

City of Brighton



Charter

CHARTER*

***Editor's note:** Printed herein is the city charter, as adopted by the electorate on December 5, 1955. Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used; such headings, catchlines, references and citations are explanatory only and are not deemed to be part of the charter. Additions made for clarity are indicated by 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.

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CHAPTER 1. NAMES AND BOUNDARIES

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The Municipal corporation now existing and known as the "City of Brighton," shall continue to be a body politic and corporate under the name "City of Brighton," and include the territory hereinafter described with power and authority to change its boundaries in the manner authorized by law.

Section 1.2.Boundaries.

The City of Brighton shall include all the territory described as follows, to wit:

Commencing at the southwest corner of the Township of Brighton, thence running north along the west line of said Township to the quarter post of Section Thirty in said Township; thence east through the center of said section thirty, to the quarter post on the east line of said section thirty; thence south on said section line and the east line of section thirty-one, to the south line of the Township of Brighton, aforesaid; thence west to the place of beginning, embracing within said boundaries section thirty-one and the south half of section thirty, in Town two North, of Range six (6) east.

CHAPTER 2. MUNICIPAL POWERS

Section 2.1.Continuation of Powers of Former Charter.

All powers, privileges and immunities not inconsistent with the provisions of this charter possessed by the City of Brighton by virtue of its incorporation as such and enumerated in the charter of the city adopted on February 16, 1928, including all amendments thereto in effect on the day preceding the effective date of this charter, are hereby expressly retained by the city and shall constitute a part of the powers of the city even though not expressly enumerated herein.

Section 2.2.General Powers.

Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities expressed or 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 statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be, permitted to provide in their charters by Act No. 279 of the Public Acts of Michigan of 1909 (MCL 117.1 et seq., MSA 5.2071 et seq.), as amended, as fully and completely as though these 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 herein be held to be exclusive.

The city and its officers shall have power to exercise all municipal power in the management and control of municipal property and in the administration of the municipal government, whether

such powers be expressly enumerated herein 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 provisions of the Constitution, statutes and this charter.

State law references: 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 2.3.Further Definition of Powers.

In addition to the powers possessed by the city under the Constitution and statutes, and those set forth throughout this charter, the city shall have power with respect to, and may, by ordinance and other lawful acts of its officers, provide for the following, subject to any specific limitations thereon by this charter:

- (a) The acquisition by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Livingston and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;
- (b) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by statute or this charter;
- (c) The refunding of money advanced or paid on special assessments for water main extensions;
- (d) The installation and connection of conduits for the service of municipally owned and operated electric lighting plants;
- (e) The purchase or condemnation of the franchises and of the property used in the operation of companies or individuals engaged in the cemetery, hospital, alms-house, electric light, gas, heat, water and power business;
- (f) The establishment and vacation of streets, alleys, public ways and other public places, and the use, regulation, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them, be located within the limits of the city;
- (g) The use, by others than the owners, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;
- (h) A plan of streets and alleys within and for a distance of not more than three miles beyond the municipal limits;
- (i) The use, control and regulation of streams, waters and watercourses within its boundaries, subject to any limitations imposed by statute;

- (j) The securing by condemnation, by agreement or purchase, or by any other means, of an easement in property abutting or adjacent to any navigable body of water for an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purposes, including a tunnel;
- (k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;
- (l) Regulating, restricting and limiting the number and locations of oil, gasoline and bottled gas stations;
- (m) The establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;
- (n) The regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for the prohibiting of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;
- (o) Licensing, regulating, restricting and limiting the number and locations of advertising signs or displays and billboards within the city;
- (p) The preventing of injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive, or unhealthful, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;
- (q) The prescribing of the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, and otherwise conditioning such licenses as the Council may prescribe;
- (r) The prohibiting or regulating of the use, occupancy, sanitation and parking of house trailers within the city, and the right of the city 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;
- (s) The requiring of an owner of real property within the city to maintain sidewalks abutting upon such property, and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property in accordance with Section 11.9;
- (t) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a

reasonable time after the Council notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property in accordance with Section 11.9;

- (u) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and assess the cost thereof against the abutting property in accordance with Section 11.9;
- (v) The requiring, as a condition of approving plats of lands or premises hereafter laid out, divided of [or] platted into streets and alleys within the city, that all streets shown on said plat be graded and graveled or otherwise improved, that all ditches, drains and culverts necessary to make such streets usable be constructed, that cement sidewalks be constructed in the proper places, all in accordance with city specifications. The Council may accept a bond conditioned upon the installation of such of the foregoing improvements as it requires within such time as it determines.

State law references: Permissible that Charter provide for: regulation of billboards, MCL 117.4i(f), MSA 5.2082(f); condemnation, MCL 117.4e(2), MSA 5.2078(2); joint use of public property, MCL 117.4h(2), MSA 5.2081(2); regulation of oil and gasoline stations, MCL 117.4i(b), MSA 5.2082(b); plan of streets and alleys, MCL 117.4h(3), MSA 5.2081(3); police powers, regulation of trades and occupations, amusements, MCL 117.4i(j), MSA 5.2082(j); public buildings and grounds, acquisition, maintenance and disposition, MCL 117.4e(1), MSA 5.2078(1); special assessments, MCL 117.4a, 117.4b, 117.4d, MSA 5.2074, 5.2075, 5.2077; streets, alleys and public ways, signs, MCL 117.4h(1), MSA 5.2081(1); vehicle parking facilities, MCL 117.4h(6), MSA 5.2081(6); watercourses, MCL 117.4h(4), MSA 5.2081(4); zoning MCL 117.4i(c), MSA 5.2082(c).

Section 2.4.Exercise of Power.

Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city or its officers, the procedure set forth for the exercise of such power in any statute of the State of Michigan, including statutes passed for the government of any public body, shall govern. If alternative procedures are to be found in different statutes, the Council shall select that procedure which it deems to be the most expedient and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city or its officers is set forth, either in this charter or in any statute of the State of Michigan, the Council shall prescribe a reasonable procedure for the exercise thereof by ordinance.

Section 2.5.Inter-Governmental Contracts.

The city shall have power to 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 of them, 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 governmental unit or agency.

State law references: Authority to enter into intergovernmental contracts, MCL 124.1 et seq., MSA 5.4081 et seq.

CHAPTER 3. ELECTIONS

Section 3.1. Qualification of Electors.

The residents of the city having the qualifications of electors in the State of Michigan shall be electors of the city.

State law references: Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 3.2. Election Procedure.

The election of all city officers shall be on a nonpartisan basis. The general election statutes shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure and except as otherwise provided in this charter.

Section 3.3. Wards and Precincts.

The City of Brighton shall consist of one ward. The election precincts of the city shall remain as they existed on the effective date of this charter, until altered by the Council as hereinafter provided. The City Council shall be [by] ordinance from time to time establish convenient election precincts in accordance with this charter and statutes.

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

Section 3.4. Election Date.

A regular city election shall be held on the first Monday in April of 1957 and every second year thereafter, but if some other date in the months of March, April or May is fixed by law for the holding of the state biennial spring election, then the regular city election shall be held on the date so fixed.

Editor's note: Pursuant to MCL 168.644a, MSA6.1644 the odd year general election is now held on the Tuesday succeeding the first Monday in November.

Section 3.5. Elective Officers and Terms of Office.

The elective officers of the city shall be seven Councilmen and two Justices of the Peace, all of whom shall be nominated and elected from the city at large.

At each regular city election there shall be elected four councilmen and such additional number as may be required to fill vacancies pursuant to the provision of Section 5.6. The three receiving the highest number of votes shall each be elected for a term of office of four years, the one

receiving the fourth highest number of votes shall be elected for a term of office of two years, and a number equal to the number of vacancies being filled (if any) who shall receive the next highest numbers of votes in order shall each be elected for a term of office of two years. The terms of office of Councilmen shall commence at 8:00 P.M. on the Monday next following the regular city election at which they are elected.

In accordance with Section 16.2., there shall be elected two Justices of the Peace for a term of four years commencing on the fourth day of July next following their election.

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

Section 3.6.Primary Election.

