

PONTIAC CHARTER REVISION COMMISSION

Chair, Tameka Ramsey

Vice Chair, Kermit Williams

Norbert Burrows

Gill Garrett

Bryan Killian

Lucy Payne

Scott Stewart

Bruce Turpin

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Sheila Grandison, MiPMC, Deputy City Clerk

30th Session

MEETING AGENDA

February 3, 2024, at 10:00 a.m.

Meeting Location: City Council Conference Room 2nd Floor

Pontiac City Hall

47450 Woodward Ave. Pontiac, MI 48342

- I. Call to Order**
- II. Roll Call**
- III. Authorization to Excuse Commissioners**
- IV. Amendments to and Approval of the Agenda**
- V. Public Comment**
- VI. Review and Update Comments from Hafeli, Staran & Christ, P.C. Legal Counsel**
- VII. Closing Comments**
- VIII. Adjournment**

VI.

**Comments from
Hafeli, Staran &
Christ, P.C.**

Charter

PREAMBLE

We, the people of the City of Pontiac, adopt this ~~C~~harter to protect our rights and to promote a just, honorable and efficient government.

The City of Pontiac is a city with a strong history, settled in 1818 and formally incorporated in 1861. As with previous charters for this historic city, the citizens have forged this Charter to ensure our great city of Pontiac thrives for many generations of future residents.

Commented [DLH11]: Should address current residents also?

ARTICLE 1 – GENERAL PROVISIONS

1.101 City Government

The people of the City of Pontiac hereby provide for the establishment and continuation of their municipal government as set forth in this home rule ~~e~~Charter and as provided by law.

1.102 Boundaries

The boundaries of the City when this ~~e~~Charter takes effect shall continue unchanged ~~until~~less changed in accordance with state law.

1.103 General Powers

The City possesses the home rule powers and all other powers conferred by the Michigan ~~e~~Constitution of 1963 and provided at law. The specific mention of a particular power in the ~~e~~Charter shall not be construed as limiting in any way these general powers. These powers shall be liberally interpreted and construed in favor of the City.

1.104 Strong Mayor Plan

The plan of municipal government provided by this ~~e~~Charter is known as the "Strong Mayor Plan."

ARTICLE II – ELECTIONS

2.101 Elective Officers

The elective officers of the City are the mayor and the seven (7) members of the City Council. Six (6) ~~e~~Council members shall be elected by district and one (1) at-large ~~e~~Council member shall be elected citywide.

2.102 Elections

Regular City primary and general elections shall be held on the same date as regular state gubernatorial primary and general elections. City elections ~~shall~~will occur in accordance with state and federal law. City elections are non-partisan.

Charter

2.103 Voters

Electors of the City shall be registered as provided by law.

2.104 Conduct of Elections

City primary and general elections shall be conducted and votes canvassed as provided by law.

2.105 Election Commission

The City Election Commission is composed of:

1. City Clerk
2. a Non-Attorney employee of the eCity to be appointed by the Mayor
3. City Treasurer
4. Two residents appointed by City Council

The Commission has general supervision of all elections in the eCity and may hire assistants, inspectors, and other election personnel and ~~be consulted by~~ receive counsel from City Attorney or Firm.

Commented [DLH12]: Chapter 2 provides for City Attorney.

Except as otherwise provided by this eCharter or ordinance, the Commission shall perform all duties required of election commissions by law. ~~It may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose and penalty prescribed for failure to obey a subpoena or order, the Commission shall apply to the appropriate court.~~

Commented [DLH13]: Are these powers needed by election commission?

All meetings of the Commission shall comply with state law.

In case of any doubt concerning election procedure, the Commission shall prescribe the procedure to be followed.

The City Clerk shall serve as chair of the Election Commission.

2.106 Electoral Districts and Re-Appportionment

The City is divided into six (6) electoral districts. The districts shall be contiguous, compact and as nearly of equal population as is practicable. In no event shall the population of any district vary by more than 1% from that of any other district, based upon the most recent official United States decennial census ~~or other census permitted by law. Districts shall be all-apportioned designated by ordinance pursuant to law and this eCharter.~~ The ordinance shall be adopted as soon as possible after official release of census figures and at least four (4) months prior to the City primary election to which it first applies. The effective date of representation of the new districts shall be the date for taking office of the first Council members elected therefrom, unless otherwise provided by this Charter.

Commented [DLH14]: Is reference to other census needed? Who would pick between censuses?

Charter

2.107 Candidates for Nomination

Any person desiring to become a candidate for nomination to any City office shall, prior to the City primary election, file with the Clerk nominating petitions as provided by law. Nominating petitions of a candidate ~~for seeking~~ nomination to a City Council at-large seat shall contain the signatures of at least 150 and not more than 250 registered electors of the City. Nominating petitions of a candidate ~~for seeking~~ nomination to a City Council district seat shall contain the signatures of at least 100 and not more than 150 registered electors ~~of the from that district involved~~.

Nominating petitions of candidates ~~for seeking~~ nomination for Mayor shall contain the signatures of at least 250 and not more than 400 registered electors of the City.

2.108 Primary Election

Nominations for each elective office shall be made at a City primary election. However, whenever not more than two (2) persons file for nomination to an office, there shall be no primary election for the office, the City Clerk shall certify such persons as duly nominated for that office, and the name(s) of the persons who filed shall be placed on the general election ballot for the office.

2.109 Nomination and Election

The two (2) candidates for nomination to each office receiving the most votes in the City primary for the office are nominated. The nominee for each office receiving the most votes in the City general election for the office is elected. If two (2) or more candidates for a nomination or two (2) or more nominees for an office receive an equal number of votes in the certified results, the Council shall determine by lot which person is nominated or elected.

2.110 Recall

An elective officer of the City may be recalled by registered electors as provided by law.

2.111 Effect of Recall

No person, who has been recalled from an office, or who has resigned from office while recall proceedings were pending, shall be appointed by the City to any office within four (4) years after such recall or resignation.

2.112 Oath of Office

Every elected officer and other officers as prescribed by ordinance shall, before entering upon ~~the their~~ duties, take and subscribe the following oath:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and of this State and the Charter of the City of Pontiac and that I will faithfully discharge the duties of office to the best of my ability,"

~~And shall file that~~ The oath, duly certified by the officer before whom it was taken, shall be filed in the office of the City Clerk.

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ARTICLE III – LEGISLATIVE BRANCH Chapter 1 – City Council

3.101 Local Legislature

A City Council of seven (7) members is hereby created. The Council is the legislative body of the City and possesses such other powers as may be provided by law or this eCharter.

Commented [DLH15]: Legalese

3.102 District Representation: Term of Office

Each district of the City shall be represented by one Council member for that district. The member from each district shall be nominated and elected by the electors of the district. The one (1) Council member at-large shall be nominated and elected by the electors of the entire eCity. To be eligible for the office of Council member for a district, a person must have been a resident of that Ddistrict in question for one year immediately before the filing deadline for the office. To be eligible for the office of Council member at-large, a person must have been a resident of the eCity for one year immediately before the filing deadline for the office.

Commented [DLH16]: Repetitive to 2.106. Seems the first paragraph could be deleted.

Each member of the Council elected under this eCharter shall serve for (4) years and until a successor qualifies. The Council shall be the sole judge of the election and qualification of its members.

3.103 Beginning of Term

The term of each Council member begins at 8:00 a.m. on the first business day two weeks post certification of election by Oakland County.

Commented [DLH17]: Conflicts with MCL 168.4644h – January 1. Is this date wanted?

