

PART I
CHARTER*

Preamble

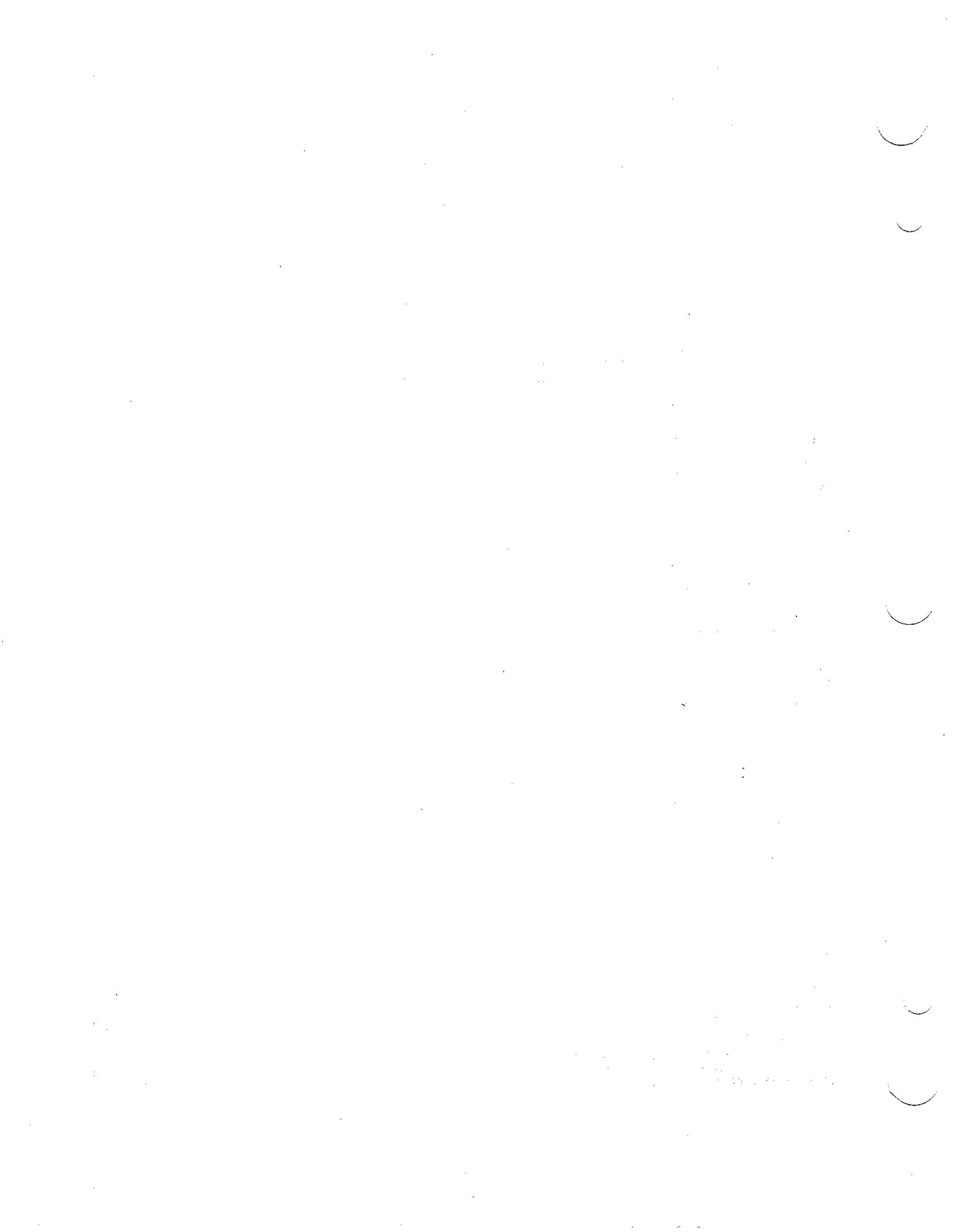
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Schedule

Resolution of Adoption

***Editor's note**—Printed herein is the Home Rule Charter of the City of Rogers City, Michigan, adopted on January 6, 1945. Amendments are indicated by history notes in parentheses following the amended sections. Obvious misspellings have been corrected without notation. Other changes made for clarity are enclosed in brackets.

State law references—Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.; power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.



PREAMBLE

To the end that the people of the City of Rogers City may enjoy, to the fullest extent, the advantages and benefits of local self-government as authorized by the constitution and laws of the State of Michigan, they hereby establish this Charter.

CHAPTER I. BOUNDARIES AND SUBDIVISIONS OF THE CITY*

Section 1.1. Boundaries.

The following described territory, together with all territories that may hereafter be annexed thereto, shall continue and remain a body corporate under the official name and title of "City of Rogers City," and shall be subject to the municipal control of said City:

All of fractional sections nine (9), fifteen (15), and sixteen (16), section twenty-one (21), and fractional sections twenty-two (22), twenty-three (23), and twenty-four (24), such sections being in Town thirty-five (35) North, Range five (5) East, Township of Rogers, County of Presque Isle, and State of Michigan; the boundary of the City being a line which surrounds and embraces all of the area composed of the said descriptions of land.

Said City shall have and enjoy full jurisdiction over the waters of Lake Huron, for the full length of the water front of the City, and for a sufficient distance out over the said waters to include all natural or artificial accretions or gain of soil, the filling out from the shore and making or reclaiming of land; also all breakwaters, wharves, piers, and structures of every kind; and all boats, floats and vessels moored to any such structure or at rest or at anchor or in use in the vicinity thereof, for all proper sanitary, quarantine, police, and other municipal purposes, subject only to the jurisdiction thereover had and exercised by the United States of America and by the State of Michigan.

*State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.6 et seq., MSA 5.2085 et seq.

Section 1.2. Wards.

The City of Rogers City shall consist of one (1) ward.

State law reference—Mandatory that Charter provide for establishment of one (1) or more wards, MCL 117.3(e), MSA 5.2073(e).

Section 1.3. Election Precincts.

The Council shall, by ordinance, establish convenient election precincts which shall comply with the provisions of state law.

State law reference—Election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

CHAPTER II. GENERAL MUNICIPAL POWERS

Section 2.1. Powers of the City.

Unless otherwise provided or limited in this Charter, the City of Rogers City and its officers shall be vested with any and all powers, privileges, and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their Charters under the constitution and laws of the State of Michigan, and of the United States of America, including all the powers, privileges, and immunities which cities are permitted to or may provide in their Charters by Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, as fully and completely as though those powers, privileges, and immunities were specifically enumerated in and provided for in this Charter, and in no case shall any enumeration of particular powers, privileges, or immunities in this Charter be held to be exclusive. The City and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; to do any act to advance the interests of the City, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitu-

tion and general laws of the state and the provisions of this Charter.

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

Section 2.2. Aircraft.

The City shall have the power to establish, own, and operate airports either within or without its corporate limits and may regulate all airports located within its boundaries. Insofar as such control and regulation does not contravene any applicable statute or legally established and valid regulation of the United States of America or the State of Michigan, for the purpose of promoting and preserving the public peace, safety, and welfare, the City shall have and possess the power to control and regulate the use of the air above the City and the use thereof by aircraft of all types.

State law reference—Aeronautics code, MCL 259.1 et seq., MSA 10.101 et seq.

Section 2.3. Exercise of Powers.

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities and townships, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the City and its inhabitants. Where no procedure for the exercise of any power of the City is set forth, either in this Charter or in any statute of the State of Michigan, the Council may prescribe by ordinance a reasonable procedure for the exercise thereof.

Section 2.4. Continuation of Rights and Liabilities.

The adoption of this Charter shall not be regarded as discharging, impairing, or limiting any right vested in or liability incurred by the Village of Rogers City and of any of that part of the Township of Rogers included in the City by the act of

incorporation as such at the time of the adoption of this Charter.

CHAPTER III. GENERAL PROVISIONS AFFECTING OFFICERS OF THE CITY

Section 3.1. Officers to be Elected.

The elective officers of the City shall be a Mayor, four (4) Councilmen, and one (1) Justice of the Peace, each of whom shall be elected from the City at large.

(Amd. by electors 11-6-79)

Editor's note—The office of justice of the peace has been abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

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

Section 3.2. The Administrative Officers.

The appointive officers of the City shall be the City Manager, Clerk, Treasurer, Assessor, City Attorney, Health Officer, Chief of Police, and Fire Chief. The Council may, by resolution, upon the recommendation of the City Manager, create such additional administrative offices, or combine any administrative offices in any manner not inconsistent with state law, and prescribe the duties thereof as it may deem necessary for the proper operation of the City government. No creation of any administrative office, or combination thereof one with another, shall abolish the office of City Manager nor diminish any of the duties or responsibilities of that office as set forth in this Charter.

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

Section 3.3. Terms of Elective Officers.

The terms of office of Councilmen and of the Justice of the Peace shall be for four (4) years. The terms of office of the Mayor and of the Constable shall be for two (2) years. The terms of office of all elected officers of the City shall commence on the date from the Monday following the regular City election at which they are elected, except that the term of the Justice of the Peace shall commence

on and date from the 4th of July next following his election.

Editor's note—The office of justice of the peace was abolished by MCL 600.9921, MSA 27A.9921, which created the district court system. The office of constable was abolished by Charter amendment on November 6, 1979.

Section 3.4. Administrative Officers—Appointment, Terms, and Remuneration.

(a) The City Manager, Clerk, Treasurer, Assessor, City Attorney and Health Officer shall hold office by virtue of appointment by the Council, which body shall also set their salaries. They shall hold office at the pleasure of the Council.

(b) Subject to the confirmation of the Council, the Chief of Police, Fire Chief and the holders of such additional offices as shall be created by the Council in accordance with the provisions of this Chapter shall be appointed or selected by and shall serve at the pleasure of the City Manager who shall set their salaries or wages in accordance with budget appropriations.

(c) All personnel employed by the City who are not elected officers or members of a board created by this Charter or declared to be administrative officers by or under authority of this Chapter shall be deemed to be employees of the City.