A regular city primary election shall be held on the date prescribed by statute for the holding of the general primary election for the biennial spring election, except as hereinafter provided.

If upon the expiration of the time for filing nomination petitions for any elective city office, valid petitions have been filed for no more than twice the number of candidates for such office to be elected at the following regular city election, then no primary election shall be held with respect to such office. If no primary is held for one or more offices, the Clerk shall publish notice of this fact and the reason therefor as part of, or at the time provided for, the publication of notices for such primary election.

Candidates equal in number to twice the number of persons to be elected to each city office at the next subsequent regular city election who receive the highest number of votes at any such primary election shall be declared the nominees for election to the respective offices for which they are candidates. The names of such candidates, together with the names of candidates who filed valid nomination petitions for any office for which no primary was held, shall be certified by the Clerk to the Election Commission as nominees for the next subsequent regular city election.

Section 3.7.Special Elections.

Special city elections shall be held when called by resolution of the Council at least forty days in advance of such election, or when required by this charter or statute. Any resolution calling a special election shall set forth the purpose of such election. No more special city elections shall be called in any one year than the number permitted by statute.

State law references: Special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

Section 3.8.Notice of Elections.

Notice of the time and place of holding any city election and of the officers to be nominated or elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the Clerk in the same manner and at the same time as provided by statute for the giving of election notices by city clerks.

State law references: Notice of election, MCL 168.653a, MSA 6.1653(1).

Section 3.9. Voting Hours.

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

State law references: Opening and closing of polls, MCL 168.720, MSA 6.1720.

Section 3.10. Nominations.

The method if [of] nomination of all candidates for the city elections shall be by petition. Such petitions for each candidate shall be signed by not less than twenty nor more than forty registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular city election. Where the signature of any individual appears on more petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of filing the petitions containing such signatures.

Nomination petitions for candidates for regular city primary elections shall be filed with the Clerk between the first Monday of January and 5:00 p.m. by the then prevailing local time on the third Monday in January. Nomination petitions for special elections for the filling of vacancies held pursuant to Section 5.6. (b) shall be filed with the Clerk between the thirty-fifth day preceding such election and 5:00 p.m. by the then prevailing local time on the thirtieth day preceding such election.

The Clerk shall, prior to every election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be nominated or elected to each office at least one week and not more than three weeks before such day.

State law references: Mandatory that Charter provide for nominations of elective officers, MCL 117.3(b), MSA 5.2073(b).

Section 3.11. Form of Petitions.

The form of petition shall be substantially as that designated by the Secretary of State for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

State law references: Nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 3.12. Approval of Petition.

The Clerk shall accept only nomination petitions which conform with the forms provided and maintained by him, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by this charter.

When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose peti-

tion is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for his respective elective city office by this charter and shall write his determinations thereof on the face of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in Section 5.1. shall be filed with such petition.

The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger or registered mail. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 P.M. at the then prevailing local time on the fifth day after the last date for filing original petitions; thereafter no further petitions may be filed.

Section 3.13. Public Inspection of Petitions.

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

Section 3.14. Election Commission.

An Election Commission is hereby created, consisting of the Clerk and two qualified and registered electors of the city who during their term of office shall not be city officers or employees or candidates or nominees for elective city office. These two members shall be appointed by the City Council in January for a term of two years. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the City Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

State law references: Board of city election commissioners, MCL 168.25, MSA 6.1025.

Section 3.15. Form of Ballot.

The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

If two or more candidates or nominees for the same office have the same or similar surnames, the Election Commission shall print the occupation and residence address under the respective names of each of such candidates or nominees on the ballots (or on labels or slips to be placed on voting machines when used), provided, that for any of such candidates who is an incumbent of such office, the occupation shall be designated as "Incumbent."

Except as provided in this section there shall be no supplementary identification of candidates or nominees on the ballot.

State law references: Arrangement of ballot, MCL 168.706, MSA 6.1706.

Section 3.16. Canvass of Votes.

The Clerk and the members of the Council shall be the board of canvassers to canvass the votes at all city elections, except that if any of such persons are candidates for office at the election to be canvassed, such person shall not serve as a canvasser at such election. The board of canvassers shall convene on the day following each city election at the usual time and place of meeting of the Council and determine the results of the city election upon each question and proposition voted upon and what persons are duly elected to the several offices respectively at said election, and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the city duplicate certificates of the determinations of the board and shall file one certificate with the County Clerk and the other in his own office.

State law references: Canvass of returns, MCL 168.323, MSA 6.1323.

Section 3.17. Tie Vote.

If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Council shall name a date for the appearance of such persons within one week after said election for the purpose of determining the election of such candidates by lot as provided by statute.

State law references: Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

Section 3.18. Recount.

A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute (a) the petition for a recount of the votes cast at any city election shall be filed with the Clerk by 5:00 P.M. on the second full day on which the Clerk's office is open for business after the board of canvassers has made its official report of the result of the election at which such votes were cast, (b) any counter petition shall be filed by 5:00 P.M. of the next full day thereafter on which the Clerk's office is open for business and (c) no officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

State law references: Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

Section 3.19. Recall.

Any elected official may be recalled from office by the electors of the city in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this charter and by statute.

CHAPTER 4. ORGANIZATION OF GOVERNMENT

Section 4.1. The City Council.

The electors of the city shall elect a City Council of seven members, one of whom shall serve as Mayor. The Council shall constitute the legislative and governing body of the city and shall have power and authority, except as in this charter or by statute otherwise provided, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Council" is used in this charter, the same shall be synonymous with the word "Commission" or any other term used in any state or federal law in referring to municipal legislative or governing bodies.

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

Section 4.2. Qualifications of Councilmen.

Members of the Council shall meet the eligibility requirements contained in Section 5.1 of this charter. The Council shall be sole judge of the election and qualifications of its own members, subject only to review by the court.

Section 4.3. Compensation of Mayor and Councilmen.

The Mayor and Councilmen shall receive as compensation the sum of ten dollars per meeting for each regular or special meetings which they attend, but not to exceed one hundred fifty dollars in any one fiscal year.

Such compensation shall be paid annually on June 30th for service rendered in the current fiscal year and, except as otherwise provided in this charter, shall constitute the only compensation which may be paid the Mayor or Councilmen for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the Mayor and Councilmen may, upon order of the Council, be paid any necessary bona fide expenses incurred in service of the city as are authorized and itemized.

State law references: Mandatory that Charter provide for qualifications, duties and compensation of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.4. Election of Mayor; Mayor Pro Tem.

The Council shall, at its first meeting following each regular city election, and after the newly elected members take office, elect one of its members to serve as Mayor and one to serve as Mayor Pro Tem., both for a term expiring at the first Council meeting following each regular city election.

Such election shall be by written ballot and by majority vote of the members of the Council in office at the time.

In the event of absence or disability of both the Mayor and Mayor Pro Tem., the Council may designate another of its members to serve as Acting Mayor during such absence or disability.

State law references: Mandatory that Charter provide for election of mayor, MCL 117.3(a), MSA 5.2073(a).

Section 4.5. Duties of Mayor.

(a) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice and vote in all proceedings of the Council equal with that of other members of the Council but shall have no veto power. He shall be the presiding officer of the Council.

(b) The Mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all ablebodied citizens to aid in the enforcement of the ordinances of the city and to suppress riot and disorder.

(c) The Mayor shall execute or authenticate by his signature such instruments as the Council, this charter or any statutes of the State of Michigan or laws of the United States shall require.

(d) Except as may be required by statute, the Mayor shall exercise only such power as this charter or the Council shall specifically confer upon him.

(e) In the absence or disability of the Mayor, the Mayor Pro Tem. shall perform the duties of Mayor. In the absence or disability of both, the designated Acting Mayor shall perform such duties.

Section 4.6. Administrative Service.

The administrative officers of the city shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance. The Council may by ordinance create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

The City Manager and Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council.

All administrative officers of the city, except the City Manager and Attorney, shall be appointed by the City Manager for an indefinite period, subject to confirmation by the Council. Such officers shall be responsible to the City Manager and shall have their compensation fixed by him in accordance with budget appropriations and subject to approval by the Council. Such officers may be discharged by the City Manager without confirmation by the Council.