3.104 Organizational Meeting

The first business of the first meeting in each new term of the Council shall be its organization. The meeting shall be held in the Council Chambers and shall be presided over by the City Clerk or a temporary presiding officer until the Council President and President Pro-Tem of the Council have been selected. The Council President of the Council shall preside at meetings of the Council. The President Pro-Tem shall perform the duties of the Council President during the absence or temporary disability of the Council President.

The procedural and organizational rules for the Council shall be established by the Council at that first meeting of the new term. ~~Those~~ The rules ~~must~~ shall establish who shall presides at meetings of the Council in the absence of the President and President Pro-Tem. ~~Those~~ The rules shall be written and accessible to the public.

3.105 Meetings

The Council shall meet at such times as prescribed by ordinance or resolution, except that it shall meet regularly not less than twice per month. The Mayor, or and two (2) members of the Council may call special meetings of the Council, provided it is requested in writing and written notice is posted in accordance with the Michigan Open

Commented [DLH18]: 10 hour notice. Does not comply with Open Meetings Act, MCL 15.265.

Commented [DLH19]: Normally special meeting limited to purpose declared on Notice...avoids surprise to public and Council?

Charter

Meetings Act and is given to each member, served personally, electronically or left at the member's place of residence at least ~~ten (10)~~ eighteen (18) hours prior to the meeting time. However, any special meeting at which all members of the Council are present or have given written consent shall be a legal meeting for all purposes, without such written notice.

3.106 Public Access; Rules

As provided by law, all meetings of the Council shall be public and any citizen may have access to the minutes and records thereof at all reasonable times.

The Council shall determine its own rules and order of business and shall keep a journal off its proceedings, in English and reproduced in Spanish.

3.107 Quorum

A majority of all Council members serving constitutes a quorum, but a lesser number may adjourn from day to day and compel the attendance of an absent member in such manner and under such penalties as prescribed by ordinance.

3.108 Voting

Except as otherwise required by this eCharter, no action of the Council shall be effective unless adopted by a majority of Council members serving.

On all ordinances, and in all other matters on the demand of one or more members of the Council, a roll call vote shall be taken.

3.109 Council Action

The Council shall act for the City only by ordinance or resolution.

3.110 Compensation

~~Council membership is a part-time position, except for the City Council President, who will be which is considered full-time.~~

~~The Council members shall be paid by the City as determined by ordinance, this Charter and law.~~

3.111 Appointment of Clerk

The Council shall appoint a City Clerk for an indefinite period upon a satisfactory evaluation; the Clerk shall continue its appointment with a yearly evaluation. The Clerk is removable by five (5) members of the eCouncil or Council President and three members of Council.

Commented [DLH110]: Is heightened vote requirement desired?

3.112 Ordinance Procedure

(a) The enacting clause of all ordinances shall read, "The City of Pontiac ordains", but this clause may be omitted when the ordinances are published in a compilation.

Charter

(b) Upon introduction, the Clerk shall distribute a copy to each Council member and to the Mayor, and shall file a reasonable number of copies in the office of the Clerk and such other public places as the Council may designate, and shall publish by means established by ordinance to achieve widespread dissemination to the public in the City together with a notice of the time and place for consideration by the Council. Thereafter, the Council may amend and adopt the proposed ordinance without further pre-adoption publication.

Commented [DLH111]: Publication of ordinances? Not in newspaper?

MCL § 691.1051 requires in newspaper.

Conflicts with 3.112(h) and MCL § 117.5b

(c) A proposed ordinance shall be introduced at a regularly scheduled Council meeting. Any ordinance shall require two readings by the Council and two opportunities for public comment at regularly scheduled Council meetings prior to being adopted.

(d) The adoption of any ordinance by the Council shall require a majority of Council members serving.

(e) The effective date of an ordinance shall be stated therein. The effective date shall not be less than 10 business days from the date of adoption or publication, whichever occurs later. No ordinance, except an emergency ordinance, shall be adopted on the same day that it is introduced.

Commented [DLH112]: Legalese

(f) An emergency ordinance, which shall contain a statement of its urgency, must be necessary for the immediate preservation of the public peace, property, health, safety or for the usual daily operation of a department. An emergency ordinance may be adopted on the day it is introduced, publication of a summary thereof before adoption is not required, and an emergency ordinance may be given immediate effect. Adoption of an emergency ordinance requires an affirmative vote of two-thirds of Council members serving.

Commented [DLH113]: Not publication? Does effective prior to publishing violate Constitution ex post facto provision?

(g) Every ordinance or resolution of the Council, except quasi-judicial acts of the Council, appointments by the Council, matters relating to the internal organization of the Council or of a ceremonial nature, or such action as may be expressly exempted from veto by other sections of this Charter, shall be presented by the Clerk to the Mayor within four (4) business days after adjournment of the meeting at which the ordinance or resolution is adopted.

Commented [DLH114]: Why not provide Mayor with all Council action items?

The Mayor, within seven (7) days of receipt of an ordinance or resolution, may return it to the Clerk with a veto and a written statement explaining the veto. However, with respect to an emergency ordinance, the Mayor shall notify the Council of a veto in any reasonable manner within 24 hours after the Mayor's office receives written notice from the Clerk that the emergency ordinance has been adopted.

An ordinance or resolution vetoed by the Mayor can be reconsidered by the Council at a meeting within one week at no later than the next regularly scheduled meeting after the receipt of the Mayor's veto. Five Council members may adopt readopt the ordinance or resolution over the Mayor's veto.

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(h) An ordinance shall be published once after its adoption in a newspaper of general circulation in the City as provided in this Charter. Except for an emergency ordinance, such publication shall be before the ordinance's effective date. The Clerk shall certify on the record of ordinances the date and method of publication which shall be prima facie evidence that legal publication of an ordinance was made.

(i) The Clerk shall maintain a record of all ordinances. After an ordinance is adopted, it shall be authenticated by the Clerk. The record and the authentication shall be done within one week after adoption of an ordinance, but failure to so record and authenticate an ordinance does not invalidate it or suspend its operation.

(j) A repealed ordinance may not be revised, except by re-enactment of the whole or so much as is intended to be revived. When any section or part of section of an ordinance is amended, the whole section as amended shall be re-enacted.

(k) Prosecution for violation of an ordinance of the City shall be commenced within two (2) years after the commission of the offense. This limitation only applies to violations penal in nature, and is not a limitation of the City's right to forfeit any franchise, grant or license for violation of the terms and condition thereof.

(l) A violation of an ordinance of the City shall be prosecuted as provided by law or ordinance.

3.113 Transfer of City Property: ~~Contracts~~

The City may not sell, lease, exchange, or in any way dispose of any real property of the City or any property of the City, except such property as may have been defined by ordinances as a minor, without approval, after public notice and hearing, by resolution of the Council. Nor may the City enter into a contract if there is not a sufficient unencumbered appropriation available to discharge fully the City's obligation thereunder, without approval by the Council.

Commented [DLH115]: Sale or no lease unless required by ordinance? Not all . . . As written, the City may not sell, lease, or exchange or in any way dispose of any real property. What about with vote of electors?

3.115 Staff

The Council may, within appropriations provided in the budget, appoint staff or contract for services. Staff or persons engaged pursuant to contract serve at the pleasure of the Council without interference of the Mayor, appointee of the Mayor, or staff from the Executive Branch.

Commented [DLH116]: What constitutes interference?

3.116 Relations with Executive Branch

The eCouncil and each of its members may make inquiries of, or request information and records from, the Mayor, the appointees or the employees of the executive branch. However, neither the Council nor any member of thereof shall give any order or direction, ~~neither either~~ publicly or privately, to any appointee or employee of the executive branch.

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3.117 Investigative Powers

The eCouncil may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Council shall apply to the appropriate court and/or appropriate board or commission and ~~powering~~ investigative powers to the appropriate board or commission.