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

Section 3.5. Eligibility for Office in City.

No person shall be elected or appointed to any office who is in default to the City. The election or appointment of such defaulter shall be void. On and after April 5, 1955, no person shall be eligible to any elective office of the City unless he shall have been an elector of the City and has owned real property assessed for taxes on the City tax rolls for a period of not less than two (2) years immediately prior to the last day for filing nominating petitions for the office for which he desires to qualify as a candidate. No person shall be eligible to any appointive office of the City, except as hereinafter provided in relation to the office of City Manager and City Attorney, unless he shall be an elector in the City. No person who holds or who has held the office of Mayor or Councilman shall be eligible to any appointive office of the

City until two (2) years have elapsed following the expiration of the term of office for which he was elected; and provided that until April 5, 1955, the present Charter provisions shall remain in effect. (Amd. by electors 11-2-54)

Editor's note—A two-year residency requirement for city office was held violative of equal protection by *Green v. McKeon*, 335 F. Supp. 630 (E.D. Mich. 1971), affirmed by 468 F. 2d 883 (6th Cir. 1972). A one-year residency requirement was upheld by *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1981).

Property ownership requirement for elective office was held violative of equal protection by *Turner v. Fouche*, 396 U.S. 346 (1969).

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

Section 3.6. Vacancies in Offices.

Every City office shall become vacant upon the happening of any of the following events before the expiration of the term of such office.

- (a) For any reason specified by state law as grounds for creating a vacancy;
- (b) If the officer of the City shall absent himself continuously from the City for more than sixty (60) days without the permission of the Council;
- (c) In the case of the Mayor and members of the Council, where such officer shall miss four (4) consecutive regular meetings of the Council, or twenty-five (25) per cent of such meetings in any fiscal year of the City, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council;
- (d) If the officer shall be convicted of any act constituting misconduct in office under the provisions of this Charter.

State law references—Removal of officers by Governor, MCL 168.327, MSA 6.1327; recall, MCL 168.951 et seq., MSA 6.1951 et seq., Mich. Const. 1963, Art. II, § 8.

Section 3.7. Resignations.

Resignations of elected officers and of the City Manager, Clerk, Treasurer, Assessor, City Attorney, and Health Officer shall be made in writing and filed with the Clerk; in the case of the Clerk, such resignation shall be filed with the Mayor; and shall be acted upon by the Council at

its next regular meeting following receipt thereof by the Clerk or Mayor, as the case may be. Resignations of appointive officers, other than those appointed by the Council, shall be made in writing to the City Manager, and shall be immediately acted upon by him.

Section 3.8. Filling Vacancies.

If a vacancy occurs in any elected office or in the office of Clerk, Treasurer, Assessor, City Attorney, or Health Officer, the Council shall, within thirty (30) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of the office in which the vacancy exists to fill such vacancy until the Monday following the regular City election next following the creation of such vacancy and until a successor has been elected and has qualified for and assumed the duties of his office.

If a vacancy occurs in any appointive office, other than those appointed by the Council, the City Manager shall, within thirty (30) days thereafter, appoint a qualified person to fill such vacancy in the manner required for making the original appointment.

Section 3.9. Term of Office Cannot be Shortened or Extended.

Except by procedures provided in this Charter, the terms of the elected officials of the City and of officers of the City appointed for a definite term shall not be shortened. The terms of officers of the City may not be extended beyond the period for which any such officer was elected or appointed except that an elected officer of the City shall, after his term has expired, continue to hold office until his successor is elected and has qualified.

State law reference—Term of officer not to be shortened or extended, MCL 117.5(d), MSA 5.2084(d).

Section 3.10. Increase or Decrease of Compensation.

The Council shall not grant or authorize extra compensation to any City officer, elected or appointive, or to any employee, agent or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any City officer, elected or appointive, be increased or

decreased after his election or appointment during any fixed term of office for which he was elected or appointed.

Editor's note—The salary of elected officers is now determined by the local officers' compensation commission pursuant to Code of Ordinances, § 2-266 et seq.

State law reference—Mandatory that Charter provide for the compensation of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 3.11. Oath and Bond of Office.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State [Mich. Const. 1963, Art. XI, § 1] and shall file the same with the Clerk, together with any bond which he may be required by this Charter or by the Council to give. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 3.12. Surety and Fidelity Bonds.

Except as otherwise provided in this Charter, the Council may require any officer or employee to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in such sum as the Council shall determine. All such officers or employees receiving, disbursing, or responsible for the City funds shall be bonded. The resignation or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer or employee or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City, except as otherwise provided in this Charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No

bond, except those of the Justice of the Peace, shall be issued for a term exceeding two (2) years.

Editor's note—The office of justice of the peace was abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

Section 3.13. Delivery of Office and Its Effects by Officer to His Successor.

Whenever any officer or employee shall cease to be a resident of the City, resign, or be removed from office, or the term for which any officer has been elected or appointed has expired, he shall, on demand, deliver to his successor in office or to his superior all the books, papers, moneys, and effects in his custody as such officer or employee, and which in any way appertain to his office or employment. Every person violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally for a like offense under the general laws of the state, now or hereafter in force and applicable thereto. Every officer and employee of the City shall be deemed an officer within the meaning and provisions of such general laws of the state for the purposes of this section.

CHAPTER IV. THE CITY COUNCIL

Section 4.1. City Governing Body.

All powers of the City shall be vested in and all matters of policy of the City shall be exercised and determined by a Council of five (5) members composed of the Mayor and the four (4) Councilmen of the City. In all cases where the word "Council" is used in this Charter, the same shall mean and shall be synonymous with the terms "commission," "common council," "Board of aldermen," "Governing body," or "legislative body," or any other synonymous term, as the same may be used in any state or Federal law in referring to legislative or governing bodies of cities.

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

Section 4.2. Judge Qualification of Members.

The Council shall be the judge of the eligibility and qualification of its own members.

Section 4.3. Salaries of Members of the Council.

The Mayor and each Councilman shall receive, as remuneration for his service to the City, the sum of five (5) dollars per meeting of the Council actually attended by him, but not to exceed in total one hundred thirty (130) dollars per year. The Mayor shall receive the sum of fifty (50) dollars per year in addition to the remuneration received by him as a member of the Council. Such salaries shall be payable quarterly, and, except as otherwise provided in this Charter, shall constitute the only salary or remuneration which may be paid for services performed by the Mayor or any Councilman for the discharge of any official duty for or on behalf of the City during their term of office. Upon authorization of the Council, reasonable expenses may be allowed when actually incurred on behalf of the City.

Editor's note—The compensation of elected officers is now determined by the local officers' compensation commission pursuant to Code of Ordinances, § 2-266 et seq.

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

Section 4.4. Duties of Mayor.

(a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the City. He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power.

(b) He shall be a conservator of the peace, and may exercise within the City the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City, and to suppress riot and disorderly conduct.

(c) He shall authenticate by his signature such instruments as the Council, this Charter, or the laws of the State of Michigan or of the United States shall require.

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

Section 4.5. Mayor Pro Tem.

The Council shall, at its first regular meeting following each regular biennial City election, select one (1) of 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 Pro Tem, the Council shall appoint from its membership to fill such vacancy.

Section 4.6. Meetings of the Council.

(a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one (1) regular meeting each 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 shall be called by the Clerk on the written request of the Mayor or of any two (2) members of the Council, on at least twenty-four (24) hours written notice to each member of the Council, designating the time, place, and purpose of any 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, in writing waived the requirement that notice be given at least twenty-four (24) 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.

(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. However, if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a reg-

ular meeting of the Council may be transacted at such special 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) Three (3) 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, two (2) members 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 of its proceedings in the English language which shall be signed by the Mayor and 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. Each member of the Council who shall be recorded as present shall vote on all questions decided by the Council unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g) The Council may, by vote of not less than two (2) of its members, compel the attendance of its members and other officers of the City at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the City who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

State law references—Mandatory that Charter provide that all meetings of the city council shall be open to the public, MCL 117.3(1), MSA 5.2073(1); mandatory that Charter provide for keeping of a journal of every session, MCL 117.3(m); MSA 5.2073(m); open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 4.7. Restriction on Powers of the Council.

(a) Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Man-

ager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a Councilman shall constitute misconduct in office.

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

(c) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the City. Further, the Council shall not have the power to sell any property of a value in excess of two (2) dollars per capita according to the last preceding U.S. census, or any park, cemetery, or any part thereof, or any property bordering on a water front, or vacate any street or public place leading to a water front, or engage in the business enterprise requiring an investment of money in excess of ten cents per capita, unless approved by three-fifths ($\frac{3}{5}$) of the electors voting thereon at any general or special election. Except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least three (3) members of the Council.

Section 4.8. Investigations.

The Council, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office, or officer of the City and to make investigations as to municipal affairs, and for that purpose may subpoena 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 subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of any employee of the City, the same shall constitute a misdemeanor.

Section 4.9. Publication of Council Proceedings.

The proceedings of the Council shall be published at least once within fifteen (15) days after each meeting of the Council. The publication of a synopsis of such proceedings, prepared by the Clerk and approved by the Mayor, showing the

substance of each separate proceeding of the Council shall be a sufficient compliance with the requirements of this section.

CHAPTER V. POLICE POWERS OF THE COUNCIL

Section 5.1. Public Health and Safety.

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 and health and for the safety of persons and property.

State law reference—Mandatory that Charter provide for public peace, health, etc., MCL 117.3(j), MSA 5.2073(j).

Section 5.2. Intergovernmental Contracts.

The City may join with any governmental unit or agency, or with any number or combination thereof, by contract or otherwise as may be permitted by law, to perform jointly, or by one or more, for or on behalf of the other or others, any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unit or agency.

State law reference—Intergovernmental contracts between municipal corporations, MCL 124.1 et seq., MSA 5.4081 et seq.

Section 5.3. Streets and Alleys.