Except as may be otherwise required by statute or this charter, the Council shall establish by ordinance such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the of-

fficers of each department. The City Manager may prescribe such duties and responsibilities of the officers of those departments responsible to him which are not inconsistent with this charter or with any ordinance or resolution.

All personnel employed by the city who are not elected officers of the city or administrative officers by, or under the authority of, this charter shall be deemed to be employees of the city. The head of each department shall have the power to hire, suspend or discharge the employees of his department with confirmation by the City Manager.

Any administrative officer or employee who has been discharged may within ten days thereafter petition the Council to hear the facts regarding such discharge, and in such case the Council may, in its sole discretion, hold a hearing and inquire into such facts and may make such decision in the matter as it considers proper.

The Council may require any administrative officer or employee, if he is not resident at the time of his appointment or employment, to become a resident of the city within the time set by the Council and so remain throughout his tenure of office or employment.

Section 4.7. Relationship of Council to Administrative Service.

Neither the Council nor any of its members or committees shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other city officer to prevent him from exercising his judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager.

Section 4.8. City Manager: Appointment and Qualifications.

The Council shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council, but he shall not be removed from office during a period of sixty days following any regular city election except by the affirmative vote of five members of the Council. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience.

Section 4.9. Acting City Manager.

The Council may appoint or designate an Acting Manager during the period of a vacancy in the office or during the absence of the City Manager from the city. Such Acting City Manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Manager.

Section 4.10. City Manager: Functions and Duties.

The City Manager shall be the chief administrative officer of the city government. His functions and duties shall be:

- (a) To be responsible to the Council for the efficient administration of all administrative departments of the city government except the department under the direction of the Attorney;
- (b) To see that all laws and ordinances are enforced;
- (c) To appoint, with the consent of the Council, the heads of the several city departments whose appointment is not otherwise specified in this charter, and to direct and supervise such department heads;
- (d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;
- (e) 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;
- (f) To recommend an annual budget to the Council and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial condition and needs of the city;
- (g) To recommend to the Council for adoption such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote;
- (h) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;
- (i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Council and to generally accepted principles and procedure of governmental accounting. He shall submit financial statements to the Council quarterly, or more often as the Council directs;
- (j) To act as Purchasing Agent for the city and in such capacity shall purchase all supplies and equipment and dispose of the same in accordance with procedures established by the Council;
- (k) To perform such other duties as may be prescribed by this charter or required of him by ordinance or by direction of the Council.

Section 4.11. Clerk; Functions and Duties.

(a) The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language.

(b) The Clerk 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, bonds, and records pertaining to the city the custody of which is not otherwise provided for.

(c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council.

(d) The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.

(e) The Clerk shall have power to administer oaths of office.

(f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Council or by the City Manager.

Section 4.12. Treasurer; Functions and Duties.

(a) The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk, and all evidences of indebtedness belonging to the city or held in trust by the city.

(b) The Treasurer shall collect all moneys of the city the collection of which is not provided for elsewhere by charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the Treasurer after collection or receipt, and he shall in all cases give a receipt therefor.

(c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the City Manager.

(d) The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the Council.

(e) The Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.

(f) The Treasurer shall perform such other duties as may be prescribed for him by this charter, by the Council or by the City Manager.

Section 4.13. Assessor: Functions and Duties.

The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Council or by the City Manager.

Section 4.14. Attorney: Functions and Duties.

(a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

(b) The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the Council may request. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and shall promptly give his opinion as to the legality thereof.

(d) The Attorney shall call to the attention of the Council all matters of law, and changes and developments therein, affecting the city.

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

(f) Upon the recommendation of the Attorney, or upon its own initiative, the Council may retain special legal council to handle any matter in which the city has an interest, or to assist and counsel with the Attorney therein.

Section 4.15. Compensation of Attorney and Special Counsel.

The compensation of the Attorney shall be set by the Council. No compensation to special legal counsel shall be paid except in accordance with an agreement between the Council and the Attorney or Special Counsel made before the service for which such compensation is to be paid has been rendered.

Section 4.16. Deputy Administrative Officers.

The Clerk, Treasurer and Assessor may appoint their own deputies subject to the written confirmation of the City Manager, and may terminate the status of their deputies at their pleasure, upon written notice to the City Manager. Such deputies shall, in each case, possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superiors or by the City Manager.

Section 4.17. Planning and Zoning.

The Council shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such commissions.

The Council shall maintain a zoning ordinance in accordance with the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the city planning commission.

Section 4.18. Independent Boards and Commissions.

The Council may not create any board or commission, other than those provided for in this charter, to administer any activity, department or agency of the city government except (a) a municipal hospital, (b) a municipal cemetery, (c) recreation, or (d) any activity which by statute is required to be so administered. The Council may, however, establish (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

CHAPTER 5. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Section 5.1. Eligibility for Office.*

No person shall hold any elective office of the city unless he has been a resident of the city for at least two years immediately prior to the last day for filing original petitions for such office or prior to the time of his appointment to fill a vacancy. No person shall hold any elective office unless he is a qualified and registered elector of the city on such last day for filing petitions or at such time of appointment and throughout his tenure of office.

No person shall be eligible for any elective or appointive city office who is in default to the city. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability for such default.

Each candidate for elective office shall file with his petition his affidavit that he possesses the qualifications for such office provided in this section. Failure to file such affidavit shall invalidate his petition.

Each member of a city board or commission shall have been a resident of the city for at least two years prior to the date of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

***Editor's note:** Two-year residency requirement for city office held violative of the equal protection clause. *Green v. McKeen*, 335 F. Supp. 630 (E.D. Mich. 1971), affirmed by 468 F. 2d 833 (6th Cir. 1972). One-year residency requirement upheld. *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1981).

Section 5.2. Vacancies in Elective Offices.

Any elective city office shall be declared vacant by the Council before the expiration of the term of such office:

- (a) For any reason specified by statute or by this charter as creating a vacancy in office;

- (b) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;
- (c) If the officer shall be found guilty by a competent court of any act constituting a misconduct in office under the provisions of this charter;
- (d) In the case of any member of the Council, if such officer shall miss four consecutive regular meetings of the Council or twenty-five percent of such meetings in any fiscal year of the city, unless such absence shall be excused by the Council and the reason therefor entered in its proceedings at the time of each absence;
- (e) If the officer is removed from office by the Council in accordance with the provisions of Section 5.4.

Section 5.3. Vacancies in Boards and Commissions.

The office of any member of any board or commission created by, or pursuant to, this charter shall be declared vacant by the Council before the expiration of the term of such office:

- (a) For any reason specified by statute or by this Charter as creating a vacancy in office;
- (b) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this charter;
- (c) If such officer shall miss four consecutive regular meetings of such board or commission or twenty-five percent of such meeting in any fiscal year of the city, unless such absence shall be excused by such board or commission and the reason therefor entered in the proceedings at the time of each absence;
- (d) If the officer is removed from office by the Council in accordance with the provisions of Section 5.4.

Section 5.4. Removals from Office.

Removals by the Council of elective officers or of members of boards or commissions shall be made for either of the following reasons: (a) for any reason specified by statute for removal of city officers by the Governor, (b) for any act declared by this charter to constitute misconduct in office. Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal may be being considered, shall be required for such removal.

Section 5.5. Resignations.

Resignations of elective officers shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignations of officers appointed by the Council shall be made in writing to the Council. All resignations shall be immediately acted upon.

Section 5.6. Filling Vacancies in Elective Offices.

(a) Any vacancy which occurs in the Council more than one hundred twenty days before the next regular city election shall be filled within sixty days by a majority vote of the remaining members of the Council, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled as provided in Section 3.5 for any balance of the unexpired original term.

Any vacancy which occurs in the Council one hundred and twenty days or less before the next regular city election shall not be filled.

(b) If any vacancy in the office of Councilman which the Council is authorized to fill is not so filled within sixty days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of Councilman such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in Sections 3.10 to 3.13 inclusive; the names of all qualified candidates who file sufficient valid nomination petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this Section 5.6 shall govern.

