon on the day following each city election, and publicly canvass the returns of such election, and shall determine the vote upon all questions and

propositions, and declare whether the same have been adopted or rejected and which persons have been elected to office.

**Recount.**

Section 13.13. A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

**Tie Vote.**

Section 13.14. If, at any city election, the outcome cannot be determined because two or more persons received an equal number of votes, the Election Commission shall name a date for the appearance of such persons for the purpose of determining the election of one of them by lot. Should any person fail to appear, in person or by representative, to determine the result of any tie at the time and place named, such determination shall be made by lot in his absence at the direction and under the supervision of the Election Commission. Such determination shall be final.

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## CHAPTER 14 CONTRACTS

### **Authority of Council.**

Section 14.1. (a) The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law.

(b) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 14.2. hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the Clerk.

### **Purchase and Sale of Personal Property.**

Section 14.2. The Council shall establish, by ordinance, the procedures for the purchase and sale of personal property. Such ordinance shall provide for centralized purchasing on behalf of the city. The ordinance shall also provide the dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made without the necessity of Council approval. No purchase of personal property shall be made unless a sufficient unencumbered appropriation is available therefore.

### **Limitations on Contractual Power.**

Section 14.3. (a) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten years, unless such contracts shall first receive the approval of a majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

(b) The city shall not have power to purchase, lease for more than three years, sell, or dispose of any real estate, unless:

(1) Such action is approved by the affirmative roll call vote of five or more members of the Council, and, unless,

(2) In the case of real estate owned by it the resolution authorizing the lease, sale, or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the Clerk for public inspection for thirty days before the final adoption or passage thereof, and, unless,

(3) When the proposition is to sell any park, cemetery or any part thereof, except when such park is not required under an official master plan of the city, the proposition to lease, sell, or dispose of the same shall also be approved by a three-fifths vote of the electors of the city voting thereon at any general or special election.

(c) Except as provided by ordinance authorized by Section 14.2 of this chapter, each such projects for public improvements as may in the council's discretion be a subject for public contract for construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public in the Council room by the City Manager and the Clerk, or by either of them, at the time designated in the notice of letting and shall be reported by them, or by the person who opened the bids, if only one acted, to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after two or more opportunities for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, it may either endeavor to obtain new competitive bids or may authorize the City Manager or other proper official of the city to negotiate for a contract in the open market.

(d) No contract shall be made with any person who is in default to the city.

(e) No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

**Business Dealings with City.**

Section 14.4. An officer or employee of the city who intends to have business dealings with the city, whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties, shall file with the Clerk a statement, under oath, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the Clerk not less than ten days before the date when action may be taken by the Council or any other agency of the city upon the matter involved. The statement shall be spread upon the proceedings of the Council for the meeting at which it is received and published in full therewith. In each case where the type of dealings with the city is on a continuing basis, involving more than one or a sequence of transactions described in the statement, each statement shall stand for and apply to such transactions for a period of six months and may be renewed at the end of each six month period for so long as such transactions continue. Each such renewal shall be spread upon the proceedings of the Council and published as in the case of the original statement. In the event that the interest of any officer or employee of the city in any business dealings with the city changes at any time, he shall file a statement thereof as herein required, which statement shall also be spread upon the proceedings of the Council and published as herein required. Approval of any such business dealings shall require a concurring vote of at least five members of the Council, not including any member who is disqualified under Section 5.7 (g) of this charter. Any business dealing made in violation of this section shall be void.

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## **CHAPTER 15 PUBLIC UTILITY SERVICES**

### **General Powers Respecting Municipal Utilities**

Section 15.1. The city shall have all the powers granted by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities, the source of supply of which may be either within or without the corporate limits of Saginaw County, including, but not by way of limitation, public utilities for supplying water and water treatment, sewage disposal and treatment, electric light and power, gas, steam, heat, or any of them, to the municipality and the inhabitants thereof.

### **City's Water Supply and Sanitary Sewer Systems.**

Section 15.2. The city's water supply, sanitary sewage plants and systems, and other utility plants, and their appurtenances shall be under the general control of the Council and shall be managed by the City Manager, as the administrative agent of the Council. The City Manager shall employ such personnel as may be required for the efficient and proper operation of said systems.