Council shall have power to establish and vacate and to use, and to control and regulate the use of its streets, alleys, bridges, and public places, whether such public places be located within or without the limits of the City, and the space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof and to the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets, upon or over the sidewalks or streets of the City, and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and of all vaults, structures, and excavations under the same.

Section 5.4. Licenses.

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

Section 5.5. Rights as to Property.

The Council shall have the power to acquire for the City by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Presque Isle, property of every type and nature which may be required for or incidental to the present or future exercise of the purpose, powers, and duties of; the City government established by this Charter.

Section 5.6. Parks and Recreational Facilities.

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

Section 5.7. Cemetery Regulations.

The Council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with the 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, or to be buried elsewhere. In any cemetery established by the City, a plan for the platting, sale, and perpetual care of all lots, plots, and lands therein shall be provided.

Section 5.8. House Trailers.

The Council shall, 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.

Section 5.9. City Planning.

The Council shall, within one (1) year after the date that this Charter shall become law, appoint and maintain a City Planning Commission in accordance with and having the powers and duties granted by the provisions of state law relating to such commissions. The Council shall appropriate the necessary funds and provide all needed rules, regulations, and ordinances for carrying into effect the work and purposes of such commission.

State law reference—Municipal planning, MCL 125.31 et seq., MSA 5.2991 et seq.

Section 5.10. Zoning.

For the purpose of promoting the health, safety, morals, and general welfare of the City, the Council shall, within two (2) years after this Charter shall become law, pass a zoning ordinance in accordance with the provisions of the state law relating to such ordinances. Insofar as possible, the provisions of such ordinance shall be coordinated with the work of the City Planning Commission herein required to be created by the Council.

State law reference—Authority to regulate land use, MCL 125.581 et seq., MSA 5.2931 et seq.

Section 5.11. Health.

The Council, together with the City Manager, shall constitute the Board of Health of the City. The Board of Health shall adopt rules and regulations for their own government and shall possess all powers, privileges, and immunities granted to boards of health by state law. 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. The Mayor shall be president and the Health Officer shall be the secretary and executive officer of the Board of Health.

Editor's note—The county now performs the health functions of the Board of Health and the Health Officer.

Section 5.12. Publication.

The Council shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The Council shall determine that such publication shall be made in a newspaper, as defined by state law, which is published and circulated in the City, or that such publication shall be made by posting in the office of the Clerk and in five (5) other public places in the City. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase, the purpose or nature of the notice, ordinance, or proceeding posted, and location of the places where posted, shall be published at least once in a newspaper published and circulated in the City, within seven (7) days after such posting was done.

CHAPTER VI. CITY LEGISLATION***Section 6.1. Prior City Ordinances and Regulations.**

All ordinances, resolutions, rules, and regulations of the Village of Rogers City which are not inconsistent with the provisions of this Charter, in force and effect at the time of the adoption of this Charter, shall continue in full force as ordi-

*State law references—Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

nances, resolutions, rules, and regulations of the City of Rogers City until repealed or amended by action of the proper authorities.

Section 6.2. Ordinance Enactment.

All legislation of the City of Rogers City shall be by ordinance or by resolution. The word "resolution" as used in this Charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by state or Federal law and to matters pertaining to the internal affairs or concerns of the City government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be, "The City of Rogers City Ordains:". Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced, nor until it has been published in the form in which it was introduced at least once. No ordinance shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the Clerk in a book to be called "The Ordinance Book"; and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures thereon.

Section 6.3. Penalties.

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any City ordinance or for the commission by any officer of the City of any act declared by this Charter to constitute misconduct in office shall exceed a fine of five hundred (500) dollars or imprisonment for ninety (90) days, or both in the discretion of the court, except that any officer of the City found guilty of any act declared by this Charter to constitute misconduct in office, shall, in addition to

such fine or imprisonment, or both, forfeit his office.

State law reference—Limitation on penalties, MCL 117.4i(10), MSA 5.2082(10).

Section 6.4. Publication of Ordinances.

Each ordinance passed by the Council shall be published at least once within fifteen (15) days after the adoption of an ordinance by the Council. All ordinances of the City shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication thereof, is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as a part of the published proceedings of the Council shall constitute publication of such ordinance as required herein. If the Council shall direct the Clerk to make a digest of any ordinance, which is not of general public application, and shall approve such digest as representing a statement of the purposes and content of the ordinance, the publication of such digest in a newspaper printed and published in the City and the placing of not less than fifty (50) copies of the complete ordinance in the office of the Clerk for public distribution shall be deemed to constitute publication of the ordinance.

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

Section 6.5. Technical Codes.

The Council may adopt any provision of state law or any detailed technical regulations as a City ordinance or Code by citation of such provision of state law or by reference to any recognized standard code, official or nonofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the City. Where any recognized official or unofficial standard code is so adopted, it may be published by providing to the public not less than fifty (50) copies in book or booklet form, available for public distribution at a reasonable charge, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

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

Section 6.6. Franchises.

Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the City for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least one (1) week before the final passage or adoption thereof. Notice that any such ordinance or resolution is so on file in the office of the Clerk shall be given by the Clerk by publication at least once in a newspaper published in the City and by posting in not less than five (5) conspicuous places in the City during not less than three (3) secular days during such week. No exclusive franchise or right to occupy or use the streets, highways, bridges, or public places of the City shall every be granted.

Section 6.7. Compilation.

(a) Copies of all ordinances enacted after the effective date of this Charter, and all amendments to this Charter shall be available at the office of the Clerk.

(b) Not later than January 1, 1947, and at least once in every ten (10) years, the Council shall direct and complete the compilation or codification of all ordinances of the City, then in force, in loose-leaf or pamphlet form, and may provide for a reasonable charge for copies thereof. No further publication of any such compilation or codification shall be required for the validity thereof. In case the compilation or codification of the ordinances of the City shall have been maintained current and up-to-date during any ten (10) year period, no re-compilation or re-codification of the ordinances of the City shall be required during or at the end of such period.

The copies of ordinances and of any compilation, code, or codes referred to in this Chapter may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

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

Section 6.8. Initiative and Referendum.

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.

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

Section 6.9. Petitions.

An initiatory or a referendary petition shall be signed by not less than fifteen (15) per cent of the registered electors of the City who have signed said petition within sixty (60) days before date of filing the petition with the Clerk. Before being circulated for signatures, all such petitions may be approved as to form by the Clerk. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten (10) days, canvass the signatures thereon to determine the sufficiency thereof. If found to contain an insufficient number of 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 (10) days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

Section 6.10. Council Procedure.

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty (30) 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 of the City;

- (b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

Section 6.11. Submission to Electors.

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other 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 the constitution or laws of the State of Michigan.

Section 6.12. Ordinance Suspended.

The certification by the Clerk of the sufficiency of a referendary petition within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two (2) years after the date of the election at which it was adopted. Should two (2) or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER VII. THE ADMINISTRATIVE SERVICE*

Section 7.1. City Manager.

The City Manager shall be the chief administrative officer of the City government. He shall be selected by the Council on the basis of training and ability alone, without regard to his political or religious preferences and need not be a resident of the City at the time of his appointment but shall become a resident of the City within ninety (90) days after his appointment and shall so remain throughout his tenure of office. The City

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

Manager shall, with the approval of the Council designate an appointive officer or employee of the City to serve as an acting City Manager who shall perform the duties of the City Manager during his temporary absence or incapacity. The acting City Manager shall serve in such capacity at the pleasure of the Council. The Council shall designate a qualified person to perform the duties of City Manager during a vacancy in the office.

Section 7.2. Functions of the City Manager.

The functions of the City Manager shall be:

- (a) To see that all laws and ordinances are enforced;
- (b) To manage and supervise all public improvements, works, and undertakings of the City;
- (c) To have charge of the construction, repair, maintenance, lighting and cleaning of streets, sidewalks, bridges, pavements, sewers, and of all public buildings or other property belonging to the City;
- (d) To manage and supervise the operation of all City utilities;
- (e) To be responsible for the preservation of property, tools, and appliances of the City;
- (f) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- (g) To attend all meetings of the Council, with the right to take part in discussions, but without the right to vote;
- (h) To be a member, ex officio, of all committees of the Council;
- (i) To prepare and administer the annual budget under policies formulated by the Council and keep the Council fully advised at all times as to the financial condition and needs of the City;
- (j) To recommend to the Council for adoption such measures as he may deem necessary and expedient;
- (k) To be responsible to the Council for the efficient administration of all departments of the City government;
- (l) To act as the Purchasing Agent for the City or, under his responsibility, delegate such duties to some other officer or employee of the City;
- (m) To conduct all sales of personal property which the Council may authorize to be sold;
- (n) To assume all the duties and responsibilities as personnel director of all City employees or delegate such duties to some other officer or employee of the City;
- (o) To perform such other duties as may be prescribed by this Charter or required of him by ordinance or by direction of the Council, or which are not assigned to some other official in conformity with the provisions of this Charter.

Section 7.3. Administrative Officers Responsible to City Manager.

The administrative officers of the City, except the City Attorney and the City Clerk, insofar only as their duties as attorney and clerk for the Council are concerned, shall, in the performance of the duties of their respective offices, be subordinate to and under the direction of the City Manager and shall report and be directly responsible to him.

Section 7.4. City Clerk.

- (a) The Clerk shall be clerk to the Council. He shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language. He shall keep a record of all ordinances, resolutions, and actions of the Council;
- (b) He shall have power to administer all oaths required by state law, this Charter and the ordinances of the City;
- (c) He shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the City of Rogers City, the custody of which is not otherwise provided for

by this Charter. All records of the City shall be public and the Clerk and other officers entrusted with such records shall so maintain and keep the same that they may be available to the public at all reasonable times. He shall give to the proper officials of the City ample notice of the expiration or termination of all official bonds, franchises, contracts, or agreements to which the City is a party;

(d) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council and perform any other duties required of him by state or Federal law, this Charter, or by the Council and ordinances of the City;

(e) He 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;

(f) He shall examine and audit all accounts and claims against the City. No withdrawal shall be made from any City fund which, after deducting all prior withdrawals therefrom, has not a sufficient amount therein to pay such proposed withdrawal;

(g) He shall, at least quarterly, and at any time upon direction of the City Manager, examine and audit all books of account kept by any official, board, or department of the City. He shall examine and audit all books of account of the Treasurer and the Justice Court at least once each month;

(h) He shall balance all the books of account of the City at the end of each calendar month, and shall make a report thereon to the City Manager;

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

State law references—Mandatory that Charter provide for a system of accounts, MCL 117.3(n), MSA 5.2073(n); uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

Section 7.5. City Attorney.