(c) The provisions of this Section 5.6 shall not apply to the filling of vacancies resulting from recall.

Section 5.7. Filling Vacancies in Appointive Offices.

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

Section 5.8. Filling Vacancies in the Office of Justice of the Peace.*

(a) Vacancies in the office of Justice of the Peace occurring 120 days or more before any regular city election, shall be filled by appointment by a majority vote of the members of the Council then in office for a term expiring on the Monday following the next regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 3 and the Justice so elected shall take office on the Monday following such election.

(b) Vacancies in the office of Justice of the Peace occurring less than 120 days before any regular city election shall be filled by appointment by a majority vote of the members of the Council then in office for a term expiring on the Monday following the next succeeding regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 3 and the Justice so elected shall take office on the Monday following such election.

(c) The provisions of this Section 5.8 shall not apply to the filling of vacancies resulting from recall.

***Editor's note:** Justices of the Peace were eliminated by MCL 600.9921, MSA 27A.9921.

Section 5.9. Change in Term of Office or Compensation.

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

The Council shall not grant or authorize extra compensation to any officer or employee after his service has been rendered. The salary of any elective officer shall not be increased or decreased from the day he is elected until the end of the term of office for which he was elected.

Section 5.10. Oath of Office and Bond.

Every officer, elective or appointive, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by statute, this charter or by the Council. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing 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.

Section 5.11. Surety Bonds.

Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the city and [an] official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may further be conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further condi-

tioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The Clerk shall be the custodian of all the bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk unless provided otherwise by ordinance.

Section 5.12. Delivery of Office.

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner 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. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent court may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, or both, in the discretion of the court.

Section 5.13. Pecuniary Interest Prohibited.

(a) Except as permitted by this section no contract or purchase involving an amount in excess of one hundred dollars shall be made by the city in which any elective or appointive officer or any member of his family has an pecuniary interest, direct or indirect. A "contract" shall for the purposes of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city; and the term "member of his family" shall include spouse, children, and the spouse of any of them.

(b) Without limiting the generality of paragraph (a) of this section, an officer shall be deemed to have a pecuniary interest in a contract if he or any member of his family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made or of a sales representative of such person, firm or corporation. Ownership, individually or in a fiduciary capacity, by an officer or member of his family of securities, or of any beneficial interest in securities, of any corporation with which a contract is made or which is a sales representative of any person, firm or corporation with which such contract is made, shall not be deemed to create a pecuniary interest in such contract unless the aggregate amount of such securities, or interest in such securities, so owned by such officer and the members of his family, shall exceed ten percent of any class of the securities of such corporation then outstanding.

(c) A contract in which an officer or member of his family has a pecuniary interest may be made by the city if the members of the Council in office at the time having no such interest shall, by unanimous vote, determine that the best interests of the city will be served by the making of such contract and if such contract is made after comparative prices are obtained.

(d) Any officer who knowingly permits the city to enter into any contract in which he has a pecuniary interest without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (c) of this section, the unanimous determination (by vote or written instrument filed with the Clerk) of the Council that in a particular case an officer or member of his family will not have a pecuniary interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.

(e) No officer shall stand as surety on any bond to the city or give any bail for any other person which may be required by the charter or any ordinance of the city. Any officer of the city who violates the provisions of this paragraph shall be guilty of misconduct in office.

Section 5.14. Anti-Nepotism.

Unless the Council shall by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election or appointment of said official.

Section 5.15. Compensation of Employees and Officers.

(a) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the Council.

(b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services.

Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers or employees, and be paid into the city treasury and a statement thereof filed periodically with the City Manager. The provisions of paragraph (b) of this section shall not apply to fees, commissions or other compensation paid by the County of Livingston to any officer or employee serving as a city representative on the Board of Supervisors.

(c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the city.

Section 5.16. Employee Welfare Benefits.

The Council shall have the power to make available to the administrative officers and employees of the city and its department and boards any recognized standard plan of group life, hos-

pital, health, or accident insurance either independently of, or as a supplement to, any retirement plan provided for such officers and employees.

Section 5.17. Merit System.

The Council may provide for a merit system for city employees.

**CHAPTER 6. THE COUNCIL: PROCEDURE AND MISCELLANEOUS
POWERS AND DUTIES**

Section 6.1.Regular Meetings.

The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month. A regular meeting shall be held at 8:00 P.M. on the Monday next following each regular city election.

Section 6.2.Special Meetings.

Special meeting shall be called by the Clerk on the written request of the Mayor or any two members of the Council on at least twenty-four hours written notice to each member of the Council, served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

Section 6.3.Business at Special Meetings.

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, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent thereto and all the members absent file their written consent.

Section 6.4.Meetings to be Public.

All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

Section 6.5.Quorum; Adjournment of Meeting.

A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the Clerk may adjourn any meeting for not longer than one week.

Section 6.6. Compulsory Attendance and Conduct at Meetings.

Any two or more members of the Council may by vote either request or compel the attendance of its members and other officers of the city at any meeting. Any member of the Council or other officer who when notified of such request for his attendance fails to attend such meeting for reason[s] other than confining illness or absence from Livingston County shall be deemed guilty of misconduct in office unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office. Any police officer designated by the presiding officer of the meeting shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

Section 6.7. Organization and Rules of the Council.

The Council shall determine its own organization, rules and order of business subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.
- (b) A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- (c) No member of the Council shall vote on any question in which he has a financial interest, other than the common public interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote when not so required by this paragraph shall be guilty of misconduct in office.
- (d) In all roll call votes the names of the members of the Council shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.
- (e) The proceedings of the Council, or a brief summary thereof, shall be published within fifteen days following each meeting. Any such summary shall be prepared by the Clerk and approved by the Mayor and shall show the substance of each separate proceeding of the Council.
- (f) There shall be no standing committees of the Council.

Section 6.8. 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 and to make investigations as to matters in which the municipality has an interest. The Council for the purposes stated herein, may

summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this charter and such person when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court.

It is provided further that, in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the Council may invoke the aid of the Circuit Court of Livingston County in requiring obedience [obedience] of such summons or production of such books, papers and other evidence. The Circuit Court of Livingston County, in case of contumacy or refusal to obey such summons or to produce such books, papers and other evidence, may issue an order requiring such person to obey such summons or to produce such books, papers and other evidence and to give evidence touching the matter in question, and any failure to obey such order of the Court may be punished by such Court as contempt thereof.

Section 6.9. Providing for Public Health and Safety.

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the Council shall constitute the board of health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

CHAPTER 7. LEGISLATION

Section 7.1. Prior City Legislation.

All valid bylaws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this charter and which are in force and effect at the time of the effective date of this charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this charter, be appointed by the Council. Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulations which are inconsistent with this charter, are hereby repealed.

Section 7.2. Form of Ordinances.

All legislation of the City of Brighton 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 Brighton ordains:"

Section 7.3. Enactment, Amendment, and Repeal of Ordinances.

Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than four Councilmen, and except when an ordinance is given immediate effect, Section 7.4 shall govern. Unless by the affirmative vote of five Councilmen, no office shall be created or abolished, no tax or assessment be imposed, no street, alley, or public ground be vacated, no real estate or any interest therein be sold or disposed of, no private property be taken for public use, nor any vote of the Council be reconsidered or rescinded at a special meeting, nor any money appropriated except as otherwise provided by this charter.

Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council until two weeks after the meeting at which it is introduced. A brief description of the subject and contents of the ordinance as introduced shall be published in a newspaper of general circulation in the city at least one week before final passage, either separately or as part of the published proceedings of the Council.

No ordinance shall be revised, altered, or amended by reference to the title only, but the section or sections of the ordinance revised, altered, or amended shall be reenacted and published at length in a newspaper of local circulation in the city. However, an ordinance may be repealed by reference to its number and title only.

Section 7.4. Publication and Recording of Ordinances.

Each ordinance shall be published within ten days after its enactment by publishing the full text thereof in a newspaper as defined in Section 17.9 either separately or as part of the published Council proceedings.