Commented [DLH117]: What is "powering?"

3.118 Vacancies

A vacancy on the Council may be filled by appointment of a registered elector of the City or district affected by a majority of Council members remaining. The appointee serves out the unexpired term or until a successor is elected. However, the term of a member may not be extended by resignation and subsequent appointment.

3.119 Effect of Absences

Absence from five (5) regular meetings during a calendar year shall operate to vacate the seat of a Council member, unless the absence is excused by the Council by resolution setting forth the excuse and entered upon the journal. Any Council member that is absent ~~from~~ for over one half of any regularly scheduled meetings during one full year, regardless of whether the absence is excused, shall operate to vacate the seat of a ~~the~~ Council member.

3.120 Control of City Payroll

No compensation or salary shall be paid to appointees, members of boards or commissions, volunteers or employees of the City except as approved by the Council, ~~if~~ it is determined that a violation has occurred of this provision, the monetary amount paid would be refunded from the Mayor's salary no less than two pay periods after the violation has been certified.

Commented [DLH118]: Not likely this provision is valid. Can't disgorge salary earned from Mayor.

3.121 Bonds

The Council may require any appointee or employee to give a bond for the faithful performance of duty, in such amount as it may determine, and the premium thereof shall be paid the City.

An appointee or employee, required by law, this eCharter, ordinance or resolution to give a bond, shall not enter upon or continue duties of the office or employment until such bond has been duly filed, approved and recorded.

All bonds shall be approved by the Council and filed with the Clerk, except the bond of the Clerk, which shall be filed with the Treasurer.

~~All required bonds shall be surety company bonds.~~

Commented [DLH119]: Should surety companies be licensed in Michigan?

Charter

Chapter 2 City Clerk

3.201 Functions and Duties of the Clerk

- a) The Clerk shall be clerk of the eCouncil and shall attend all meetings of the eCouncil and keep a permanent journal of its proceedings in the English language and Spanish language.
- b) The Clerk shall provide and publish required public notices in the manner provided by this eCharter.
- c) The Clerk shall provide for the registration of electors residing in the eCity and conduct of all elections in the eCity as required by law.
- d) The Clerk shall maintain a record of all existing and proposed rules, regulations, policies and procedures of the City.
- e) The Clerk shall certify by their signature all ordinances and resolutions enacted or passed by the Council and make them available to the public as provided by law.
- f) The Clerk shall administer oaths and take affidavits and exercise other powers and duties as provided by law, this eCharter, or ordinance.
- g) ~~The Clerk shall administer oaths and take affidavits and exercise other powers and duties as provided by law, this charter, or ordinance.~~
- h)g) The Clerk shall provide and maintain in their office a supply of forms for all petitions to be filed for any purpose by the provisions of this Charter.
- i)h) The Clerk shall ensure reasonably accessible polling locations throughout the eCity for the purpose of conducting elections.
- j)i) Ensuring safekeeping, retention and public accessibility of documents in accordance with law.
- k)j) And the Clerk shall exercise other powers and duties as provided by law, this Charter, Ordinance, or Resolution.

Commented [DLH120]: Redundant with f).

3.202 Chief Assistant Clerk

The Clerk may, with approval of Council, appoint a chief assistant who serves at the pleasure of the Clerk and performs the duties of the office in the absence or disability of the Clerk.

Chapter 3 Department of City Council

3.301 Authority to Establish Auditor

The Council may, by ordinance, provide for the office of Legislative Auditor and shall, by not less than five (5) affirmative votes, appoint the Auditor for a term of not less than four (4) years. The Auditor may be removed by not less than five (5) Council members only for cause.

Commented [DLH121]: Cause only? Heighten vote requirement? Why?

Charter

ARTICLE IV – EXECUTIVE BRANCH

Chapter 1 – Mayor

4.101 The Mayor

The Mayor is the chief executive of the City and, as provided by this eCharter, has charge of and is accountable for the executive branch of the City government. The Mayor shall serve a four (4) year term, commencing on the first business day at 8 a.m. two weeks post certification of election by Oakland County.

Commented [DLH122]: Election law MCL - date of taking office?

Conflicts with MCL § 168.644h

To be eligible for the office of Mayor, an individual:

- (a) Shall have established a primary residence in the City for two years immediately preceding the filing deadline for the office and shall maintain a primary Pontiac residence, ~~in order to continue service.~~
- (b) Shall be a registered elector within the City on the first day of the term in office and during the entire period of the term in office.

4.102 Duties of the Mayor

The Mayor possesses all powers and duties inherent in being the chief executive officer of the executive branch, including:

- a) Seeing that laws, this Charter and ordinances are faithfully executed and enforced;
- b) Presenting the proposed annual balanced budget at least four months prior to the start of the new fiscal year as provided by ordinance, this Charter and law; and
- c) Presenting an annual state of the City address in conjunction with submitting ~~their~~ the proposed budget;
- d) Supervising expenditures of all sums appropriated to and the attainment of all objectives established for departments of the executive branch.
- e) ~~Seeing that~~ Providing monthly regular financial reports of revenues and expenditures ~~be provided to the legislative branch and quarterly financial statements provided by independent auditors of the City to the legislative branch.~~

4.103 Deputy Mayor

The Mayor shall appoint, with the approval of the Council, a Deputy Mayor who serves at the pleasure of the Mayor and performs the duties of the office during the absence or temporary disability of the Mayor. If the Deputy Mayor appointment is not approved by the Council within 30 days after the submission of the appointment to the Council, the Mayor has the right to re-submit the approval of the denied candidate or bring forth another candidate to Council.

A person serving in the position of Deputy Mayor shall have a combination of a bachelor's degree in public administration, business administration or related field, a master's degree is preferred. Experience with municipal finance, community and

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economic development, project manager, and supervisory skills. Good written and oral communications skills.

4.104 Relations with City Council

The Mayor or the Deputy Mayor shall attend all meetings of the Council and respond to questions from Council members and citizens, make reports and present proposals by the following regular City Council meeting and/or emergency meeting. Failure to present and respond to Council members or citizens will be investigated by the Public Integrity Officer.

Commented [DLH123]: Could be only 18 hours if special meeting called. That does not appear entirely reasonable?

The Mayor and the Deputy Mayor may designate a City administrative officer to attend meetings of the Council on their behalf when they are temporarily absent due to an emergency or a disability.

4.105 Staff of the Office of Mayor

The Mayor may, within appropriations provided in the adopted budget, hire such staff of the offices of Mayor as may be reasonably necessary, all of whom shall serve at the pleasure of the Mayor.

4.106 Appointment of Directors: Failure to Act on Appointments

Except as otherwise required by law or this Charter, the Mayor shall appoint for each department of the executive branch a director who serves at the pleasure of the Mayor as head of the department. Each appointment shall be subject to approval of the Council.

If a mayoral appointment is not approved by the Council within 30 calendar days after the submission of the appointment to the Council, then the Mayor have the right to re-submit the approval of denied candidate or bring forth another candidate to Council. The interim appointee may not serve more than 65 days without Council approval.

- a. The interim appointee may not serve more than 65 days without Council approval.
- b. Any extension of the interim role is subject to approve approval by vote of the Council at the following next regular meeting post after the 65-day period.

4.107 Duties of Department HeadsDirectors

Each department headDirectors shall:

- a. Consistent with law, this Charter, ordinance and any labor agreement, hire, promote, supervise, discipline, and remove employees of the department.
- b. Assign duties of the employees of the department and supervise the performance of these duties and the attainment of the objectives of the department.
- c. As consistent with job description.