(a) The City Attorney shall act as legal advisor to, and attorney and counsel for, the Council in matters relating to their official duties. He shall

give legal opinions concerning the affairs of the City of Rogers City only to the Council and to the City Manager. All such opinions shall be in writing and a copy thereof shall be filed with the Clerk.

(a-a) He need not be a resident nor an elector of the City.

(b) He shall conduct for the City all cases in all courts and before all legally constituted tribunals whenever the City is a party thereto.

(c) He shall prepare, or officially pass upon, all contracts, bonds, and other instruments in writing, in which the City is concerned, and shall certify before execution as to their legality and correctness of form.

(d) He shall file in the office of the Clerk the original copy of all franchises granted by the City, of all contracts and agreements entered into by or in behalf of the City, and of all papers constituting a part of the proceedings in all courts or legally constituted tribunals to which the City is a party, together with the proper data and information concerning the same.

(e) He shall be charged with the responsibility of calling to the attention of the Council and the City Manager all matters of law and changes or developments therein affecting the City.

(f) He shall perform such other duties as may be prescribed by this Charter or by the Council.

(g) Upon the recommendation of the City Attorney, approved by the City Manager, or upon its own motion, the Council may retain special legal counsel to handle any matter to which the City is a party or in which the City has an interest, or to assist and co-counsel with the City Attorney therein.

The remuneration set by the Council for the City Attorney as required in this Charter shall be in contemplation of the normal duties of that office. Special compensation may be provided at the discretion of the Council in cases of appeals to, or litigation commenced in, the circuit or higher courts, cases requiring extensive hearings before administrative or quasi-judicial tribunals, for legal work in connection with the issuance of bonds of the City, the compilation or codification of ordi-

nances, and such other extensive legal work as may, in the discretion of the Council warrant additional compensation. No such special compensation shall be given by the Council, except in accordance with an agreement between itself and the City Attorney, made before the service for which such special compensation is to be paid has been rendered.

Section 7.6. City Treasurer.

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

(b) He shall receive all moneys belonging to and receivable by the City, including license fees, taxes, assessments, and all other charges belonging to and payable to the City and shall in all cases give a receipt therefor;

(c) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine. He shall report the same in detail to the Clerk;

(d) 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 conferred by law to enforce the collection of state, county, township, and school district taxes upon real and personal property.

(e) He shall perform such other duties as may be prescribed for him by state or Federal law, this Charter, or by the Council or the City Manager.

Section 7.7. Deputy Clerk or Treasurer.

The Clerk and the Treasurer may appoint their own deputies, subject to the written confirmation of the Council. The Clerk and the Treasurer may terminate the status of their respective deputies at pleasure, upon written notice to the Council. Each deputy shall possess all the duties, powers, and authorities of his superior officer except as the same may be from time to time limited by his superior or by the Council.

Section 7.8. Assessor.

(a) The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the state.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter and the general laws of the state.

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

Section 7.9. Purchasing Agent.

(a) The City Manager, or some person designated by him, shall be Purchasing Agent for the City and shall make all purchases of supplies for the City, subject to such limitations as the Council may prescribe. He shall approve all vouchers for the payment of the same before referring them to the Clerk for audit.

(b) The Council shall be responsible for the control of the letting and making of contracts and shall provide by ordinance the necessary procedures governing purchasing and making of contracts. Such ordinance shall specify an amount below which and purposes for which purchases may be made by the City administration either without specific authorization or without the necessity of formal competitive bidding or both. The Council, in its discretion, shall have the right to reject any and all bids.

Section 7.10. Other Administrative Officers.

The duties of all administrative officers, not otherwise provided for herein, shall be those established by law or ordinance for such offices or prescribed by the City Manager.

Section 7.11. Nepotism.

Except and unless relatives by blood or marriage of the Mayor, any Councilman, or the City Manager, within the second degree of consanguinity or affinity, are bona fide appointive officers or employees of the City at the time of the election of such officers or appointment of such City Manager, such relatives shall be disqualified from holding any appointive office or from being employed by the City, during the term for which

such Mayor or Councilman was elected, or during the tenure of office of such City Manager. If the status or relationship between any employee of the City and any officer of the City changes to a relationship prohibited hereby after one (1) year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

Section 7.12. Civil Service.

The Council may provide, by ordinance, for a merit system of personnel management for employees in the service of the City.

State law reference—Permissible for Charter to provide for a system of civil service for employees, MCL 117.4i(7), MSA 5.2082(7).

Section 7.13. Pension Plan.

The Council may present to the people of the City at any election, an ordinance, which, if approved by a majority of those voting thereon, will make available to the regular administrative officers, and employees of the City and its departments or boards, a sound pension and retirement plan. The Council shall recognize the service of such officers and employees prior to the adoption of the plan to not more than one-half ($\frac{1}{2}$) the extent that the City would have contributed, on behalf of such officers and employees had such a plan been in effect at the time they commenced their current employment. Participation by the City, either before or after the adoption of such pension ordinance, in any state-wide pension plan for municipal employees, which is established by state law, shall constitute compliance with the provisions of this section.

Section 7.14. Employee Welfare Benefits.

The Council shall have power to make available to the administrative officers and employees of the City and its departments and boards, any recognized standard plan of group life, hospital, health, or accident insurance, either independently of, or as a supplement to, any pension plan provided by the City for its employees.

State law reference—Permissible for Charter to provide for a system of compensation for its employees and their dependents in the case of disability, injury or death of such employees, MCL 117.4i(8), MSA 5.2082(8).

Section 7.15. Restrictions Concerning Other Offices.

No appointive City officer or employee, shall seek any elective office of the City, unless he resigns from his position with the City.

CHAPTER VIII. JUSTICES OF THE PEACE*

Section 8.1. Jurisdiction.

Justices of the Peace elected in the City under the provisions of this Charter shall have, and exercise therein and within the County of Presque Isle, 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 by the general laws of the State. They shall have authority to hear, try and determine all suits and prosecutions for the recovery or enforcing of fines, penalties and forfeitures imposed by the ordinances of the City, and to punish offenders for violations of such ordinances, as in the ordinances prescribed and directed.

Section 8.2. General Laws to Govern.

The proceedings in all suits and actions before said Justices, and in the exercise of the powers and duties conferred upon them and required of them, shall, except as otherwise provided in this Charter, be according to and be governed by the general laws applicable to justice courts.

Section 8.3. Dockets.

Every 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 ordinances of the City, and all the proceedings, and judgments rendered in every 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, money and costs received by him on account of any such

***Editor's note**—This chapter is now obsolete. The office of justice of the peace was abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

suit or proceeding. Such docket shall be submitted by the Justice at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the Justice to the Clerk or the Council whenever required.

Section 8.4. Fines, Penalties and Forfeitures.

All fines, penalties and forfeitures collected or received by any Justice of the Peace, for or on account of any violations of City ordinances, shall be paid over by such Justice to the Treasurer on or before the first day of the month next after the collection or receipt thereof, and the Justice shall take the receipt of the Treasurer therefor and file the same with the Clerk.

Section 8.5. Fines Under Penal Laws - Costs.

All fines recovered for the violations of the penal laws of the state shall be disposed of as provided by law. The expenses of prosecutions before the Justices of the Peace of the City for violations of the criminal laws, and in punishing offenders, shall be paid by the County of Presque Isle.

Section 8.6. Compensation.

The only compensation of the Justices of the Peace shall be the usual fees of that office as provided by the general laws of the state.

Section 8.7. Misconduct in Office.

Any Justice of the Peace who shall be guilty of misconduct in office, or who shall wilfully neglect or refuse to perform or discharge any of the duties of his office required by this Charter or any of the ordinances of the City, shall be deemed guilty of misconduct in office and punishable accordingly.

Section 8.8. Traffic Violations Bureau.

The Council shall have power and authority to establish a traffic violations bureau by ordinance for the handling of vehicular traffic cases, other than failure to stop in event of an accident, driving while under the influence of intoxicating liquors or narcotics, reckless driving, or speeding. In such bureau, any person who has received any notice to appear in answer to a traffic charge under the ordinances of the City may, within the time spec-

ified in the notice, answer at the traffic violations bureau to the charges set forth in such notice by paying a prescribed fine which cannot be waived by the bureau, and, in writing, pleading guilty to the charge, waiving a hearing in court. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation and the violator shall be given a receipt which so states. The creation of such a bureau by the Council shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

Section 8.9. Constables.

Except as in this Charter otherwise provided, all the provisions of the general law applying to the election, qualification and compensation of constables in townships shall apply to the Constable elected in the City of Rogers City.

Section 8.10. Duties of Constable - Compensation.

Said Constable shall have like powers and authority in matters of a civil and criminal nature and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. The compensation of the Constable shall be the usual fees of that office as provided by the general laws of the state.

CHAPTER IX. SUPERVISORS*

Section 9.1. Number of Supervisors.