### **Rates.**

Section 15.3. (a) The Council shall fix just and reasonable rates and such other charges as may be deemed advisable for supplying water and other municipal utility services, to the inhabitants of the city. Discrimination in rates by the Council within any classification of users shall not be permitted, nor shall free service be permitted other than to the city.

(b) The rates and charges for any municipal utility, shall be fixed by the Council on a basis at least adequate to compensate the city for the cost of such service and to make reasonable provision for the extension thereof according to the needs of the city. Transactions pertaining to the ownership and operation of each municipal utility shall be recorded in a separate group of accounts, which shall be classified in accordance with generally accepted accounting practices. Charges for all service furnished to, or rendered by, other city departments or administrative units shall be recorded, whether collected or not. An annual report shall be prepared to show the financial position of each utility and the results of its operation. A copy of such reports shall be available for inspection at the office of the Clerk.

### **Collection of Municipal Utility Rates and Charges.**

Section 15.4. (a) The Council shall provide by ordinance for the collection of rates and charges for public utility services furnished by the city. When any person fails or refuses to pay to the city any sums due on utility bills, the service upon which such delinquency exists may be discontinued and suit may be brought for the collection thereof.

(b) Except as otherwise provided by law, the city shall have a lien upon the premises to which utility services are supplied and, for such purposes, shall have all the powers granted to cities by law. The lien shall become effective immediately on the distribution or supplying of utility services to such premises. In each case where a lien to secure the payment of utility charges is not available to the city by operation of law or otherwise, the Council shall require that an adequate deposit be made by the person to whom city utility services are furnished, for the purpose of guaranteeing the collection of charges for such utility services.

(c) Except as otherwise provided by law, all unpaid charges for utility services furnished to any such premises, which, on the thirty-first day of March of each year, have remained unpaid for a period of three months or more, shall be reported to the Council by the City Manager at the first meeting thereof in the month of April. The Council thereupon shall order the publication in a newspaper of general circulation in the city of notice that all such unpaid utility charges not paid by the thirtieth day of April will be spread upon the city's tax roll against the

premises to which such utility services were supplied or furnished, and such charges shall then be spread upon the city's tax roll and shall be collected in the same manner as the city taxes.

### **Disposal of Municipal Utility Plants and Property.**

Section 15.5. The city shall not sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of any municipal public utility, unless the proposition to do so is approved by the electors or the Council, as the case may be, in the same manner as was required to acquire the utility. All contracts, 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 articles of machinery or equipment of any municipally owned public utility, which are no longer useful or which are replaced by new machinery or equipment, or to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or interest in property.

### **Public Utility Franchises.**

Section 15.6. The city may grant a franchise to any person for the use of streets, alleys, bridges, and other public places of the city for the furnishing of any public utility service to the city and its inhabitants. Franchises and renewals, amendments, and extensions thereof shall be granted only by ordinance. Public utility franchises shall include provisions for fixing rates and charges, and may provide for readjustments thereof at periodic intervals. The city may, with respect to any public utility franchise granted after the effective date of this charter, whether or not so provided in the granting ordinance:

- (1) Terminate the same for the violation of any of its provisions, for the misuse or nonuse thereof, for failure to comply with any provision thereof, or any regulation imposed under authority of this section;
- (2) Require proper and adequate extension of plant and the maintenance thereof at the highest practicable standard of efficiency;
- (3) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (4) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) Impose other regulations determined by the Council to be conducive to the health, safety, welfare, and convenience of the public;
- (6) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, and public places, by the city and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefore, and, in the absence of agreement, upon application by the public utility, provided for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore;
- (7) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, that arises from its use thereof, and to protect and save the city harmless from all damages arising from such use;
- (8) Require the public utility to file with the City Manager such drawings and maps of the location and nature of its facilities, as the Council may request.