Commented [DLH124]: Head or director... should be consistent in document

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4.108 Boards and Commissions

Except as otherwise required by law or this eCharter, the term of members on all boards and commissions in City government is four (4) years and members of boards and commissions are appointed by and serve at the pleasure of the Mayor or Council.

Commented [DLH125]: Both? What if conflict?

- a. All appointments shall be subject to approval of the eCouncil. Except as otherwise required by law or this eCharter, all boards and commissions are advisory.
- b. The expiration of terms shall be staggered by differing years, so that no more than 25 percent of the board or commission membership terms expires during a calendar year. Except as otherwise required by law, this eCharter or ordinance, an individual shall be a resident of the eCity to be eligible for appointment.
- c. The Mayor ~~must~~ shall make recommendations for appointments 60 days prior to terms expiring.

4.109 Succession to Office

If a vacancy occurs in the office of Mayor, the Council pPresident shall succeed to the office until a new Mayor is elected.

If the vacancy occurs in the office of Mayor more than one (1) year before the next regular City general election, the Council shall order a special primary election and a special general election to fill the vacancy for the unexpired term.

If the vacancy occurs in the office of Mayor and the Council President is unable to succeed that office, the President Pro-Tem shall succeed to the office of the Mayor until a new Mayor is elected.

If the vacancy occurs in the office of Mayor less than one (1) year before the next regular City general election the first business of the first City Council meeting after the Mayor has been sworn in shall be the ~~select a President~~ selection of a Council President or President Pro-Tem depending on ~~which position had assumed who has succeeded to~~ the position of Mayor.

If a dispute arises concerning whether a vacancy in the office of Mayor has occurred, ~~any four (4) members a majority of~~ the Council may petition the appropriate court for a determination of this fact question.

Chapter 2 City Attorney

4.201 City Attorney

The eCity shall maintain a City Attorney, who shall be ~~either an attorney or law firm with attorneys~~ licensed to practice in Michigan and versed in municipal law. The City Attorney shall serve in the executive branch of City government.

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4.202 Duties of City Attorney

The City Attorney is responsible for:

- a) Supervising the conduct of all the legal business of the City and its departments;
- b) Preparing and advising such leases, deeds, contracts or other papers as may be required by the Mayor, Council or any department;
- c) Furnishing written legal opinions when requested by the Mayor, the Council or any department;
- d) Instituting and conducting, on behalf of the People, all cases arising from the provisions of this eCharter or ordinances and, when authorized by law, cases under the state law;
- e) Defending all actions or proceedings against the City;
- f) Prosecuting all civil actions to which the City is a party or in which the City has an interest, when directed to do so by the Mayor; notice of any such action shall immediately be given to the City Council;
- g) Representing any elective officer or appointee of the City in any action or proceeding involving any action or proceeding involving official duties;
- h) Ensuring that all laws, this eCharter and ordinances are legally executed and enforced;
- i) Performing other duties assigned by resolution; and
- j) Attending all meetings of the Council as requested by Mayor or Council.

4.203 Settlements

No civil litigations of the City may be settled without the consent of the Council.

4.204 Option of City Council

Notwithstanding the above, the Council may engage independent legal counsel on a temporary basis where the Council is seeking enforcement of a Council subpoena or order, suing or being sued by any City agency or officer, or defending against any action or proceedings involving the Council's official duties. Further, the Council may obtain the opinion or advice of independent legal counsel in any matter pending before it.

Chapter 3

Finance Department

4.301 Finance Department

A Finance Department is created in the executive branch of City government. The Finance Director shall have direct supervision over the finance department and the administration of the financial affairs of the City, including the keeping of accounts and financial records, the collection of taxes, special assessments and other revenue, the communication of financial records to Mayor and Council and such other duties as may be prescribed by ordinance.

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4.302 Treasurer

The Finance Director, with the consent of the Mayor, shall appoint a City Treasurer, within budgeted appropriations, who shall serve at the pleasure of the Finance Director. The Treasurer shall perform all the duties required of treasurers by law, this eCharter and ordinance.

4.303 Purchasing Division

A division of Purchasing is created in the fFinance dDepartment. The Finance Director shall, with the consent of the Mayor, appoint, within budgeted appropriations, a Purchasing Agent who serves at the pleasure of the Finance Director.

4.304 Centralized Purchasing; Competitive Bidding

All purchases and contracts of departments and agencies of the City shall be made through the ~~division of purchasing~~ division, except as may otherwise be provided by ordinance. All purchases and contracts for procurement which exceed a dollar amount fixed by ordinance shall be made only pursuant to competitive bidding as prescribed by ordinance. The City may contract only with persons or firms that are equal opportunity employers and observe the principles set forth in Section 6.101 of this eCharter. The Council shall enact a purchasing ordinance that ensures competitive bidding for all bids on all goods and services.

4.305 Restrictions on Purchases

No purchases shall be made, except on a signed requisition by the ~~head~~ Director of a department, countersigned by the Finance Director and approved by the Purchasing Agent. No purchases shall be made in excess of appropriations. All requisitions shall be filed ~~accordingly~~ within 30 days.

Commented [DLH126]: "director" or "head"?

Commented [DLH127]: ?

4.306 Duties of Purchasing Agent

The duties of the Purchasing Agent and rules and regulations relative thereto shall be as provided by law, this Charter and ordinance.

4.307 Assessment Division, City Assessor, or Assessment Services

The City shall maintain a City Assessor or the eCity may contract for assessment services.

Commented [DLH128]: 117.3(a) Charter reference to election or "appointment" of Assessor.

Charter

4.308 Assessor's Duties

The City Assessor's powers and duties shall be as provided by law, this ~~Charter~~ and ordinance.

Chapter 4 – Police Department

4.401 Police Department (Police Services)

The City shall provide for the safety of its residents.

A Police Department may be created in the executive branch of City government. If a Police Department is created, the Chief of Police shall be the ~~head director~~ of the department and serves under the supervision of the ~~Mayor~~.

Commented [DLH129]: Director (same as fire serves under the supervision of the Mayor?)

The ~~City~~ may contract for police services with appropriate law enforcement agencies, as provided by law.

4.402 Powers and Duties

The Chief of Police and police officers of the department or contracted law enforcement agency shall possess powers conferred by law.

4.403 Powers and Duties of Police Chief

The Chief of Police or contracted law enforcement agency ~~head~~ Director is responsible for the public safety, peace and order and the enforcement of the criminal laws of Michigan and ordinances of the City. Other departments of the City may, by ordinance, be given concurrent enforcement jurisdiction for ordinances which cover technical fields of municipal operations. The Chief of Police or contracted agency ~~head~~ law enforcement director shall define the duties of police officers and prescribe rules relative to the performance thereof.

Commented [DLH130]: Director?

4.4084 Citizens Review Board (Now 4.404)

A complaint by a citizen against a member of the Police Department (or contracted law enforcement agency) shall be made to the Chief of Police (or contracted law enforcement agency ~~head~~ director). However, if the citizen is dissatisfied with the disposition of the complaint made by the Chief of Police or agency ~~head~~ director, or if no disposition is made within 10 days, the citizen may make a complaint to ~~the~~ a Citizen Review Board, which shall be established by ordinance and in accordance with any collective bargaining agreements.

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Chapter 5

Fire Protection Services

4.501 Fire Department (~~Fire Protection Services~~)

Commented [DLH131]: Parentheses deleted

The City shall provide for fire protection services for its residents.

A Fire Department may be created in the executive branch of City government. If a Fire Department is created, the Fire Chief shall be the head director of the department and serves under the supervision of the Mayor.

The eCity may contract for fire protection services with appropriate fire protection service agencies, as provided by law.