Until such time that the City of Rogers City shall be entitled to an additional number of representatives upon the Board of Supervisors of the County of Presque Isle, by reason of an increase of population or otherwise, under the laws of the state, the City shall be entitled to three (3) representatives upon such board. Such three (3) representatives of the City upon the Board of Supervisors of the County of Presque Isle shall be comprised of three (3) electors of the City, one (1) of whom shall be the Assessor. In case of the nec-

*Editor's note--This chapter is now obsolete. The election of supervisors is governed by MCL 46.401 et seq., MSA 5.359(1) et seq.

essary absence or the temporary inability of any City member of the Board of Supervisors to serve or perform the duties of his office at any given session of the Board or part thereof, the Mayor shall appoint one of the administrative officers of the City or any other qualified person to serve during such absence or inability and shall certify such appointment to the County Clerk. In the event that the City may be entitled to additional representatives upon such Board of Supervisors by reason of a population increase, or otherwise, as provided by state law, the Council shall appoint either the Clerk or some other elector or electors of the City to serve as the supervisor or supervisors to which the City is so entitled. Supervisors appointed by the Council shall serve in such capacity at the pleasure of the Council.

Section 9.2. Term of Office.

The representatives of the City upon such Board of Supervisors of the County of Presque Isle, Michigan, shall be appointed by the Council at its first meeting following each regular City election and shall serve in such capacity at the pleasure of the Council. Vacancies occurring among the number of such appointed representatives shall be filled by the Council within thirty (30) days after such vacancy shall occur. Such appointments may be made by the Council from its own members. (Amd. by electors 8-3-54)

Section 9.3. Duties of City Supervisors.

The Supervisors of the City shall perform the duties required to be performed by Supervisors under the general laws of the state, except as otherwise provided in this Charter. Each Supervisor shall, in the performance of his duties, to the best of his ability, represent the City, its inhabitants, and its government as a whole.

Section 9.4. Compensation of Supervisors.

All supervisors of the City shall be entitled to retain any compensation and mileage paid to them by the county as members of the Board of Supervisors of the County of Presque Isle.

CHAPTER X. ELECTIONS*

Section 10.1. Qualifications of Electors.

Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next ensuing regular or special City election, shall be entitled to register as an elector of the City of Rogers City in the voting district in which he resides.

State law references—Mandatory that Charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.

Section 10.2. Election Procedure.

The general election laws of the State shall apply to and control, as near as may be, all procedures relating to registration and City elections, except as such general laws relate to political parties or partisan procedure, or require more than one (1) publication of notice, and except as otherwise provided by this Charter.

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

Section 10.3. Primary Election. (Deleted by electors 11-4-86)

Section 10.4. Regular City Elections.

A non-partisan City election shall be held on the first Monday in April in each odd numbered year for the election of such officers as are provided for in this Charter.

Editor's note—Since 1971 the city has been operating under the odd-year elections pursuant to MCL 168.644a et seq., MSA 6.1644(1) et seq.

Section 10.5. Special Elections.

Special City elections shall be held when called by resolution of the Council at least twenty-one (21) days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No

**State law references*—Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).

more than two (2) special City elections shall be held in any one calendar year.

State law reference—Special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

Section 10.6. Election Commission.

An election commission is hereby created, consisting of the Clerk, Mayor, and City Attorney. The Clerk shall be chairman. The commission shall have charge of all activities and duties required of it by state law and this Charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

Section 10.7. Notice of Election.

Notice of the time and place of holding any City primary or election and of the officers to be elected and the questions to be voted upon, shall be given by the Clerk by publication at least once in some newspaper published or of general circulation in the City and, if deemed advisable by the Council, by posting in two (2) or more conspicuous places in the City not less than ten (10) days prior to such election. Notice of all other elections in the City shall be given in the same manner and at the same times as provided in the state election laws for the giving of notices in state elections.

State law reference—Notice of election, MCL 168.653, MSA 6.1653.

Section 10.8. Voting Hours.

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

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

Section 10.9. Nominating Petitions.

Persons desiring to qualify as candidates for any elective office under this Charter shall file a petition therefor with the Clerk signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the City not later than 4:00 p.m., E.S.T. on the seventh Monday prior to the date of the regular City election. Official blank

petitions in substantially the same form as required by state law for state and county officers, except for references to party, shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petitions to any person, he shall enter thereon in ink the name of the person desiring to become a candidate for office in the City, or the name of the person in whose behalf the petition is to be circulated, and the name of the office for which he is to be a candidate. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one (1) week before, and not more than three (3) weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

(Amd. by electors 4-9-59; Amd. by electors 11-4-86)

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

Section 10.10. Approval of Petitions.

The Clerk shall accept for filing only nomination petitions on official blanks containing the required number of signatures for candidates having those qualifications required for elective City officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, within five (5) days after the final filing date, determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition. Each petition which is found by the Clerk to contain the required number of signatures of registered electors for can-

didate shall be marked "In Order," with the date thereof, and he shall so notify the candidate whose name appears thereon, in writing.

State law reference—Nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 10.11. Public Inspection of Petitions.

All nomination petitions shall be open to public inspection in the office of the Clerk beginning five (5) days after the final filing date for such petitions.

Section 10.12. Form of Ballots.

The form of the ballot used in any City election shall conform as nearly as may be to that prescribed by the general laws of the state, except that no party designation or emblem shall appear upon any City ballot. The names of qualified nominees for each office shall be listed in a single column and shall be rotated on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the state, relating to elections.

(Amd. by electors 11-4-86)

Section 10.13. Canvass of Votes.

The canvass of votes for all elections under this Charter shall be governed by the Michigan Election Law and other applicable law.

(Amd. by electors 11-4-86)

State law reference—Board of canvassers, MCL 168.24a et seq., MSA 6.1024(1) et seq.

Section 10.14. Tie Vote.

If at any City election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the Council shall name a time and place for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by state law and the result thereof shall be final in the determination of such election. Should any person or persons affected by the provisions of this section fail or refuse to appear to determine the result of the election at the time and place named by the Council, such determination shall be made in his or their absence at the

direction and under the supervision of the Council and shall be final.

(Amd. by electors 11-4-86)

State law reference—Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

Section 10.15. Recount.

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.

(Amd. by electors 11-4-86)

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

Section 10.16. Recall.

Any elective official may be removed from office by the electors of the City in the manner provided by the general laws of the State. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

State law references—Recall, MCL 168.951 et seq., MSA 6.1951 et seq.; Mich. Const. 1963, Art. II, § 8.

CHAPTER XI. GENERAL FINANCE—BUDGET PROCEDURE*

Section 11.1. Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the 30th day of June of the following year.

Section 11.2. Budget Procedure.

On or before the second Monday in March, each City officer shall submit to the City Manager an itemized estimate of the expenditures for the next fiscal year, for the department or activities under his control. The City Manager shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the Council on or before the second Monday in April.

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

Section 11.3. Budget Document.

The budget proposal shall present a complete financial plan for the ensuing fiscal year. It shall include at least, the following information:

- (a) Detailed estimates of all proposed expenditures for each department and office of the City, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current year;
- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years;
- (d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting schedules as the Council may deem necessary.

Section 11.4. Budget Hearing.

A public hearing on the budget shall be held before its final adoption, at such time and place as the Council shall direct, and notice of such public hearing shall be published at least one (1) week in advance by the Clerk. A copy of the proposed budget shall be on file and available to the public for inspection during office hours at the office of the Clerk for a period of not less than one (1) week prior to such public hearing.

Section 11.5. Adoption of Budget, Tax Limit.

Not later than the third Monday in May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution, make an appropriation of the money needed for municipal purposes during the ensuing fiscal year of the City and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not exceed two (2) per cent of the assessed valuation of all real and personal property subject to taxation in the City.

State law reference—Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).

Section 11.6. Transfer of Appropriations.

After the budget has been adopted, no money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of money be incurred except pursuant to the budget appropriation. The Council may transfer any unencumbered appropriation balance, or any portion thereof, from one department fund, or agency to another. The balance in any appropriation, which has not been encumbered, at the end of the fiscal year shall revert to the general fund and be reapportioned during the next fiscal year; Provided, however, that in the case of emergency arising from fire, flood, tornado, enemy attack or other calamity, the Council may make additional appropriations to cover unanticipated expenditures required of the City because of such emergency. (Amd. by electors 8-3-54)

Section 11.7. Budget Control.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

Section 11.8. Depository.

The Council shall designate the depository or depositories for City funds, and shall provide for

the regular deposit of all City moneys. The Council shall provide for such security for City deposits as is authorized or permitted by the general laws of the state, except that personal surety bonds shall not be deemed proper security.

State law references—Designation of depositories, MCL 129.12, MSA 3.752; deposit of public moneys, MCL 211.436, MSA 7.86.

Section 11.9. Independent Audit.

An independent audit shall be made of all accounts of the City government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be on file in the office of the Clerk and available to the public for inspection. An annual report of the City business shall be made available to the public by the City Manager in such form as will disclose pertinent facts concerning the activities and finances of the City government.

CHAPTER XII. GENERAL TAXATION*

Section 12.1. Power to Tax.

In order to carry out the purposes, powers, and duties of the City government established by this Charter, the City may assess, levy, and collect taxes, rents, tolls, and excise or specific taxes.

State law reference—Mandatory that Charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g).

Section 12.2. Subjects of Taxation.

The subjects of ad valorem taxation for municipal purposes shall be the same as for State, County, and school purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by state law.

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

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

Section 12.3. Exemptions.

No exemptions from taxation shall be allowed, except such as are expressly required to be made by state law. In the case of exemptions made to persons who, in the opinion of the Assessor and Board of Review, by reason of poverty, are unable to contribute towards the public charges, the Assessor or Board of Review shall require, as a condition to the grant of exemption, a trust deed or assignment to the City of all or any part of the real or personal property or insurance of the beneficiary of such exemption. No such trust deed or assignment shall deprive the owner of the property to whom tax exemption is granted of his right to freely occupy and use the property, but shall give the City, in the event that the ownership of such property is transferred to another in any manner whatsoever, such an interest therein as will provide for the payment to the City of an amount equal to all taxes which would have been assessed by the City against the property of such owner had the exemption not been granted.

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

Section 12.4. Assessment.