### **Limitations on the Granting of Franchises.**

Section 15.7. No franchise shall be granted by the city for a term exceeding thirty years and no exclusive franchise shall ever be granted. Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of an existing franchise. An irrevocable franchise and any extension or amendment of such a franchise may not be granted by the city, unless the ordinance granting such franchise has first received the affirmative vote of at least three-fifths of the

electors of the city voting thereon at a regular or special city election. An irrevocable franchise ordinance may be approved by the Council, for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with the Clerk his unconditional acceptance of all the terms of the franchise. No special election for such purpose may be ordered by the Council, unless the expense of holding such election has first been paid to the Treasurer by the grantee.

**Procedure for Granting Franchises.**

Section 15.8. Every ordinance granting a franchise, license, or right to occupy or use streets, alleys, bridges, or public places shall remain on file with the Clerk for public inspection in its final form for at least thirty days before the final adoption thereof, or the approval thereof for referral to the electorate.

**Sale of Assignment of Franchises.**

Section 15.9. The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall 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 chapter.

**Plans of Facilities in Streets and Public Places.**

Section 15.10. The Council may, by ordinance, require, as a condition to the placing or installment thereof, that each public utility conducting a business in the city file a duplicate copy of layout plans of pipes, conduits, and other facilities which are to be placed on, under, or above the surface of the city's streets, alleys, bridges, and public places.

## SCHEDULE

### **Status of Schedule Chapter.**

Section 1. The purpose of this chapter is to inaugurate the government of the City of Frankenmuth under this chapter and provide for the transition from the former government of the Village of Frankenmuth and Township of Frankenmuth over the territory comprising the city to the new city status under this charter. It shall constitute a part of the charter of the City of Frankenmuth only to the extent and for the time required to accomplish that end.

### **Election to adopt Charter.**

Section 2. This charter shall be submitted to a vote of the qualified electors of the territory comprising the proposed City of Frankenmuth, at a special election to be held on Monday, September 21, 1959, between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. All provisions for such election shall be held in the manner provided by law, except as in this chapter provided. Proper and sufficient notice of such election and of the registration therefore shall be given by the Secretary of the Charter Commission, as provided by law. If, at such election, a majority of the qualified electors of the proposed city vote in favor of the adoption of this charter, the Secretary of the Charter Commission shall do and perform all other acts which are required by law to carry this charter into effect and to consummate the incorporation of the city.

### **Form of Ballot for Charter Adoption.**

Section 3. The form of the question on the adoption of this charter shall be as follows:

Shall the proposed charter of the City of Frankenmuth  
which was framed by the Charter Commission  
elected March 9, 1959, be adopted:

YES  
NO

and shall be set forth on paper ballots in the usual manner therefore.

### **Election of Officers.**

Section 4. (a) At the election upon the adoption of this charter, the first elective officers of the city under this charter shall be elected viz: a Mayor, six Councilmen from the city at-large, and one Justice of the Peace. The nomination and election of such first elective officers shall be nonpartisan.

(b) Candidates for such offices shall be nominated by the filing of petitions signed by not less than fifty nor more than one hundred of the qualified electors of the territory comprising the proposed City of Frankenmuth, and filed with the Secretary of the Charter Commission not later than five o'clock p.m., Eastern Standard Time, on Monday, August 31, 1959. The Secretary of the Charter Commission shall publish notice of the last day and time for filing such nominating petitions, which notice shall be published in the FRANKENMUTH NEWS on or before August 5, 1959. Such petitions shall be in the form designated by the Secretary of State for use in the nomination of non-partisan judicial officers. All petitions filed in connection with such election shall be furnished in the first place by the Secretary of the Charter Commission, and the said Secretary shall receive no other petitions. Before the said Secretary shall furnish forms of nominating petition to any person, he shall enter thereon with typewriter or in ink the name of the candidate and the name of the office for which he is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Secretary for filing. If any person signs his name

to a greater number of petitions for any office than there will be persons elected to that office, his signatures shall be disregarded on all petitions for that office.

(c) Within five days after the filing of a petition, the said Secretary shall determine the sufficiency of the number of genuine signatures on the petition. If he finds that any petition does not contain the required number of genuine signatures, he shall immediately notify the candidate, in writing, of the insufficiency of his petition. No additional signatures on any petition shall be received by the Secretary after the final date and time fixed for filing nominating petitions. Each petition which is found by the Secretary to obtain the required number of genuine signatures shall be marked "Valid", with the date thereof.