4.502 Retention of Fire Department Civil Service

Commented [DLH132]: Is there still a City fire department or is it contracted services? If contracted is this civil service provision needed?

The civil service system for firemen created by approval of the electors of Pontiac pursuant to 1935 PA 78, shall continue after the effective date of the new charter.

4.503 Emergency Power

The Fire Chief or the person of the department or contracted agency in charge at any fire may cause any building to be razed or destroyed, when necessary, in order to arrest the progress of a fire or ensure the public safety, and no action shall be maintained against any person or against the City therefor. This shall be done with the concurrence by the eCity building official and notification ~~of to~~ the Mayor and City Council President.

4.504 Powers of Fire Chief

The Fire Chief or contracted agency head director possesses all powers conferred by law, this eCharter or ordinance, and the Fire Chief or contracted agency head director shall assign firemen to fire-based services in accordance with their qualifications on a daily basis.

Chapter 6

Remainder of the Executive Branch

4.601 Other Departments

Other departments not created by this eCharter, for performance of executive and administrative functions may be created in the executive branch by ordinance, consistent with this Charter.

Charter

4.602 Assignment of Administrative Functions

Responsibility for performance of all executive or administrative functions shall be assigned by ordinance to departments of the executive branch.

4.603 Initial Continuation of Departments, Boards and Commissions

All departments, boards and commissions existing under the ~~old~~ previous eCharter or by ordinance performing executive or administrative functions shall continue to exist, unless reorganized, consolidated, or abolished by ordinance. Provisions for such departments are hereby modified, if necessary, to comply with this eCharter.

ARTICLE V FINANCIAL PROCEDURES

Chapter 1 Budget

5.101 Fiscal Year

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

5.102 Mayoral Budget and Appropriation Ordinance

At least ninety (90) days before the end of each fiscal year, the Mayor shall prepare and submit to the Council a proposed annual budget and proposed annual appropriation ordinance for the next fiscal year. To assist the Mayor in preparing such budget and ordinance, the departments of City government shall furnish the Mayor with detailed estimates of expenses, according to a classification which is nearly uniform as possible. Proceedings on the proposed budget and the appropriation ordinance and the adoption thereof shall be as provided by law.

Commented [DLH133]: Should there be stated time frame?

5.103 Veto

The veto power of the Mayor, set forth in Section 3.112 (g) of this eCharter, shall, to the maximum extent permitted by law, apply to the budget and the appropriation ordinance on an item-by-item basis.

5.104 Budget to Be Balanced

The total amount of appropriations shall not exceed the estimated revenues of the City. No liabilities shall be incurred by any elective officer, appointee or employee of the City, except in accordance with the provisions of the

Charter

appropriation ordinance, or under continuing contracts and loans authorized under this eCharter.

5.105 Budget to Be Adopted

An annual budget and appropriation ordinance shall be adopted at least thirty (30) days before each new fiscal year.

5.106 Interim Authority

If City officers fail to satisfy this requirement, the Council, on request in writing ~~of from~~ the Mayor, may make an appropriation for a department's current expenses to an amount sufficient to cover the minimum necessary expenses of the affected department until the appropriation ordinance is in force, or may borrow such money as may be necessary therefor.

5.107 Transfers and Supplemental Appropriations

After adoption of the annual budget and appropriations ordinance, and upon at least one week's notice, by means established by ordinance to achieve widespread dissemination to the public, the Council, ~~is in an resolution ordinance of supported by at least~~ five (5) members, may amend such ordinance to authorize the transfer of an unused balance appropriated for one purpose to another purpose, or to appropriate available revenues not previously appropriated.

Chapter 2

Taxation and Special Assessments

5.201 Property Tax Levy

The City shall determine such portion of revenues as may be necessary from property taxes to meet: (a) the appropriations made, (b) all sums required by law to be raised on account of City debt, and (c) such additional sum not exceeding 5% of total appropriations in the budget, as may be necessary to meet commissions, fees, and abatements in the estimates of taxes, and shall, by ordinance, levy the property taxes so determined.

5.202 Other Revenue

The City shall have such authority to raise revenue by ~~other~~ taxation as provided by law.

Commented [DLH134]: Should this be "additional"?

Charter

5.203 Duties of Clerk

All sums to be raised from property taxes in any year shall forthwith be certified by the Clerk to the City Assessor or contracted agency and shall be levied and collected upon the assessed valuation of taxable property within the City.

5.204 Lien

All taxes, charges and penalties, other than special assessments, ordered to be spread on any tax roll, shall become a lien upon the property assessed, on and after the first day provided for the collection of such roll as provided by ordinance and in concurrence with law.

Commented [DLH135]: Should this be "accordance"?

5.205 *Tax Limits

The total amount of taxes which may be levied against property for City purposed in any one year shall not exceed \$10.00 on each \$1,000.00 of the assessed valuation. An additional tax of \$1.50 on each \$1,000.00 assessed valuation may be levied for capital improvements or to pay principal and interest on bonds therefor; and a further additional tax of \$2.00 on each \$1,000.00 of assessed valuation may be levied to be utilized for salaries benefits, or other expenses of firemen assigned to duty as required by Section 4.504 of this eCharter, in addition to such other revenues as may be regularly utilized for those purposed. The provisions of this section shall not prevent the levy and collection on the full amount of taxes required by law for the payment of debts.

Commented [DLH136]: Less than HRCA authorized amount under 117.3(g)

-4.504 refers to Chief powers? Purpose? still needed?

(*As amended November 2, 1982)

5.206 Special Assessment Financing

The City may also raise, by special assessment, in a special assessment district sums necessary for any improvement which may by law be financed by special assessment as provided by ordinance and in concurrence accordance with law.

5.207 Limits on Incurring Obligations

Except as otherwise provided by this eCharter, no public work or improvement shall be commenced, nor expenditure made, nor any contract authorized until an appropriation has been made or a special assessment levied to pay the cost and expenses thereof. No such work or improvement shall be paid for, or contracted to be paid for except from the proceeds of the appropriation or special assessment of from proceeds from bonds or other

Charter

obligations issued in anticipation of the collection of the appropriation or special assessment.

Chapter 3

Accounting Controls and Audits

5.301 Accounting

Accounts shall be kept by the Finance Department or contracted agency showing all assets and liabilities of the City and the financial transactions for all departments of the City. The accounts and the forms therefor shall conform to any uniform system required by law or ordinance. Financial reports shall be prepared for each month, each quarter and each fiscal year. Those financial reports shall be provided to the Mayor and the Council.

5.302 Payments

Payments by the City shall be made only in accordance with procedures prescribed by ordinance.

Each draft, check, order or warrant shall specify the fund from which it is payable. The Finance Director or contracted agency head ~~director~~ shall examine all payrolls, bills and other claims and demands against the City, except claims for unliquidated damages, and shall make no payment unless the Finance Director find that: (a) the claim is in proper form, correctly computed and duly certified, and justly and legally due and payable; (b) an appropriation has been made therefor which has not been exhausted or that the payment has been otherwise legally authorized; and (c) there is money in the City treasury to make payment. The Finance Director may investigate any claim, and for such purposes, may examine witnesses under oath. If the Finance Director finds such bill, claim or demand is fraudulent, erroneous or otherwise invalid, the Finance Director shall not pay without authorization by resolution of the Council.

Commented [DLH137]: May witness decline to answer?potential due process issue?

All payments shall have two authorized signatures to be valid.

5.303 Cash Management

All taxes, special assessments, license fees, or other sums accruing to the City shall be collected by the Treasurer. All money belonging to the City received by any elective officer, appointee, employee or contracted agency employee of the City shall be given promptly to the Treasurer and deposited with such responsible banking institution as have been designated by the Council and furnishing such security as the Council may determine. All interest shall accrue to the benefit of the City. The City shall provide by ordinance for the prompt and regular daily deposit of all City monies as required by this

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section. All fees received by any elective officer, appointee, employee or contracted agency employee for City services shall belong to the City.