Unless otherwise provided by state law, the first day of April in each year shall be the assessment day for both real and personal property in the City. The Council shall provide for the installation and the maintenance of a systematic or standardized plan of property assessment based upon the uniform application of established rules, techniques, and procedures, and shall annually provide funds for the proper administration and application of said plan of assessment. Such plan shall be a factor in estimating the true cash value of all real and personal property in the City.

Editor's note—The time schedule set out in this chapter for assessments conflicts with MCL 211.30a, MSA 7.30(1), which requires the completion of the review of assessments prior to first Monday in April, MCL 211.30a, MSA 7.30(1).

Section 12.5. Time for Making Assessment Rolls.

Prior to the first meeting of the Board of Review in each year, the Assessor shall make and

complete an assessment roll in the manner and form provided in the general tax law of the state.

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

Section 12.6. Valuing of Real and Personal Property.

Said Assessor shall estimate, according to state law, the value of every parcel of real property and set the same down opposite such description. He shall also estimate the value of all taxable personal property of each person and set the same down opposite the name of such person. Except in the case of uniform general increases in property assessments, in which cases notice shall be given by publication, the Assessor shall give notice by registered mail of any increase in the assessment of any property to the owner thereof of record according to the last assessment roll of the City addressed to the address of such owner shown on such roll, but the failure on the part of the Assessor to give any such notice or of any such owner to receive any such notice shall not invalidate any assessment roll of the City or any assessment thereon.

Section 12.7. Board of Review.

The members of the Council shall comprise the Board of Review of the City's assessment rolls. Meetings of the Board shall not constitute meetings of the Council in its function as the legislative body of the City. The remuneration of the members of the Board of Review shall be one (1) dollar per hour of actual attendance at its meetings, but not to exceed eight (8) dollars per day.

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

Section 12.8. Meeting of Board of Review.

The Board of Review shall meet in two sessions in each year at such time and place as shall be designated by the Council. The first session of the Board shall convene on the last Monday in April of each year and shall continue in session from day to day for the purpose of considering and correcting the roll for three (3) days. In each case where the assessed value is increased on any property added to the rolls by the Board, the Secretary

shall, forthwith, give notice to the owners thereof according to the last assessment roll of the City by registered mail placed in the Rogers City Post Office not later than midnight of the Wednesday following the first meeting of the Board. The second session of the Board shall convene on the first Monday of May of each year and shall continue in session for not less than eight (8) hours on said day to consider only those cases in which the assessed value of property was increased and of property which was added to the assessment roll by the Board at the first session thereof. No assessment shall be changed in any way at any session of the Board except by a motion regularly put and adopted by a majority of the members of said Board, which motion shall state the amount at which the assessment is fixed as reviewed by the Board. Each day's proceedings of said board shall be read, approved, and signed by the chairman thereof. At the conclusion of the review of said rolls, and prior to the second Monday in May following, said Board shall prepare a signed statement, showing the amount in gross and the additions or deductions made in total of the assessed valuations of the real and personal property made by said Board.

Editor's note—The meeting times in this section conflict with MCL 211.30a, MSA 7.30(1), which requires the completion of review of assessments prior to first Monday in April, MCL 211.30a, MSA 7.30(1).

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

Section 12.9. Notice of Meetings.

The Clerk shall give notice to the public of the time and place of meeting of the Board of Review by publication at least once not less than ten (10) days immediately preceding such meeting.

Section 12.10. Organization and Functions of the Board of Review.

On the first day of its meeting in each year, the Board of Review shall elect one of its members chairman. The Assessor shall be Secretary of the Board and shall attend its meetings with the privilege of participating therein but without the right to vote upon any decision of the Board. It shall be the duty of the Assessor to keep a permanent record of all proceedings, and to enter therein all resolutions and decisions of the Board. A majority

of the members of the Board shall constitute a quorum. The members of said Board shall take the constitutional oath of office which shall be filed with the Clerk. For the purpose of reviewing and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by the general law conferred upon and required of boards of review in townships, in reviewing assessments in townships for township, state, and county taxes. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and 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 shall deem just. In all cases, the assessment roll shall be reviewed according to the facts existing on the tax day and no change of the status of any property after said day shall be considered by the Board in making its decisions.

Section 12.11. Endorsement of Roll - Validity.

After the Board shall complete its review of the assessment roll, and on or before the second Monday in May in each year, a majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and from and after midnight following the last day of the meeting of the Board of Review, the same shall be the assessment roll of the City for County, school, and City taxes and for any other taxes or real and personal property that may be authorized by law and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the general laws of the state.

Editor's note—Completion of the review of assessments is now required prior to the first Monday in April by MCL 211.30a, MSA 7.30(1).

Section 12.12. Clerk to Certify Tax Levy.

Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general tax; all amounts of special assessments

which the Council requires to be assessed or re-assessed upon any property or against any person; and all other amounts which the Council may determine shall be charged, assessed or re-assessed against any person or property.

Section 12.13. City Tax Roll.

After the last day for the meeting of the Board of Review, the Assessor shall proceed forthwith to spread upon the assessment roll the several amounts determined by the Council to be charged, assessed, or re-assessed against persons or property; and shall also proceed to spread the amounts of the general City tax according to and in proportion to the several valuations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the Assessor may add to the amount of the several taxes to be raised not more than one (1) per cent; said excess shall belong to the City.

Section 12.14. Tax Roll Certified for Collection.

After extending the taxes aforesaid and not later than the 15th day of June in each year, the Assessor shall certify said tax roll, and the Mayor shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him, for the purpose of collecting the taxes, assessments, and charges on such roll, all the powers and immunities possessed by township treasurers for the collection of taxes under the general laws of the State.

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

Section 12.15. Taxes Lien on Property.

The City taxes thus assessed shall become at once a debt due to the City from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall on the first day of July become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien, prior, superior, and paramount, upon all personal property of the persons

so assessed from and after the first day of July in each year and shall so remain until paid, which said tax liens shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, execution, levy, judgment, or otherwise, and whether arising before or after the assessment of said personal taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien except where such personal property is actually sold in the regular course of retail trade.

Section 12.16. Notification of Taxes Due.

The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the tax payers of the City, at least ten (10) days prior to the first day of July in each year, of the time when said taxes will be due for collection by publication, at least once, in one or more of the newspapers published or circulated in the City, or shall give such notice by first class mail addressed to the owners of the property upon which taxes are assessed according to the names of such owners and their addresses as indicated on the tax roll, which notice shall be deemed sufficient for the payment of all taxes and assessments on said tax roll. Failure on the part of the Treasurer to give said notice shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalty provided in this Chapter in case of non-payment of the same.

Section 12.17. Collection of City Taxes.

City taxes shall be due and payable on the first day of July of each year. To all taxes paid after July 31, there shall be added a two (2) per cent penalty and on all taxes paid after said date shall be added interest at the rate of one-half ($\frac{1}{2}$) of (1) one per cent for each month or fraction of a month intervening between the first day of July and the date of payment.

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

Section 12.18. Tax Roll to County Treasurer.

If the Treasurer has been unable to collect any of the City taxes on said roll on real property be-

fore the first day of March following the date when said roll was received by him, it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by township treasurers of township, school, and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges and fees hereinbefore provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected under the provisions of the general laws of the State and shall be and remain a lien upon the lands against which they are assessed, until paid.

Section 12.19. Protection of City Lien.

The City shall have power to acquire by purchase any premises within the City at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City for taxes or special assessments, or both, on said premises and may hold, lease, or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose.

Section 12.20. State, County and School Taxes.

For the purpose of assessing taxes in the City for State, County, and school purposes, the City shall be considered the same as a township, and all provisions of state law relative to the collection of such taxes and the fees to be paid therefor, the accounting therefor to the appropriate taxing units, and the returning of property to the County Treasurer for non-payment thereof shall apply to the performance thereof by the Treasurer, who shall perform the same duties and have the same powers as township treasurers under state law. In the event that school taxes are collected at the same time as City taxes, they shall be collected

subject to the same conditions and privileges as City taxes under the provisions of this Charter.

State law references—Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i); state law relative to the assessment, levy and collection of taxes, MCL 211.1 et seq., MSA 7.1 et seq.

CHAPTER XIII. MUNICIPAL BORROWING POWER*

Section 13.1. General Borrowing.

Subject to the applicable provisions of state law and this Charter, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created thereby.

State law reference—City authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1), MSA 5.2074(1).

Section 13.2. Special Assessment Bonds.

The Council shall, subject to the applicable provisions of the general laws of the state, have authority to borrow money in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and to issue bonds therefor. Such special assessment bonds may be an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

State law references—City authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2), MSA 5.2074(2); higher interest rates permitted when there are objections in anticipation of special assessments, MCL 133.9, MSA 5.3188(12b).

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

Section 13.3. Mortgage Bonds.

When the City is authorized to acquire, own, or operate any public utility, it may, in accordance with the provisions of Sections 23, 24, and 25 of Article VIII of the Michigan Constitution of 1908 [Mich. Const. 1963, Art. VII, §§ 24, 25], issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law in accordance with the provisions of the Michigan Constitution of 1908 pertaining thereto.

State law reference—Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(1), MSA 5.2074(1).

Section 13.4. Other Bonds.

The City shall have power to issue revenue or other types of bonds in the manner and for the purposes permitted by the constitution and general laws of the State of Michigan.

Section 13.5. Preparation and Record.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose, except that whenever the proceeds of any bond issue, or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of such unexpended and unencumbered funds for the retirement of such bond issue, or, if such bond issue shall have been fully retired or if any of such funds remain after such retirement, then for the retirement of other bonds or obligations of the City. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Treasurer, under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and Treasurer. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled." Any officer who shall violate the provisions of this section shall be deemed guilty of misconduct in office. No cancelled bond shall be destroyed until

ten (10) years have elapsed following its final retirement date.

State law reference—Cremation or disintegration of public obligations, MCL 129.121 et seq., MSA 3.996(1) et seq.

Section 13.6. Unsold Bonds.

No issued but unsold bonds of the City shall be sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not sold within five (5) years after authorization, such authorization shall, as to such bonds, be null and void.