All ordinances shall be 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 records by their official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation.

Section 7.5. Effective Date of Ordinances.

The effective date of all ordinances shall be prescribed therein but the effective date, except in the case of emergency ordinances, shall not be less than fifteen days after enactment nor before publication thereof.

Section 7.6. Penalties for Violations of Ordinances.

The Council may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both in the discretion of the court.

Section 7.7. Enactment of Technical Codes by Reference.

The Council may adopt in whole or in part 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 unofficial, 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 code, or amendment thereto, is so adopted, all requirements for its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinance citing such code in the manner provided for the publication of other ordinances and (2) by making available to the public copies of the code cited therein in book or booklet form at a reasonable charge.

Section 7.8. Severability of Ordinances.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperative, and to this end ordinances are declared to be severable.

Section 7.9. Compilation or Codification of Ordinances.

Within two years after the effective date of this charter, the Council shall direct the compilation or codification and printing in loose-leaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. If a codification is completed it shall be maintained thereafter in current form; if a compilation is completed, a recompilation shall be completed at least once in every ten years thereafter. Any codification may include provisions not previously contained in ordinances of the city.

All requirements for publication of such compilation or codification, and of the ordinances contained therein, other provisions of this charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public for a reasonable charge and by publishing notice of the printing and availability thereof before the effective date thereof.

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

Section 7.10. Initiative and Referendum.

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

Section 7.11. Initiatory and Referendary Petitions.

An initiatory or a referendary petition shall be signed by not less than ten percent of the registered electors of the city, as of the date of the last regular city election, and all the signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. Any such petition shall be addressed to the Council, and may be the aggregate of two or more petition papers identical as to contents. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or code sections it proposes to have repealed.

Each signer of a petition shall sign his name, 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 thereof 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 fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is led within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

Section 7.12. Council Procedure on Initiatory and Referendary Petitions.

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall either:

- (a) Adopt the ordinance as submitted by an initiatory petition;
- (b) Repeal the ordinance referred to by a referendary petition; or
- (c) Determine to submit the proposal provided for in the petition to the electors.

Section 7.13. Submission of Initiatory and Referendary Ordinances 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 called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred and fifty days from the time the petition is presented to the Council and the Council does not adopt the ordinance, then the Council shall call a special election within sixty days from such time for the submission of the initiatory proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

Section 7.14. Ordinance Suspended: Miscellaneous Provisions on Initiatory and Referendary Ordinance.

The presentation to the Council by the Clerk of a valid and sufficient referendary petition containing a number of signatures equal to twenty-five percent of the registered electors of the city as of the date of the last city election shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six months after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the provisions of this chapter or if submitted to the electorate by the Council on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

CHAPTER 8. GENERAL FINANCE: BUDGET, AUDIT

Section 8.1. Fiscal Year.

The fiscal year of the city and of all its agencies shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Section 8.2. Budget Procedure.

The City Manager shall prepare and submit to the Council by the second Monday in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimates with supporting explanations of all proposed expenditures for each department, office, and agency of the city, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the city, if any, 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 revenues of the city from sources other than taxes with a comparative statement of the amounts received by the city from each of the same or similar

sources for the last preceding fiscal year in full, and for the current fiscal year to March first, and the estimated revenues for the balance of the current fiscal year;

- (d) A statement of the estimated balance or deficit 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 any available unappropriated surplus and revenues for all other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting information as the Council may request.

Section 8.3. Budget Hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Council shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Clerk shall be published at least one week in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one week prior to such hearing.

Section 8.4. Adoption of Budget.

Not later than the second week in May in each year, the Council shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section 9.1.

Section 8.5. Budget Control.

Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund or agency to another.

The Council may make additional appropriations during the fiscal year for unanticipated expenditures required of the city, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar

fund.) Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure then charged to such account.

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 revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to statutory restrictions, revert to the general fund.

Section 8.6. Depository.

The Council shall designate 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 statute, except that personal surety bonds shall not be deemed proper security.

Section 8.7. Independent Audit: Annual Report.

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

The City Manager shall prepare an annual report of the affairs of the city including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the City Manager within thirty days after receipt of the audit. A summary of the audit shall be published in a newspaper as defined in Section 17.9, within thirty days after receipt of the audit.

CHAPTER 9. TAXATION

Section 9.1. Power to Tax; Tax Limit.

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

Section 9.2.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 statute.

Section 9.3.Exemptions.

No exemptions from taxation shall be allowed except as expressly required or permitted by statute.

Section 9.4.Tax Day.

Subject to the exceptions provided or permitted by statute the taxable status of persons and property shall be determined as of the first day of January, which shall be deemed the tax day.

Section 9.5.Preparation of the Assessment Roll.

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

On or before the first Monday in March the Assessor shall give by first class mail a notice of any increase over the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereon.

Section 9.6.Board of Review.

The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in Section 5.1 and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the Board of Review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. One member of the Board shall be appointed by the Council in January, 1959, and in each January thereafter for a term of three years, to replace the member whose term expires that year. The Council shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year, and the Assessor shall be clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

Section 9.7.Meetings of the Board of Review.

The Board of Review shall convene in its first session on the second Monday in March of each year at such time and place as shall be designated by the Council and shall remain in session for at least eight hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the fourth Monday in March of each year at such time of day and place as shall be designated by the Council and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. At the second session, the Board may not increase any assessment or add any property to the rolls, except in those cases in which the Board resolved at its first session to consider such increase or addition at its second session.

Section 9.8.Notice of Meetings.

Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least ten days prior to each session of the Board.

Section 9.9.Duties and Functions of Board of Review.

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of review in townships, except as otherwise provided in this charter. 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 deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to, the assessment roll. 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.

Section 9.10. Endorsement of Roll.

After the Board of Review has completed its review of the assessment roll, and not later than the thirty-first of March, the 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.

Section 9.11. Clerk to Certify Tax Levy.

Within three 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 ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

Section 9.12. City Tax Roll.

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised, as provided in Section 9.11, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general ad valorem city tax, county tax and school tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

Section 9.13. Tax Roll Certified for Collection.

After spreading the taxes the Assessor shall certify the tax roll, and the Mayor shall annex his warrant thereto directing and requiring the Treasurer to collect, prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June first the roll shall be delivered to the Treasurer for collection.

Section 9.14. Tax Lien on Property.

On July first the taxes thus assessed shall become a debt due the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Section 9.15. Taxes Due: Notification Thereof.

City taxes shall be due on July first of each year. 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 (a) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and (b) mail a

bill to each person named in said roll, but in cases of multiple ownership only one bill need be mailed.

Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or nonpayment of the same.

Section 9.16. Interest on Late Payment of Taxes.

All taxes paid on or before the fifteenth day of August shall be collected by the Treasurer without interest. Interest at the rate of two percent shall be added to taxes paid during the remainder of the month of August. On the first of September the Treasurer shall add to all taxes paid thereafter four percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one-half of one percent of said taxes that remain unpaid. Such interest shall not exceed six percent and shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the Treasurer, as provided in Section 9.13, is delayed for any reason by more than thirty days after June first, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

Section 9.17. Failure or Refusal to Pay Personal Property Tax.

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

Section 9.18. Delinquent Tax Roll to County Treasurer.

All city taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Livingston is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

Section 9.19. State, County and School Taxes.

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

CHAPTER 10. BORROWING POWER

Section 10.1. Grant of Authority to Borrow.

Subject to the applicable provisions of statute and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by statute and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations including bonds for the city's portion of public improvements.
- (b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by Section 8.5.
- (c) In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the city and for the preservation of municipal property.
- (d) Special assessment bonds issued 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. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the city.
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving or operating of any public utility which the city is authorized by this charter to acquire or operate; provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds as issued of such a nature that no sinking fund is required.

- (f) Bonds issued at a rate of interest not to exceed six percent per annum to refund money advanced or paid on special assessments imposed for water main extensions.
- (g) Bonds for the refunding of the funded indebtedness of the city.
- (h) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

Section 10.2. Authorization of Electors Required.