(d) Harold Roedel, the Village Clerk of the Village of Frankenmuth, Franklin Rittmueller, and Kenneth Nefe shall constitute the Election Commission for such election, and shall perform the duties required by law respecting such election and the canvass of the votes cast thereat.

(e) Monday, the 24<sup>th</sup> day of August, 1959, shall be the last day of registration for such election. Each member of the Charter Commission shall be a registrar for the purpose of registering the electors of the proposed city for the special election to be held on the 21<sup>st</sup> day of September, 1959. The Charter Commission may also appoint other persons to act as such registrars.

### **Form of Ballot for City Officers.**

Section 5. At the election held for the election of the first city officers, the names of the several candidates for such offices shall be placed on ballots containing no party designation with respect to any candidate in the following order: Candidates for the office of Mayor, candidates for the office of Councilman, and candidates for the office of the Justice of the Peace. The names of candidates on such ballots shall be rotated so that the name of each candidate for an office will head the list of names of candidates for that office approximately an equal number of times.

### **Voting at Charter Election.**

Section 6. Each person voting at the election on the adoption of this charter shall, in addition to voting on the adoption of this charter, vote for a Mayor, six Councilmen, and one Justice of the Peace.

### **Canvass of Votes.**

Section 7. (a) The Election Commission appointed and designated in Section 4, acting as the Board of Canvassers of the election held for the submission of this charter to the electors of the proposed City of Frankenmuth shall meet at 4:00 o'clock, p.m., at the polling place of the election held on September 21, 1959, on the day following the election on the adoption of this charter, and canvass the votes cast at such election.

(b) If the canvass of the votes cast at such election shows this charter to have been adopted, the votes cast for the several first city officers shall then be canvassed. The person receiving the highest number of votes cast for the office of Mayor shall be declared to have been elected to that office; the six persons receiving the highest number of votes cast for the office of Councilman from the city at-large shall be declared to have been elected to that office; and the person receiving the highest number of votes cast for the office of Justice of the Peace shall be declared to have been elected as Justice of the Peace of the city.

(c) If the canvass of the votes cast at such election shows this charter not to have been adopted, the votes cast for the office of Mayor only shall then be canvassed. The person receiving the highest number of votes cast for that office shall be declared to have been elected to the office of de facto Mayor in accordance with the provisions of law.

**Effective Date of Charter.**

Section 8. If the canvass of the votes thereon shows this charter to have been adopted, it shall take effect and become law as the charter of the City of Frankenmuth for all purposes on Thursday, October 1, 1959, at 12:01 o'clock, a.m., at which time the control of the officers of the Township of Frankenmuth over any of that part of the township included within the city shall cease and be superseded by that of the officers of the City of Frankenmuth.

**Terms of Office of First City Officers Elected.**

Section 9. (a) The term of office of each officer of the city elected at such election shall commence at 12:01 o'clock a.m., on the effective date of this charter, and each such officer shall hold the office to which he has been elected for the term therein designated and until his successor has been elected and has qualified for the office in accordance with the provisions of this charter.

(b) The three Councilmen who are elected and assume office under the provisions of this chapter who received the largest number of votes, shall hold such offices until the Monday following the regular city election held in the year 1963. The three Councilmen so elected who received the lesser number of votes shall hold such office until the Monday following the regular city election in the year 1961. The Justice of the Peace shall hold office until the election, qualification, and assumption of office on July 4, 1963 of his successor, following the regular city election held in 1963. Thereafter, the successors of all such officers shall be elected at the regular city elections provided by this charter, and shall hold office for the terms established thereby.

**First Meeting of City Officers.**

Section 10. On or before the effective date of this charter, each person who is elected to an office of the city shall appear before the Village Clerk of the Village of Frankenmuth and take and subscribe to his oath of office. The officer receiving such oath shall file the subscribed copy of each such oath with the City Clerk within ten days after the effective date of this charter. The first officers of the city shall assemble at 7:30 o'clock, p.m., Eastern Standard Time, on Thursday, October 1, 1959. The meeting shall be called to order by the Chairman of the Charter Commission, who shall introduce the new city officials to the public, and call the meeting of the Council to order. The Mayor shall then assume the chairmanship of the meeting and the Council shall proceed with the business before it. At such meeting the Council shall determine and set the time of its regular meetings, and do and perform such acts as are required to organize the Council and establish the government of the city.