CHAPTER XIV. SPECIAL ASSESSMENTS*

Section 14.1. General Power Relative to Special Assessments.

The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense shall be defrayed by special assessment upon the property especially benefited.

State law reference—Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 14.2. To Initiate Special Assessments.

Proceedings for the making of public improvements within the City may be commenced by resolution of the Council, on its own initiative, or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for not less than sixty (60) per cent of the total assessed value of the privately-owned real property located therein, in accordance with the last preceding general assessment roll; Provided, however, that in case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners to the extent of at least sixty (60) per cent of the frontage of property to be assessed. If it shall appear that such petition was not signed by a sufficient number of property owners, then the petition shall not be presented to

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

the Council by the Clerk. Such petition, in addition to the signatures of the owners, shall contain a brief description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of one or more of the owners or by some person or persons with knowledge that said signers are such owners and that such signatures are genuine. The initiatory petition herein referred to shall be addressed to the Council and filed with the Clerk. Such petition shall in no event be mandatory upon the Council.

Section 14.3. Survey and Report.

Before the Council shall consider the making of any local or public improvement, the same shall be referred by resolution to the City Manager directing him to prepare a report which shall include necessary plans, profiles, specifications, and estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the Council to decide the cost, extent, and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property benefited and what part, if any, should be paid by the City at large. The Council shall not determine to proceed with the making of any local or special improvement until such report of the City Manager has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such public improvement.

Section 14.4. Cost of Condemned Property Added.

Whenever any property is acquired by condemnation, or otherwise, for the purpose of any special improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such special improvement.

State law reference—Condemnation proceedings, MCL 117.35, MSA 5.2115.

Section 14.5. Determination on the Project Notice.

After the City Manager has presented the report required in Section 14.3 for making any local or public improvement as requested in the [sic] [a]

resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the City at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or benefits; placing the complete information on file in the office of the Clerk where the same may be found for examination; and directing the Clerk to publish a notice of public hearing on the proposed improvement at which time and place opportunity will be given interested persons to be heard. Such notice shall be made by publication in a newspaper published and circulated within the City at least one (1) week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.

Editor's note—Additional requirements for special assessment notices and hearings are set out in MCL 211.741 et seq., MSA 5.3534(1) et seq.

Section 14.6. Objections to Improvement.

If, at or prior to such meeting of the Council, more than fifty (50) per cent of the number of owners of privately-owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty (50) per cent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this Chapter without a unanimous vote of the members of the Council.

Section 14.7. Determination by the Council.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the public improvement, if necessary, in such a manner as they shall deem to be in the best interest of the City as a whole. If the determination of the Council shall be to proceed with the improvement, the resolution shall set forth the nature of the improvement, designate the limits of the special assessment district

to be affected, prescribe what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the City at large, specify the manner and method of paying for or financing the same in each case, and determine whether the cost of the improvement shall be spread upon a special assessment roll before or after the improvement has been completed.

Section 14.8. Deviation from Plans and Specifications.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the City without authority of the Council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his office.

Section 14.9. Financing Public Improvements after Completion.

Where the assessment is levied after the completion of the improvement ordered, the City Manager shall, within sixty (60) days after he shall give notice to the Council of the completion of the work, compile the actual cost thereof and certify the same to the Assessor, who shall spread such cost on the special assessment roll as herein required in cases where the levy is made prior to completion of the work.

Section 14.10. Special Assessment Roll.

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the City Manager as approved by the Council.

(Amd. by electors 11-6-79)

Section 14.11. Assessor to Attach Certificate to Assessment Roll.

When the Assessor shall have completed such assessment roll, he shall file the same with the

Clerk for presentation to the Council for review and certification by it.

Section 14.12. Meeting to Review Special Assessment Roll - Objections in Writing.

Upon receipt of such special assessment roll, the Council, by resolution, shall accept such assessment roll and order it to be filed in the office of the Clerk for public examination; shall fix the time and place the Council will meet to review such special assessment roll, and direct the Clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by publication at least one (1) week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council. At this meeting all interested persons or parties shall present their objections, if any, to the assessments against them in writing. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

Editor's note—Additional requirements for special assessment notices and hearings are set out in MCL 211.741 et seq., MSA 5.3534(1) et seq.

Section 14.13. Changes and Corrections in Assessment Roll.

The Council shall meet at the time and place designated for the review of such special assessment roll and, at such meeting, or proper adjournment thereof, shall consider all objections thereto submitted in writing. The Council may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and the same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council is satisfied with said special assessment roll, it shall thereupon pass a resolution confirming such roll, placing it on file in the office of the Clerk, and directing the Clerk to attach his warrant to a certified copy within ten (10) days, therein commanding the Assessor to spread the various sums

and amounts appearing thereon on a special assessment roll or upon the tax rolls of the City for the full amounts or in annual installments as directed by the Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in Section 14.19 of this Chapter.

Section 14.14. Collection of Special Assessments.

All special assessments, except installments thereof as the Council shall make payable at a future time as provided in this Chapter, shall be due and payable upon confirmation of the special assessment roll.

Section 14.15. Partial Payments - When Due.

The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed ten (10) in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter or, in the discretion of the Council, may be spread upon and made a part of each annual City tax roll thereafter, until all annual installments have been spread. Interest shall be charged on all deferred installments at a rate not to exceed six (6) per cent per annum, payable annually; the whole or any deferred installments, with interest accrued thereon, to the date of payment, may be paid in advance of the due dates as herein established.

Section 14.16. Delinquent Special Assessments.

Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for state and county taxes, and by this Charter for City taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special as-

assessments as are provided by this Charter to be collected on delinquent City taxes. Such delinquent special assessments shall be subject to the same penalties and the property upon which the same are a lien shall be subject to sale therefor the same as are delinquent City taxes and the property upon which they constitute a lien.

State law reference—Specific authority to institute an action in assumpsit to recover unpaid assessments, MCL 211.501, MSA 7.721.

Section 14.17. Hazards and Nuisances.

When any lot, building, or structure within the City, because of accumulation of refuse or debris, the uncontrolled growing of noxious weeds, or age or dilapidation, or because of any other condition or happening, becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health, safety, or welfare of the inhabitants of the City or of those residing or habitually going near such lot, building, or structure, the Council may, after investigation, give notice by publication or by registered mail addressed to the last known address of the owner or owners of the land upon which such nuisance exists, or to the owner of the building or structure itself, specifying the nature of the nuisance and requiring such owner to alter, repair, tear down, abate or remove the nuisance promptly and within a time to be specified by the Council, which shall be commensurate with the nature of the nuisance. If, at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may order such hazard or nuisance abated by the proper department or agency of the City which is qualified to do the work required, or may do the work by contract or by hire and the cost of such abatement assessed against the lot, premises, or description of real property upon which such hazard or nuisance is located, by special assessment.

Section 14.18. Sidewalks.

The Council may prescribe that sidewalks, except crosswalks, shall be built by the owners of lands within the City in the manner and within the time prescribed by resolution; provided, that

in case of the failure of any such owner to comply with the provisions of such resolution, the City may build or cause such sidewalk to be built, and assess the cost or any part thereof against such owner and against the land improved thereby and spread upon the next City tax roll as a special assessment thereon.

Section 14.19. Amount of Assessment, Council to Determine.

The Council shall determine what amount or part of the expense of any improvement shall be charged, and the person, if known, against whom, and the premises upon which, the same shall be levied as a special assessment; and as often as the Council shall deem it expedient, it shall require all of the several amounts so reported and determined, and the several lots or premises and the persons chargeable therewith respectively to be notified by the Clerk either by registered mail sent to their last known address as shown on the assessment roll of the City or by publication. Such notice shall state the basis of the assessment, the cost thereof, and shall give a reasonable time which shall not be less than thirty (30) days, in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the Clerk to the Assessor who shall spread such amounts against the several persons or descriptions of real property chargeable therewith on the next roll for the collection of City taxes.

Section 14.20. Additional Assessments, Refunds.

When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed shall not exceed the value of benefits received by any lot or parcel of land. Should the assessment prove larger than necessary to five (5) per cent or less, the Council may place the excess in the City treasury. If more than five (5) per cent, the excess shall be refunded pro rata according to assessments. In either case, the Council may provide by resolution that the amount of any such excess may be allowed as a credit on the last installment where such installment still

remains unpaid at the time the final cost of the improvement is determined.

Section 14.21. Additional Procedures.

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

Section 14.22. Special Assessment Accounts.

Except as otherwise provided in this Chapter, moneys raised by special assessment to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this Chapter.

Section 14.23. Contested Assessments.

Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement or the removal or abatement of any public hazard or nuisance, within fifteen (15) days after the date of the resolution of the Council confirming the assessment roll for such improvement, as required by Section 14.13 of this Chapter, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment.

Section 14.24. Reassessment for Benefits.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Council shall have power to cause a new assessment to be made, whether the improvement or any part thereof has been completed or not, and whether any part of the assessment has been collected or not. All proceedings on such reassess-

ment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

CHAPTER XV. CONTRACTS - FRANCHISES - MUNICIPAL UTILITIES*

Section 15.1. City May Perform Public Works.

The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. Where competitive bids are secured the City, or any City department qualified to do the work, may enter a bid on equal footing with other bidders. The Council shall also have power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or the State of Michigan, or which is wholly or in part financed by them or either of them.

Section 15.2. Plans and Specifications.

Except as otherwise provided in this Charter the responsibility for the preparation of plans and specifications, estimating of the cost, advertising for bids, supervision and approval of the work upon or for any public work or public or special improvement is vested in the City Manager.

*State law references—Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25; permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

Section 15.3. Contracts.

Whenever it becomes desirable for the City to enter into a contract with a second party for any purpose whatever, such instrument shall be drawn or approved as to form by the City Attorney and certified to by the Clerk as to sufficiency of funds. The lettings and making of such contracts is hereby vested in the Council. The Council, in its discretion, shall have the power to reject any or all bids. Copies of all contracts shall be filed in the office of the Clerk.