(a) Except as provided in Section 10.2(b), no bonds pledging the full faith and credit of the city shall be issued without the approval of three-fifths of the electors voting thereon at any general or special election.

(b) The restriction of Section 10.2(a) shall not apply to general obligation bonds issued to pay for the city's portion of public improvements the remainder of which are to [be] financed by special assessments, tax anticipation notes issued under Section 10.1(b), emergency bonds issued under Section 10.1(c), special assessment bonds issued under Section 10.1(d), refunding bonds issued under Section 10.1(g) or to bonds the issuance of which cannot, by statute, be so restricted by this charter.

(c) Only those persons who have property assessed for taxes in the city and their husbands and wives shall be entitled to vote on the approval of any issue of bonds which constitute a general obligation of the city, but no person may so vote unless he is a registered elector.

Section 10.3. Applicability of Other Statutory Restrictions.

The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

Section 10.4. Limits of Borrowing Powers.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections of this chapter: 10.1(b) (tax anticipation notes), 10.1(c) (emergency loans), 10.1(d) (special assessment bonds even though they are also a general obligation of the city), 10.1(e) (mortgage bonds), 10.1(f) (special assessment refunding bonds), 10.1(h) (revenue bonds), and other bonds which do not constitute a general obligation of the city.

The amount of emergency loans which the Council may make under the provisions of Section 10.1(c) of this charter may not exceed $\frac{3}{8}$ of one percent of the assessed value of all the real and personal property in the city.

The total amount of special assessment bonds pledging the full faith and credit of the city shall at no time exceed twelve percent of the assessed value of all the real and personal property in the city, nor shall such bonds be issued in any consecutive period of twelve months in excess of three percent of such assessed value unless authorized by a majority vote of the electors voting thereon at any general or special election. This amendment was passed at the general election November 8, 1966.

Section 10.5. Preparation and Record of Bonds.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidences of indebtedness issued by the city shall be signed by the Mayor and countersigned by the Clerk under the seal of the city. Interest coupons may be executed with the facsimile signatures of the Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness 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."

Section 10.6. Unissued Bonds.

No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within three years after authorization, such authorization shall, as to such bonds, be null and void, and such bonds shall be cancelled.

Section 10.7. Deferred Payment Contracts.

The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years nor shall the total amounts of principal payable under all such contracts exceed a sum of one-half of one percent of the total assessed valuation of the city in any one fiscal year. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. SPECIAL ASSESSMENTS

Section 11.1. General Power Relative to Special Assessments.

The Council shall have the power to determine by resolution the necessity of any public improvement and the power to determine by resolution that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived; except that a given project shall not be undertaken if either of the following occur: (a) if more than 2/3 of the number of owners of record of the privately owned real property to be assessed for any improvement shall object in writing at

or prior to the public hearing on the determination of necessity, or (b) if the owners of record of the privately owned real property to be assessed for any improvement who will be required to pay more than fifty (50%) percent of the amount of such special assessment shall object in writing at or prior to the public hearing on the determination of necessity; regardless of the number of owners of a given parcel of real estate each parcel shall be entitled to a single objection.

Amendment note: This amendment was passed at the election of May 18, 1976.

Section 11.2. Assessment Ordinance.

The Council shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

- (a) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.
- (b) No special assessment roll shall be finally confirmed until after a meeting of the Council has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.
- (c) No original special assessment roll shall be confirmed except by the affirmative vote of five members of the Council if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty percent of the amount of such special assessment.
- (d) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.
- (e) No special assessment district or districts shall be created by the Council for any one public improvement which includes property having an area in excess of twenty-five percent of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

Section 11.3. Special Assessment Powers.

The Council shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

- (a) For the construction of public parking facilities as a public improvement financed in whole or part by the special assessment method.
- (b) For installing a boulevard lighting system on any street as a public improvement to be financed in whole or part by special assessment upon the lands abutting thereupon, provided that the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefor.
- (c) For the payment of special assessments in annual installments not to exceed ten in number. The first such installment to be due upon confirmation of the special assessment roll, and subsequent installments to be due on July first of succeeding years and to be placed upon the annual city tax roll, if delinquent, and for an interest charge only until the due date of each such deferred installment not to exceed six percent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

Section 11.4. Disposition of Excessive Special Assessments.

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

Section 11.5. Additional Assessments; Correction of Invalid Special Assessments.

Additional prorata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, or to pay the principal and interest on bonds or other evidences of obligation issued therefor; provided that the additional prorata assessment shall not exceed twenty-five percent of the assessment as originally confirmed unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll.

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

No judgment or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceeding might have been lawfully assessed thereupon.

Section 11.6. Contested Assessments.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (a) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

Section 11.7. Collection of Special Assessments.

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

Special assessments, or installments thereof, which become due on July first of any year shall be collected in all respects as are city taxes due on July 1 of the same year, and if uncollected on the following first day of March, shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

The initial special assessment installments which become due other than July first shall, if unpaid for ninety days or more on May first of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessments on the tax roll for that year together with accrued interest to July first of such year. The total amount of such assessment and interest shall thereafter be collected in all respects as are city taxes due on July first of that year, shall be subject to the same fees and penalties as are city taxes due on that date and if uncollected on the following March first shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

Section 11.8. Special Assessment Accounts.

Except as otherwise provided in this charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

Section 11.9. Assessments for Removal of Hazards, Etc.

The assessment for the cost of the construction of any sidewalk or the abatement of any hazard or nuisance to be made pursuant to Section 2.3(s) or Section 2.3(t), or for the cost of remov-

ing snow, ice or other obstructions from sidewalks pursuant to Section 2.3(u) shall be made by resolution of the Council. Notice of the time at which the Council will act thereon shall be given by first class mail to the owner of the property to be assessed as shown by the current tax roll of the city, except that no notice shall be required in the case of assessments for the removal of weeds, snow or ice. For the purposes of collection of such assessment, the adoption of such resolution shall be equivalent to the confirmation of a special assessment roll. The amount of such assessment shall become a debt to the city upon adoption of such resolution, be due at such time as the Council shall prescribe, and shall be subject to the collection fees and become a lien as provided in Section 11.7. Every such assessment shall also be subject to Sections 11.4, 11.5 and 11.6.

Section 11.10. Failure to Mail Notice.

Failure to mail any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

Section 11.11. Deferred Payment of Special Assessments.

The Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and Assessor, by reason of poverty are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the city shall require mortgage security on the real property of the beneficiary payable upon his death.

CHAPTER 12. PURCHASES: CONTRACTS: LEASES

Section 12.1. Purchase and Sale of Property.

The City Manager, subject to restrictions of statute and this charter, shall be responsible for the purchase and sale of all city property. Detailed purchasing, sale and contract procedures shall be established by ordinance.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of five hundred dollars of all materials, supplies and public improvements except in the employment of professional services.

In all sales or purchases in excess of five hundred dollars, (a) the sale or purchase shall be approved by the Council, (b) sealed bids shall be obtained, and (c) the requirements of Section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications unless the Council shall determine that the public interest will be better served by accepting a higher bid. Sales shall be made to the bidder whose bid is most advantageous to the city.

All purchases and sales shall be evidenced by written contract or purchase order.

The city may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The city may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council.

The purchase and sale of all city property shall be subject to the provisions of Section 5.13.

Section 12.2. Contracts.

The authority to contract on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of statute and of this charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1.

Any contract or agreement in an amount of five hundred dollars or more made with form or terms other than the standard city purchase order form shall, before execution, be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the city to pay an amount of five hundred dollars or more is executed the accounting officer of the city shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract under authority of Section 10.7. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.1.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation in default to the city.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the city.

Section 12.3. Restriction on Powers to Lease Property.

The Council may not rent or let public property for a period longer than three years unless such rental or lease agreement shall have been referred to the people at a regular or special election and shall have received the approval of a majority of the electors voting thereon at such election. No such lease shall be approved by the Council for presentation to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon. No such lease shall be submitted to the electors unless the party leasing or renting the property has filed with the Clerk his unconditional acceptance of all terms of such lease or rental agreement.