5.304 Establishing Funds

The revenues received for general taxation upon all property in the City, from borrowing to be repaid by such taxation, or from other sources shall be divided into such funds as the City may determine by ordinance or resolution.

5.305 Annual Independent Audit

An independent annual audit shall be conducted within 180 days after the end of the fiscal year. The audit of the eCity accounts of all elective officers, appointees, departments and contracted agencies of City government shall be conducted by certified public accountants, who have no personal interest, direct or indirect, in the financial affairs of the City or any of its departments, contracted agencies, elective officers, appointees or employees. In addition to the annual audit, the Council or the Mayor may, at any time, provide for such examination or audit of the eCity accounts of any department, contracted agency, elective officer, appointee or employee of City government as the Council or Mayor may determine.

Chapter 4 Assessment of Taxes

5.401 Assessment of Property: Subject of Taxation

All property subject to ad valorem taxation shall be assessed as provided by law. On completing the assessment roll, the eCity's aAssessor or a contracted assessing agency shall sign and transmit it to the Clerk for consideration by the Board of Review. The subjects of taxation for municipal purposes are the same as for State, Country or School purposes under law.

5.402 Board of Review

The Board of Review consists of the three electors of the City, to be appointed annually by the Council before the date of the first meeting prescribed by law. Two alternate Board of Review members shall also be appointed annually by the Council. No eCity elective officer, candidate for elective officer, employee or contracted agency staff shall be eligible for Board of Review membership. Except as otherwise provided by this eCharter, the Board of Review possesses all powers and duties provided by law. A majority of the board shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day. The Board of Review shall review and equalize the assessment roll of the City. On its own motion, or on good

Commented [DLH138]: Should it be on its own motion?
Seems, under due process, property owner needs to be aware of any action.

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cause shown, it may reduce or increase the valuation of any property found on the roll, and shall add thereto any taxable property in the City omitted therefrom. The eCity's aAssessor, or their designee, shall attend all meetings of the Board of Review.

5.403 Correction of Errors

The Board of Review shall examine the assessment roll, and correct any errors or deficiencies found therein.

5.404 Meetings of Board Review

Notice of the time and place of meetings of the Board of Review shall be given by the City's aAssessor as prescribed by law. The Board of Review shall select one member as chairperson, and continue in session at least six (6) hours per day for four (4) days successively, and as much longer as may be necessary to complete the review. Any person may examine his or her assessment on such roll, and may show cause why the valuation should be changed. The board shall decide each case and, except as provided by law, its decision is final.

The board may examine, on oath, any person concerning an assessment. The chairperson or any member of the board may administer oaths. It shall keep a record of its proceedings, and all changes made in the roll shall be entered upon the record. The record shall be deposited with the City's aAssessor. All questions before the board shall be decided by a majority of the board. After the Board of Review has completed the revision of the roll, the Clerk shall certify that it is the general assessment roll of the City for the year, as approved by the Board of Review.

5.405 Board's Completion of Roll

Upon the completion of the roll and its certification, it shall be returned to the City's aAssessor and shall, except as otherwise provided by law, be conclusively presumed to be valid. The omission of the certification shall not affect the validity of the roll.

5.406 Equalization

The eCity's aAssessor shall present the original assessment roll to the Board of Commissioners of Oakland County as provided by ordinance and in ~~con~~ ~~curr~~ ~~ence~~ ~~acc~~ ~~ord~~ ~~ance~~ with law. After equalization by the Board of Commissioners, such roll shall be the assessment roll of the City for all assessment purposes whatsoever except for the taxes levied in July as provided in Section 5.407.

Commented [DLH139]: Should this be 5.408?

Charter

5.407 City Property Taxes

City property taxes as levied by the Council shall be spread upon the assessment roll by the City's aAssessor. The City's aAssessor shall then deliver to the City's tTreasurer a certified copy of the assessment roll.

5.408 Due Date

City property taxes for each fiscal year are due and payable each July 1, and may be paid at any time during July and August without any collection fee, or additional charge. An additional charge to be specified by ordinance shall be added to all unpaid general City taxes on September 1st and on the first day of each succeeding month during which taxes remain unpaid, until return thereof, together with accrued penalties or charges.

5.409 Publication

The City Treasurer shall give notice in a by means established by ordinance to achieve widespread dissemination to the public for six (6) business days immediately preceding July 1 that: (a) City property taxes may be paid at any time through August 31 without any collection fee therefor, and (b) an additional charge (and the amount thereof) will be made on September 1 and on the first day of each succeeding month during which taxes remain unpaid until return to the County Treasurer. Failure to give this notice shall not invalidate the tax, nor release the persons or property assessed from the penalty.

{6.301 language}

5.410 Liens

City property taxes so levied constitute a lien upon the property and a charge against the persons owning the property, as provided by law.

5.411 School and County Taxes

On November 1, as provided by ordinance and in ~~concurrence~~ accordance with law, the City's aAssessor shall spread upon the assessment roll as school and county taxes, certified by the Board of Commissioners or otherwise, and such other taxes as are legally required to be spread on the roll.

5.412 Receipt of Roll by Treasurer

Within 30 days after November 1, the City's aAssessor shall deliver a certified copy of the assessment roll to the City Treasurer.

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5.413 Notice of Other Taxes Due

Upon receiving the assessment roll, the City Treasurer shall give notice by means established by ordinance to achieve widespread dissemination to the taxpayers of the City for six (6) business days immediately preceding December 14 that: (a) such school, county, and other property taxes levies may be paid at any time through February 14 without any collection fee therefor, and (b) an additional charge (and the amount thereof) will be made on February 15 and on the first day of each succeeding month during which taxes remain unpaid until return to the County Treasurer. Failure to give this notice shall not invalidate the tax, nor release the persons or property assessed from the penalty.

5.414 Collection of Taxes

For the collection of all unpaid taxes after each August 31 and February 14, the Treasurer possesses the same power and authority as conferred by law upon township treasurers. The Treasurer shall exhaust all legal remedies for the collection of unpaid taxes before the return thereof.

5.415 Payment to School Board and County

The City Treasurer shall, within 10 days after the expiration of the time limited in the warrant, or in case of extension of time for collecting such taxes, within 10 days after such time has expired, pay over to the treasurers of all authorized taxing authorities the amount which by law is so payable, and on March 1, or within 10 days thereafter, shall pay to the County Treasurer the balance which by law is so payable, and shall make returns as provided by law.

5.416 Applicable Law

General Law shall govern the assessing, levying, collection and return of taxes except as otherwise provided by this Charter.

Commented [DLH140]: Are both sentences needed?

The assessment, levy, collection and return of taxes shall be governed consistent with this Charter and law.

5.417 Part Payment

For each parcel in the eCity, partial payment of property taxes shall be governed by state law.

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5.418 Fees and Penalties

The fees and penalties provided by this Charter or law for collection of taxes shall belong to the City and shall be deposited by the ~~City~~ Treasurer into the City Treasury.

5.419 Records of Ownership

The City's ~~a~~Assessor shall maintain a current record of the changes of ownership of real property in the City as shown by the Records of the Oakland County Register of Deeds.

Chapter 5 **Bonds**

5.501 Borrowing Authority

The City may borrow money and issue bonds on the full faith and credit and revenues of the City subject to the limitations established by law.