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

Section 15.4. Modifications in Contracts.

When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Council. No such order shall be effective until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Council, and a copy thereof and of the proceedings authorizing such alteration or modification certified by the Clerk, attached by the Clerk to the original contract on file in his office.

Section 15.5. Right of Regulation.

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same for misuse, or non-use, or for failure to comply with the provisions thereof.
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) To require continuous and uninterrupted service to the public in accordance with the

terms of the franchise throughout the entire period thereof.

- (e) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.
- (f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the City, by the City, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor.

State law references—Franchises limited to thirty (30) years, Mich. Const. 1963, Art. VII, § 30; submittal to electors if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).

Section 15.6. Maintenance and Protection of City Facilities.

Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places, as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

Section 15.7. General Powers Respecting Municipal Utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, public utilities, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, and sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas, and other public utilities and services, without its cor-

porate limits to an amount not to exceed the limitations set by state law and constitution. In the event of the acquisition of any public utility by the City through purchase or condemnation, the value of such utility shall not be based upon any franchise granted by the City, good will, or prospective profits. The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power and with such other utility services as the City may provide.

Section 15.8. Utility Charges - Collections.

The Council shall provide, by ordinance, for the collection of all public utility charges made by the City and for such purpose, shall have all the power granted to cities by Act 178 of the Public Acts of 1939 [MCL 123.161 et seq., MSA 5.2531(1) et seq.]. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the City any sums due on utility bills, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

Section 15.9. Accounts.

Separate accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts, and in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues, and expenses. They shall show as nearly as possible the value of any service furnished to or rendered by any such public utility by or to any other City department. The Council shall annually cause to be made a report showing the financial results of such City ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient. Such report shall be on file in the office of the Clerk for public inspection.

Section 15.10. Disposal of Plants.

The City shall not sell, exchange, lease, or in any way alien or dispose of the property, ease-

ments, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at an election held for the purpose in the manner provided in this Charter, to the electors of the City who are qualified to vote on questions involving the direct expenditure of money or the issuance of general obligation bonds of the City and approved by them by a three-fifths ($\frac{3}{5}$) majority vote of the electors voting thereon. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange of any articles of equipment of any City-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER XVI. CITY HOSPITAL

Section 16.1. Hospital Commission.

The City shall have power to acquire, own and/or operate a hospital. The Council shall provide by ordinance for a Board of Trustees for such hospital to consist of not less than five (5) members. Said ordinance shall provide for the manner of the selection of such members, their terms of office and for the filling of vacancies. One member of said Board shall be a member of the Council. All members of said Board shall be electors of the County of Presque Isle and at least a majority thereof shall be electors of the City. The general provisions of this Charter and the statutes of the State of Michigan shall govern the levying of taxes for the payment of any bonds which may be issued for hospital purposes and the provisions of Section 16.4 of this Charter shall not be deemed to be applicable thereto.

(Amd. by electors 9-15-48)

Section 16.2. Organization of Board.

Said Board shall, within ten (10) days after their first appointment, and annually thereafter, within ten (10) days after the second meeting of the Council in April, organize and elect one (1) of their

number president. Until a City hospital is in existence, the Hospital Board shall hold at least two (2) regular meetings in each year. Thereafter the Board shall hold at least one (1) regular meeting in each calendar month. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall appoint a secretary and, subject to the civil service provisions of this Charter and any ordinance of the City relating thereto, shall employ all necessary personnel required to operate and conduct the affairs entrusted to it, and, subject to budget appropriations, fix their salaries and compensation. The secretary of the Board shall be responsible for the efficient performance of all the clerical work required by said Board and for the keeping of the books, records, papers, and accounts of the Board in conformity with the provisions of this Charter regarding the keeping of the accounts of the City and its several departments, boards and agencies. All accounts of the Board shall be subject to audit by the Clerk of the City, the same as the accounts of other departments and boards of the City, and to such other audit as this Charter or the Council shall require.

Section 16.3. Powers and Duties of Board.

The Board shall be charged and entrusted with the planning for, construction, management, supervision, and control of all hospitals and hospital facilities which are or shall be owned or operated by the City and shall have power to make and adopt all such by-laws, rules, and regulations as they may deem necessary and expedient for the transaction of their business, subject in all respects to the general ordinances of the City and the provisions of this Charter. The Board shall possess all power and prerogatives necessary to enforce its rules and regulations by any means permitted by law and may bring suit in courts of competent jurisdiction in its own name or that of the City in all cases when such action is required to protect its own interests or those of the City with respect to the City hospital and its operation as a municipal concern.

Section 16.4. Hospital Budgets.

On or before the second Monday in April of each year, the Board shall submit to the Council careful

estimates in detail of the amount of money which, according to the judgment of the Board, will be needed for the hospital facilities of the City during the ensuing year, which estimates may be increased, modified or adopted by the Council as in its judgment may seem justifiable, but, in no event, shall the amount required in such budget to be raised by taxation be less than one (1) mill nor more than three (3) mills on each dollar of the assessed value of real and personal property in the City, which amount to be raised by taxation shall be used only for hospital purposes, and shall, in no event, cause the tax levy of the City to exceed the tax limit set in Section 11.5 of this Charter. The Board shall administer its budget in all respects, but shall not in any instance permit its expenditures for any purpose to exceed the amount provided in the budget therefor, without first obtaining the consent of the Council.

CHAPTER XVII. CITY LIABILITY

Section 17.1. Notice to City of Claim for Injuries.

The City shall not be liable in damages sustained by any person in the City, either to his person or property, by reason of the negligence of the City, its officers, or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in the City, unless such person shall serve or cause to be served, within sixty (60) days after such injury shall have occurred, a notice in writing, upon the Clerk, which notice shall set forth substantially the time and place of such injury, the nature of the defect, the manner in which it occurred, and the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time by claimant, and a statement that the person receiving such injury intends to hold the City liable for such damages as may have been sustained by him. No person shall bring any action against the City for any damages to person or property arising out of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or

public highway, situated in the City, unless he shall also present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claims shall be presented to the Council by the Clerk.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the City, under this section, that the notice of injury and the verified proof of claim, as in this section required, were not presented and filed within the time and in the manner as herein provided.

Editor's note—This section may be in contravention of MCL 600.5805, MSA 27A.5805, governing limits on actions to recover damages for injuries to persons or property. See *Northrup v. City of Jackson*, 273 Mich. 20 (1935).

Section 17.2. No Estoppel by Representation.

No official of the City shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement, contrary to any public record of the City. Any such representation shall be void and of no effect as against the City.

CHAPTER XVIII. MISCELLANEOUS

Section 18.1. Tense.

Except as otherwise specifically provided or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made therein, either as a power, immunity, requirement, or prohibition.

Section 18.2. Headings.

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

Section 18.3. Effect of Illegality of Any Part of Charter.

Should any provision or section, or portion thereof, of this Charter be held by a court of com-

petent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or section, it being hereby declared to be the intent of the Charter Commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any other part of this Charter except that specifically affected by such holding.

Section 18.4. Amendments.

This Charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

SCHEDULE

(The Schedule Chapter expired by its own terms on February 19, 1945.)

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Rogers City held January 6, 1945, the following resolution was offered by the Commissioner Peltz and seconded by Commissioner Heintel:

RESOLVED, That the Charter Commission of the City of Rogers City does hereby adopt the foregoing proposed City Charter and the Clerk of this commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

CHARTER

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

Ayes: Commissioners Arscott, Baker, Buza, Heinzl, Nagel, Peltz, Shirtum, Trapp, and Chairman Linn.

Nays: None.

Absent: None.

Signed CHARLES W. HEINZEL,
Clerk of the Charter
Commission

Countersigned by the following Commissioners:
- of the City of Rogers City

ERNEST K. SHIRTUM	WILLIAM W. ARSCOTT
EMIL A. PELTZ, JR.	WILLIAM P. TRAPP
CHARLES W. BAKER	JOSEPH P. BUZA
ARNOLD J. NAGEL	CHARLES W. HEINZEL,
LOUIS A. LINN, Chairman	Clerk

All of the commissioners having attested as to said resolution as above and also having attested the copy to be signed by the Governor, the meeting adjourned, subject to the call of the chairman.

STATE OF MICHIGAN, COUNTY OF PRESQUE ISLE, ss.

Charles W. Heinzl, Clerk of the charter commission of the City of Rogers City, being duly sworn, says that at an election duly called and held in that portion of the Township of Rogers proposed to be incorporated as a City, on the 2nd day of October, 1944, the following named persons were duly elected as a commission to frame a charter for the City of Rogers City, namely; William W. Arscott, Charles W. Baker, Joseph P. Buza, Charles W. Heinzl, Louis A. Linn, Arnold J. Nagel, Emil A. Peltz, Jr., Ernest K. Shirtum, and William P. Trapp, and that the annexed and foregoing Charter was duly framed and adopted by said charter commission by the foregoing resolution which is a true and correct copy thereof, and that the said charter commission directed that said Charter by [be] presented to the electors of the City of Rogers City in accordance with the

requirements of the laws of the State of Michigan which provide therefor.

CHARLES W. HEINZEL,
Clerk of the Charter Commission
of the City of Rogers City.

Dated: Jan. 6, 1945.

Subscribed and sworn to before me this 6th day of January, 1945.

LAWRENCE D. LARKE,
Notary Public, Presque Isle Co.,
Mich. My commission expires
July 20, 1945.

I do hereby certify that the above and foregoing is a true copy of the proposed charter of the City of Rogers City which has this day been approved by the charter commission of the City of Rogers City.

Signed: CHARLES W. HEINZEL,
Clerk of the Charter Commission of the City of Rogers City.

Dated: Jan. 6, 1945.

I do hereby approve the above and foregoing Charter of the City of Rogers City.

HARRY F. KELLY,
Governor of the State of
Michigan.

Dated: Jan. 10, 1945.