CHAPTER 13. MUNICIPALLY OWNED UTILITIES

Section 13.1. General Powers Respecting Utilities.

Subject to the provisions of the Constitution and statute, the city shall have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, a public utility for supplying water to the municipality and its inhabitants for domestic, commercial and municipal purposes, and may sell and deliver water without its corporate limits in an amount not to exceed the limitations set by the Constitution and statute. Subject to statutory provisions, the city shall also have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supplying light, heat, power, gas, sewage treatment and garbage disposal facilities, and facilities for the storage and parking of vehicles within its corporate limits.

Section 13.2. Management of Municipal Utilities.

All municipally owned and operated utilities shall be administered as a regular department of the city government under the management and supervision of the City Manager.

Section 13.3. Rates.

The Council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the city.

Section 13.4. Utility Rates and Charges—Collection.

The Council shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

- (a) That the city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance.
- (b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.
- (c) That suit may be instituted by the city before a competent tribunal for the collection of such rates or charges.

With respect to the collection of rates charged for water the city shall have all the powers granted to cities by Act No. 178 of the Public Acts of Michigan of 1939 (MCL 123.161 et seq., MSA 5.2531(1) et seq.), as amended.

Section 13.5. Disposal of Utility Plants and Property.

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

Section 13.6. Utility Finances.

The rates and charges for any municipal public utility for the furnishing of water, light, heat, power, gas or sewage treatment and garbage disposal shall be so fixed as to at least meet all the costs of such utility including depreciation.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

CHAPTER 14. PUBLIC UTILITY FRANCHISES

Section 14.1. Franchises Remain in Effect.

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

Section 14.2. Granting of Public Utility Franchises.

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

No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Council shall have first been paid to the Treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the Council may be enacted by the Council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have been so on file in the office of the Clerk for public inspection for at least four weeks after publication of a notice that such ordinance is so on file.

Section 14.3. Conditions of Public Utility Franchises.

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 following rights of the city, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the city to impose or require:

- (a) To repeal the same for misuse, non-use or 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 use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;

- (f) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Section 14.4. Regulation of Rates.

All public utility franchises shall make provision therein for fixing rates, fares and charges, and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Section 14.5. Use of Public Places by Utilities.

Every public utility whether it has a franchise or not shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and 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, and the arbitration award shall be final.

CHAPTER 15. SUPERVISORS*

***Editor's note:** This chapter has been superseded by state law which provides for election and appointment of members of the board of commissioners, MCL 46.401 et seq., MSA 5.359(1) et seq.

Section 15.1. Number of Supervisors.

The city shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by statute.

Section 15.2. Appointment of Supervisors.

The representatives of the city on the Board of Supervisors shall be appointed by the Council for an indefinite period and may be removed at the will of the Council. Such representatives shall be qualified electors of the city, shall have been residents of the city for at least two years immediately prior to their appointment and may hold other elective or appointive city office or employment. In case any representative of the city on the Board of Supervisors shall be unable to perform the duties of his office for reasons of physical disability, the Council may appoint another qualified person to serve temporarily in his stead.

Section 15.3. Duties of Supervisors.

Except as otherwise provided in this charter, the representatives of the city on the Board of Supervisors shall perform the statutory duties of Supervisors. In the performance of his duties each Supervisor shall represent the city, its inhabitants and its government to the best of his ability.

Section 15.4. Compensation of Supervisors.

Representatives of the city on the Board of Supervisors shall be entitled to retain any compensation and expense allowances paid to them by the county as members of the Board of Supervisors, but shall receive no extra compensation from the city for their work as Supervisors.

CHAPTER 16. JUSTICE COURT*

***Editor's note:** This chapter has been superseded by MCL 600.9921, MSA 27A.9921 which created the district court system.

Section 16.1. Establishment of Court.

There is hereby established a Justice Court in the city to be presided over by the Justices of the Peace elected in accordance with Section 3.5.

Section 16.2. Justice of the Peace.

The Justices of the Peace in office at the time of the adoption of this charter shall remain in office until the expiration of the terms for which they were elected, but shall have powers and duties prescribed in this charter for the Justices of the Peace to be elected in 1957 or 1959 and every fourth year thereafter.

Section 16.3. Compensation of the Justice.

The Justices of the Peace shall receive as their compensation the usual fees of this office as provided by statute. The Council may, however, by ordinance, whenever it deems that the best interests of the city will be served thereby, provide that the Justices of the Peace be paid an annual salary.

Any salary provided shall be in lieu of all fees, costs and charges to which such Justices would be entitled but for the provision of this section, except those for the performance of marriage ceremonies.

Section 16.4. Power and Jurisdiction: General.

The Justices of the Peace of the city shall have and exercise therein and within the county the same jurisdiction, powers and duties as are or may be conferred upon or required of Justices of the Peace in townships by statute and shall be subject to such general laws with respect to such Justices, except as otherwise provided in this charter. They shall have concurrent jurisdiction with other Justices in the County of Livingston as to all crimes, offenses, and misdemeanors when alleged to have been committed within the County of Livingston whether within or without the city.

Section 16.5. Jurisdiction in Charter and Ordinance Cases.

The Justices of the Peace shall have authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this charter and the ordinances of the city, and to punish offenders for the violation of such charter and ordinances as in such charter or ordinances prescribed and directed.

Section 16.6. Extended Jurisdiction.

The Justices of the Peace shall also have:

- (a) Jurisdiction to the amount of \$500.00 in all civil matters ex contractu and ex delicto with such exceptions and restrictions as are provided by law.
- (b) Such power and authority as can under Act No. 279 of the Public Acts of Michigan of 1909 (MCL 117.1 et seq., MSA 5.2071 et seq.), as amended, be conferred by this charter to set aside the verdict or judgment in any civil cause and grant a new trial therein, to be exercised in such manner and on such conditions as provided in said act. The filing of a motion for new trial or to set aside a verdict or judgment shall have such an effect on the time for taking an appeal from any judgment and upon the issuance and levy of execution or other similar processes and sale thereunder and on other proceedings in said cause as provided in said act.
- (c) Such additional powers and authority as may now or hereafter be conferred upon city Justices of the Peace by statute.

Section 16.7. Procedure in Justice Court.

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

Section 16.8. Place and Conduct of Court.

The Council shall furnish necessary supplies and a suitable place for the conducting of court by the Justices. It may regulate the hours of court of said Justices and may make other necessary

and proper rules and regulations for the conduct of the business of the court which are not inconsistent with this charter or the statutes.

Section 16.9. Transfer of Cases.

In case of the absence, disability or disqualification of both Justices, any other Justice of the Peace or Municipal Judge in the County of Livingston shall be qualified to act in the place of and for the Justice in the performance of any of the duties imposed upon him by statute or this charter.

The Council shall by ordinance fix the compensation to be paid any such Justice or Judge for such services and the procedure to be followed in calling upon him so to act. Unless the Council shall so provide by ordinance, no such Justice shall so act or be entitled to compensation therefor.

Section 16.10. Fees, Fines and Penalties; Prosecution of State Penal Cases.

At such time as the Council may fix an annual salary for the Justices of the Peace, all fees and all fines, penalties, forfeitures and moneys collected or received by the Court shall be paid over to the City Treasurer on or before the first day of the next month after the collection or receipt thereof; and the Court shall take the receipt of the Treasurer therefor and file the same with the Clerk. Failure for the presiding officer to comply with the foregoing provisions shall constitute misconduct in office.

If the Justices be paid an annual salary, all fees and all fines, penalties, forfeitures and moneys collected in city ordinance and charter cases shall be credited to the general fund of the city. All costs and fines recovered for the violations of the penal laws of the state, when collected and paid into the city treasury, shall be disposed of as provided by statute.

The expenses of prosecution before the Justices for violations of penal laws of the state, and in punishing the offenders, shall be paid by the County of Livingston.

Section 16.11. Docket.

The Justices of the Peace shall keep, at the place of holding court, a docket in the manner required by statute. Failure to comply with the requirements of this section shall constitute misconduct in office.

Section 16.12. Violations Bureau.