5.502 Purpose of Bonds

Bonds may be issued for any municipal improvement necessary to advance the peace, health, safety and welfare of the City or its inhabitants or for any other purpose not prohibited by ordinance, ~~e~~Charter or law. No bonds shall be issued to defray any general operating or administrative costs and expenses of the City.

5.503 Bond Issuance

Bonds of the City shall not be issued without approval of a majority of registered electors voting on the question except as otherwise provided by law.

5.504 Providing for Principal and Interest

All bonds and interest shall be payable as provided by ordinance, ~~e~~Charter and law.

5.505 Special Assessment Borrowing

The City may raise money by borrowing in anticipation of the payments from special assessments for the purpose of defraying costs of the improvement for which the assessment was levied. Such borrowing shall not exceed the assessments made to complete the whole work, nor shall such borrowing be made until after the special assessment roll has been confirmed. The City

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may pledge the full faith and credit of the City for the payment of such borrowing.

Chapter 6 Special Assessments

5.601 Power ~~Granted~~

Commented [DLH141]: Do you want in Charter? Could be by ordinance.

The City may provide for the payment of all or any part of the cost of construction, reconstruction, repair, operating or maintenance of any public structure or improvement, by levying and collecting special assessments upon property specially benefitted.

5.602 Petition by Owners

If the owners of the majority of the frontage of lands liable to be assessed in any special assessment district or part of the City, which may be constituted a special assessment district, petition the Council for any public improvement, the City may order such improvement to be made. In other cases public improvements may be made at the discretion of the Council by resolution.

5.603 Council Resolution for Special Assessment

When the Council determines to make any public improvement or repairs and defrays the whole or part of the cost and expenses thereof, by special assessment, it shall so declare by resolution. The resolution shall state the nature of the improvement, the portion of the expenses which shall be paid by special assessment, and the portion, if any, which shall be paid from the City's general fund and shall designate the lands and premises included in the district upon which the special assessment is levied.

5.604 Procedure by Ordinance

The complete special assessment procedure to be used, including the preparing of plans and specifications; estimated costs; the preparation, hearing and correction of the special assessment roll; the filing by interested persons of objections to the special assessment roll as confirmed and the hearing and decision upon such objections; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments, if the prior assessment proves insufficient to pay for the improvement or is determined to be invalid in whole or in part. The ordinance shall also provide for the refund of excess assessments. However, if the excess is less than 3% of the total cost as defined by ordinance, it may be placed in the City's general fund.

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5.605 Liens

From the date of confirmation of any roll levying any special assessment, the full amount of the assessment and all interest thereon shall constitute a lien on the property and a debt of the person owning the property until paid and in case of delinquency, may be collected as delinquent City property taxes.

ARTICLE VI GENERAL PROVISIONS

Chapter 1 Personnel Matters

6.101 Affirmative Action

City government shall provide equal opportunity in employment for all persons; prohibit discrimination in employment because of race, color, religion, sex, age, national origin, handicap, marital status, height or weight, and promote the full realization of equal employment opportunity through a continuous affirmative action program in all departments of City government. The Mayor shall assure full implementation of this policy.

Commented [DLH142]: Should "sexual orientation" be added?
MCL § 37.2202

Commented [DLH143]: Does this violate Art I § 26(2)(3) and (8) of MI Constitution of 1963?

6.102 Employee Serving in Management

Management consists of elective officers and appointees as defined in Section 6.206. Rules shall be established by ordinance or resolution which permits any person holding employment covered by a bargaining unit or a civil service classification plan who is selected for an appointment to take a leave of absence from such covered employment for the period of the appointment.

6.103 Residency

An appointee (other than to a board or commission) or an employee of the City if not a resident at the time of appointment or hire, shall become a resident within one year thereafter and shall remain a resident while so employed. Violations of this requirement by an appointee or employee shall be grounds for dismissal from employment.

Commented [DLH144]: This is not in accordance with MCL 15.602(2) not valid.

The continued employment of an employee employed before the effective date of this Charter is not subject to this requirement, but compliance with the requirement shall be a condition to the promotion of any such employee.

Upon a specific finding that the interests of the City and its residents would be best served in a given case by granting relief from this section, five (5)

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members of the City Council, subject to the Mayoral veto contained in Section 3.112 (f), may grant appropriate relief.

6.104

Local Officers' Compensation Commission

Commented [DLH145]: Is this section needed? Need ordinance under MCL § 117.5c to form local officer's compensation committee.

Notwithstanding any other provision of this eCharter, the compensation of elective officers may be revised pursuant to law by the Local Officers' Compensation Commission.

6.105

Vacancy

Commented [DLH146]: What about absences?

The position of any elective officer or appointee shall become vacant upon death, resignation, permanent disability, removal from City residence or, in the case of a Council member, removal from district residence, or dismissal from the position in any manner authorized by Law and this Charter.

6.106

Filling of Vacancies

If a vacancy occurs in any appointive position, it shall be filled by appointment (for the unexpired term, if any) in the matter provided for the original appointment.

6.107

Conflict of Interest

(a) Except as otherwise required by law:

(1) An elective officer, appointee, or employee who has a conflict between personal interest and the public interest as defined by law, this eCharter, or ordinance shall disclose fully to the City Attorney the nature of the conflict. Except as provided by law or ordinance, no elective officer, appointee, or employee of the City may participate in or act upon or vote upon any matter if a conflict of interest exists.

(2) Any elective officer, appointee, or employee who has a substantial financial interest, direct or indirect or by reason of ownership of a substantial amount of stock in any corporation, in any contract with the City or in the sale of any land, materials, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating as an elective officer, appointee, or employee in the making or performance of the contract or sale.

Commented [DLH147]: What is "substantial? Should be clear? Make 1%?

(3) Violation of this subsection with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the Mayor or the Council.

Commented [DLH148]: Why knowledge requirement?

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(b) An elective City officer or an appointee who is a relative by blood or marriage within the second degree of an applicant for employment by the City, shall immediately be disqualified from, and shall not participate in any way in, the hiring process for that applicant.

If it is established upon complaint made by any City resident that, in the hiring of any person, this provision was violated, the employment of such person shall be a nullity, and such violation shall be cause for a recall or dismissal of the City officer or appointee involved. Further, a City officer or appointee violating this provision is guilty of a misdemeanor subject to a fine of \$500.00, or imprisonment of 90 days or both.

Commented [DLH149]: Do you want "nullity"? Maybe a breach of contract? Employee should be part of the work done.

(c) No elective officer shall hold any appointive position, which was created or the compensation for which was fixed or increased during his or her incumbency, until one year after leaving office.

6.108 Retirement Plans Continued

The City may establish, by ordinance, its retirement plans consistent with law that does not extend liability beyond the current fiscal year. The existing governing bodies for administering those plans, the benefit schedules for those plans, and the terms for accruing rights to and receiving benefits under those plans shall have ordinance status under this Charter.

Commented [DLH150]: What does ordinance status mean?

6.109 Removal for Cause

Any appointee subject to removal for cause may be removed by the appointing authority for lack of qualifications, incompetency, neglect of duties, misconduct, conviction of a felony, or a violation of this eCharter or any job-related ordinance, rule or regulation. An appointee may not be removed under this subsection without an opportunity for a public hearing before the appointing authority. A copy of the charges shall be furnished at least 10 days in advance of the hearing.

Commented [DLH151]: Is "any" job related ordinance, rule or regulation equal "cause"?

Chapter 2

Specific Powers and Miscellaneous Provisions

6.201 Enabling Legislation

The City may enact any ordinance authorized by law or necessary to carry out the provisions of any section of this Charter.

6.202 Rents, Tolls, Excises and Taxes

The City may provide for the laying and collecting of rents, tolls, excises and taxes in accordance with the law.