**First Administrative Officers of the City.**

Section 11. Within thirty days after the first meeting of the Council on October 1, 1959, as in this chapter provided, the Mayor shall appoint a person to perform temporarily the duties of the office of Clerk, Treasurer, and Assessor, and such other officers and department heads as are required for the conduct of the government and affairs of the city under this charter, until the permanent officers are appointed and assume their duties. The office of City Manager shall be filled and the permanent Clerk, Treasurer, and Assessor under this charter shall be appointed and assume their respective offices as promptly as reasonably possible.

**Justice of the Peace.**

Section 12. (a) The Justice of the Peace who is elected at the election held on September 21, 1959, shall assume the duties of his office on October 1, 1959, and shall hold office subject to the provisions of this chapter. In all respects, he shall perform the functions of his office subject to this charter and the general law.

(b) After one year following the effective date of this charter, the Council shall provide and furnish all necessary dockets, books, and stationery, required for the proper operation of the court, and may, in the discretion

of the Council, furnish the court room and court room facilities of the court. Such dockets, books, stationery, equipment, and furnishings shall be and remain the property of the city.

(c) Until otherwise provided by the Council, the compensation of the Justice of the Peace shall be \$200.00 per annum for the purposes of the second sentence of Section 11.5 of this charter.

### **First City Budget.**

Section 13. The budget of the Village of Frankenmuth shall constitute the budget of the city, until February 29, 1960. Prior to the first day of March, 1960, the City Manager shall make an estimate of the financial needs of the city during the period between the first day of March, 1960, and June 30, 1960, and the Council shall provide for the same by an interim budget and appropriation. In the manner and at the time provided by this charter, the City Manager shall present his budget proposal for the fiscal year of the city commencing on July 1, 1960, and a budget shall be adopted by the Council as in this charter provided.

### **Costs of Incorporation.**

Section 14. The first Council shall provide for the defraying of the expenses of incorporating the city, including such as were incurred by the Charter Commission for the framing of this charter, by the County of Saginaw, and any other agency, person, or persons who or which has or have expended moneys to defray the cost of any legally required step or procedure in the incorporation of the city.

**RESOLUTION OF ADOPTION**

At a meeting of the Charter Commission of the City of Frankenmuth, on the 4<sup>th</sup> day of June, 1959, at the usual meeting place of the Commission, the following members of the Charter Commission were present:  
Commissioners: Arnold R. Bernthal, Dr. Harold Braeutigam, Ralph A. List, Franklin Rittmueller, Carl A. Satow, Elmer P. Simon, Ray F. Weiss, Wallace E. Weiss, James E. Wickson; a quorum.

At such meeting the following resolution was offered by Commissioner Carl A. Satow and seconded by Commissioner James E. Wickson.

Resolved, That the Charter Commission of the City of Frankenmuth does hereby adopt the foregoing instrument as the proposed revised charter of the City of Frankenmuth, and the Secretary of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act No. 279 of the Public Acts of 1909, as amended, for his approval.

The vote on the adoption of the resolution was as follows:

Ayes:           Nine (9)  
Nays:           None (0)  
Absent:         None (0)

s/ Wallace E. Weiss  
Secretary of the Charter Commission  
of the City of Frankenmuth, Michigan

Attested by the following Commissioners:

s/ Arnold R. Bernthal  
s/ Harold M. Braeutigam, D.V.M.  
s/ Ralph A. List  
s/ Franklin Rittmueller  
s/ Elmer P. Simon  
s/ Ray F. Weiss  
s/ Carl A. Satow  
s/ Wallace E. Weiss, Secretary  
s/ James E. Wickson, Chairman

The said Commissioners having attested as to said resolution, as above set forth and, also, having attested the copy to be signed by the Governor, the meeting adjourned subject to the call of the Chairman.

I hereby approve the foregoing Charter of the City of Frankenmuth, Michigan, as required by law.

s/ G. Mennen Williams  
Governor of the State of Michigan

Dated: September 24, 1959