The Council shall have power and authority to establish, by ordinance, a Traffic Violations Bureau within the Court for the handling of violations of ordinances and regulations of the city restricting the parking of vehicles. The creation of such a bureau shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

Section 16.13. Constables.

The City Manager shall appoint one or more police officers of the city as constables. Such constables shall have like powers and authorities in matters of civil and criminal nature, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all process issued for breaches of ordinances of the city. The bond of constables shall be that required of constables in townships. The statutory fees received by such constables shall be paid into the city treasury in accordance with Section 5.15(b).

CHAPTER 17. MISCELLANEOUS

Section 17.1. City Liability.

The city shall not be liable for damages sustained by any person either to his person or property by reason of 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 highway, street, bridge, sidewalk, crosswalk or culvert, situated in the city, unless such person shall serve or cause to be served upon the Clerk within sixty days after such damages shall have occurred a notice in writing and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him. Such notice shall set forth substantially the time and place of the damages, the manner in which they occurred, the extent of such damages as far as the same has become known, and the names and addresses of the witnesses known at the time by the claimant. No person shall bring any action against the city for any damages to person or property arising out of any of the reasons or circumstances aforesaid unless he shall have first presented 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 claim shall be presented to the Council by the Clerk and the Council given opportunity to act thereon either by allowing or refusing to allow such claim.

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

Section 17.2. No Estoppel.

No estoppel may be created against the city.

Section 17.3. Processes Against City.

All process against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the Mayor, Clerk, or Attorney.

Section 17.4. Vested Rights Continued.

After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits effects and the records, files, books and papers belonging to the city.

No right or liability, either in favor of or against the city, existing at the time this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city shall be the debts and liabilities of the city, and all fines and penalties imposed at the time of such change shall be collected.

Section 17.5. Trusts.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

Section 17.6. Vacancies in Appointive Boards and Commissions.

Except as otherwise provided in this charter, if a vacancy occurs in the membership of any appointive board or commission, the authority responsible for the appointment of the person whose position has become vacant shall fill such vacancy by appointment of a qualified person for the unexpired term of such person.

Section 17.7. Quorum.

Except as provided otherwise in this charter, a quorum of any board or commission created by or pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but not less than two members.

Section 17.8. Records to Be Public.

All records of the city shall be public, shall be kept in city offices except when required for official reasons or for purposes of safekeeping, and shall be available for inspection at all reasonable times.

Section 17.9. Definition of Publication; Mailing of Notices.

The requirement contained in this charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city for at least two years immediately preceding the time that it is used for such publication purposes. The affidavit of the

printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

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

Section 17.10. Sundays and Holidays.

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

Section 17.11. Chapter and Section Headings.

The chapter, section and subsection headings used in this charter are for convenience only and shall not be considered as part of the charter.

Section 17.12. Interpretations.

Except as otherwise specifically provided or indicated by the context:

- (a) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.
- (b) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.
- (c) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.
- (d) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.
- (e) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting.
- (f) The word "officer" shall include the Mayor and other members of the Council, the administrative officers, members of city boards and commissions created by or pursuant to this charter, and the Justices of the Peace.
- (g) The word "default" shall be defined to include being delinquent in taxes among its meanings.

- (h) The word "statute" shall denote the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the word "statute" is to be applied.
- (i) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.
- (j) The words "law" or "general laws of the state" shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words "law" or "general laws of the state" is to be applied, and applicable common law.
- (k) All references to section numbers shall refer to section numbers of this charter.

Section 17.13. Penalties for Violations of Charter.

Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Sections 5.2 and 5.3.

Section 17.14. Amendments.

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

Section 17.15. Severability of Charter Provisions.

If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable and to this end this charter is declared to be severable.

CHAPTER 18. SCHEDULE

Section 18.1. Status of Schedule Chapter.

The purpose of this schedule chapter is to inaugurate the government of the City of Brighton under this charter and it shall constitute a part of said charter only to the extent and for the time required to accomplish that end.

Section 18.2. Election to Adopt This Charter.

This charter shall be submitted to a vote of the qualified electors of the City of Brighton at a special election to be held on December 5, 1955. This election shall be conducted by the officers under the existing charter charged with the conduct and supervision of elections, and shall follow the election procedure and be canvassed in the manner provided in the existing city charter.

Section 18.3. Form of Ballot.

The form of the ballot for the submission of this charter shall be as follows:

Instructions: A cross (X) in the square [] before the word "Yes" is in favor of the proposed charter, and a cross (X) in the square [] before the word "No" is against the proposed charter.

Shall the proposed charter for the City of Brighton drafted by the Charter Commission elected on November 2, 1954, be adopted?

- Yes
- No

Section 18.4. Effective Date of This Charter.

For all purposes not otherwise provided for herein this charter shall take effect on December 12, 1955, at 8:00 P.M., Eastern Standard Time.

Section 18.5. First Officers Under Charter.

(a) The Mayor, each member of the Council and the Justices of the Peace, who held office at the time that this charter became law as the charter of the City of Brighton shall continue in the office so held by them for the balance of the term of office to which they were elected. Thereafter, their successors shall be elected and shall qualify for, assume, and hold offices to which they have been elected or appointed in accordance with the provisions of this charter.

(b) The Mayor and the Councilmen of the City of Brighton who held such offices at the time this charter became law as the charter of the city shall constitute the Council of the City of Brighton subject to the provisions of this charter, until such time as the terms of office to which they were elected or appointed shall expire and their successors in office have been elected or appointed and have assumed the duties of such office as provided in this charter.

(c) The Clerk, Treasurer, Assessor and Constable who held office at the time this charter became law as the charter of the City of Brighton shall continue in the office for the balance of the term of office to which they were elected. Thereafter, their successors shall be appointed in accordance with the provisions of this charter.

Section 18.6. Continuation of Appointed Officers and Employees.

Except as otherwise provided herein, after the effective date of this charter all appointive officers and all employees of the city shall continue in that city office or employment which corresponds to the city office or employment which they held prior to the effective date of the charter as though they had been appointed or employed in the manner provided in this charter, and they shall in all respects be subject to the provisions of this charter; except that the terms of office of all members of the Board of Review shall terminate as provided in Section 18.7, and except that any officer or employee who holds a position which this charter provides be held at the pleasure of the appointing officer or body shall hold such position only at such pleasure regardless of the term for which originally appointed.

Section 18.7. First Board of Review.

All members of the Board of Review existing under the previous charter of the city shall continue in the office so held by them for the balance of the term to which they were elected.

In January, 1958, the Council shall appoint a Board of Review of three freeholders who meet the qualifications for such office provided in this charter, and shall fix their compensation. One such member shall be appointed for a term expiring in January, 1959, one for a term expiring in January, 1960, and one for a term expiring in January, 1961.

RESOLUTION OF ADOPTION

At a regular meeting of the Charter Commission of the City of Brighton held on the 3rd day of October, 1955, the following resolution was offered by Commissioner McGregor:

RESOLVED, that the Charter Commission of the City of Brighton does hereby adopt the foregoing proposed charter for the City of Brighton and the Secretary of this commission is directed (1) to transmit copies of this charter to the Governor of the State of Michigan for his approval in accordance with statute, (2) to file with the City Clerk a copy of this charter on October 5, 1955, and (3) to cause this proposed charter to be published in The Brighton Argus on November 16, 1955.

The resolution was seconded by Commissioner William Seger and adopted by the following vote:

YEAS: 9

NAYS: 0

ABSENT: 0

The Chairman declared the foregoing resolution carried and requested the members of the Charter Commission to authenticate said resolution and also the copies of the charter to be presented to the Governor and filed with the City Clerk by attesting their names thereto in the following manner:

ROBERT LELAND
Chairman

FRANK SEGER

JEAN STONEX

LEO KUJAWA

WILLIAM SEGER

ROBERT BUGNI

DONALD McGREGOR

MARSHALL COOPER

PAUL KRICHBAUM

It was further resolved on the 15th day of November 1955, that the proposed charter be published in a special edition of The Brighton Argus on November 18 and in the regular edition on November 22.