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6.203 Eminent Domain

The City has the power of eminent domain and, to the extent permitted by the law, may condemn private and public property located within or outside of the City for any public purpose.

6.204 Penalties

The City shall, by ordinance, provide punishment, to the extent permitted by law, for the violation of any provision of this eCharter or any ordinance.

6.205 Subsequent Grade Changes

Expenses for improvements related to changes in the grades of streets, alleys, public highways, pavements, sidewalks, or curbs may be financed by special assessments, or charged to and paid by the City.

6.206 Definitions

As used in this eCharter

- (1) "Director" means the administrative head of a department, notwithstanding that another title may, by this Charter or ordinance, be given to the position.
- (2) (a) "Appointee" and "appointment" refer to persons either (i) serving on boards and commissions of (ii) holding upper level positions included in the management of City government and outside any civil service system or collective bargaining unit; and
(b) "Employee" and "hiring" refer to persons holding positions in City government below the management level.
- (3) "Shall" is mandatory; "may" is discretionary.
- (4) Definition of Emergency, as determined by State Law

Commented [DLH152]: Where is "emergency" defined in State law?

Chapter 3 Rule Making

6.301 Administrative Rules

Except for rules otherwise adopted pursuant to law, before adopting any rule governing dealings between the City and the public, or establishing hearing

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procedures for resolving matters in dispute, a City department or agency shall give notice of a deadline for comment by publication.

No rule shall become effective until it has been posted by the City Clerk by means established by ordinance to achieve widespread dissemination to the public. All effective rules shall be printed in a book of City rules.

6.302 Emergency Rules

Notwithstanding the preceding section, in the case of an emergency defined by state law declared in writing by the Mayor or the Council, a proposed rule may be given effect for a period not to exceed 60 days pending completion of the required procedure.

Chapter 4 Initiative and Referendum

6.401 Initiative

A proposed ordinance may be submitted to the Council upon petitions signed by registered electors of the City. After submission, the Clerk shall promptly ascertain and certify the number of signers.

6.402 Duties of Council

If such certificate shows that the number of registered electors signing the petitions equals or exceeds 15% of the electors voting at the preceding City general election, the Council shall within 20 days thereafter either:

- (a) adopt the ordinance without alteration (subject to the referendum provided by eCharter); or
- (b) at the next election to be held in accordance with state law, the proposed ordinance shall be submitted without alteration to the electoral voters.

6.403 Petitions

If the petitions are signed by registered electors equal to at least 5% but less than 15% of the electors voting at the preceding City general election and the proposed ordinance is not adopted without alteration by the City within 20 days, then the proposed ordinance, without alteration, shall be submitted by the Council to electoral vote at the next scheduled election in the City occurring at any time after 30 days from the date of the Clerk's certificate.

Commented [DLH153]: How is 6.403 different than 6.402(b)?
Seems like 6.403 can be deleted.

Charter

6.404 Referendum

No ordinance, except an emergency ordinance, shall take effect before 10 days after adoption. If, within these 10 days, 100 registered electors of the City file with the Clerk a notice in writing of their intention to circulate a petition for referring the ordinance to the electors for their adoption or rejection, then the ordinance does not become effective until 30 days after its adoption. If, within these 30 days, petitions containing the number of signatures required by this eCharter are not filed in accordance with such written notice, the ordinance shall become effective upon the expiration of the 30 day period. If, within the 30 days, however, petitions protesting the ordinance signed by registered electors of the City equal in number to at least 10% of the electors voting at the preceding City general election are presented to the Council, the ordinance is suspended from taking effect. The Council shall immediately reconsider the ordinance. If the ordinance is not entirely repealed, the Council shall submit it to an electoral vote at the next scheduled election in the City, and the ordinance shall not take effect unless approved by a majority of the registered electors voting thereon. These referendum provisions do not apply to:

- (a) an ordinance required, or exempted ~~from~~ from referendum, by law or this eCharter;
- (b) an emergency ordinance; however, grant of a franchise may not be deemed an emergency ordinance.

6.405 Powers of Council

The Council may, of its own motion, submit to electoral vote for adoption or rejection at an election in the City a proposed ordinance or a proposition for the repeal or amendment of an ordinance.

6.406 Conflicting Provisions

If the provisions of two (2) or more ordinances approved at the same election are inconsistent, then the ordinance provision receiving the highest affirmative votes shall prevail.

6.407 Publication

Whenever an ordinance is required to be submitted to an electoral vote, the Council shall have the ordinance published by the City Clerk by means established by ordinance to achieve widespread dissemination to the public in each week for two (2) successive weeks immediately preceding the election.

Commented [DLH154]: Publication is defined at law.

Charter

6.408 State Law to Apply

The form of petition and the conduct of the electoral vote for initiative and referendum measures shall, as near as may be, be the same as that provided by law for exercise of initiative and referendum by State electors.

6.409 Effect of Vote

An ordinance approved by electoral vote shall not thereafter be repealed or amended by the City Council for 18 months, except by electoral vote.

Chapter 5

Franchises, Licenses and Permits: Municipal Utilities

6.501 Occupancy or Use by Private Concern

A person or firm may be granted permission to occupy or use a street, alley or public place within the City for public utility purposes only under a City franchise, license or permit. As used in this chapter, "franchise", "license" and "permit" refer only to grants of permission for such public utility occupancy or use.

6.502 Limitations on Grant

No franchise shall be granted by the City for a longer period than 30 years.
No license shall be granted by the Council for a longer period than one year.

6.503 Revocable Permits

The City also may by resolution grant a permit at any time, in or upon any street, alley, or public place but such permit shall be revocable by the City at its pleasure at any time.

6.504 Manner of Grant

Every franchise or modification thereof shall be granted by ordinance. A license or any modification thereof may be granted by resolution. Any such ordinance or resolution shall be not become effective until all terms and conditions thereof have been accepted in writing by the grantee. Such acceptance shall ~~become~~ be filed with the Clerk. Any non-compliance with this section shall automatically cancel such franchise or license granted.

Charter

6.505 Electoral Approval

No franchise which is not revocable at the will of the Council shall be granted or become operative until it has been referred to electoral vote and has received the approval of a majority of the registered electors voting thereon.

6.506 Expenses of Certain Special Elections

No franchise, license or permit shall be submitted to the electors at a special election, unless the expense of holding the election, as determined by the Council shall first be paid by the grantee to the Treasurer.

6.507 Exclusivity Prohibited

No person or firm shall ever be granted any exclusive franchise, license or permit.

6.508 Restrictions on Transfer

No franchise, granted by the City, shall ever be leased, assigned or otherwise transferred except in accordance with the express provisions of the franchise. All franchises granted by the City shall provide how, and in what manner, and under what conditions the franchise may be leased, assigned, or transferred. No dealing by the City, nor part performance by the lessee, assignee or transferee shall be deemed to operate as consent by the City.

Commented [DLH155]: Franchisee?

6.509 Restriction on Modifications

No modification of any franchise or license shall be made, except in the manner and subject to all conditions provided by this Charter chart for an original grant of a franchise or license.

6.510 Subordinate to Police Power

The grant of every franchise, license or permit shall be subject to the police power of the City, whether in terms reserved or not, to make all regulations which may be necessary to provide for the public health, safety and welfare of the people of the City.

6.511 Co-Occupancy

The City may, by resolution, require any person or firm holding a franchise from the City to allow the use of its tracks, poles, ~~wireless~~, and wires by any other person or firm to which the City shall grant a franchise, subject to reasonable regulations and upon the payment of a reasonable rental therefor.

Commented [DLH156]: Wireless what?

Charter

6.512 Compensation to City

No franchise, license or permit to use the streets, alleys or public places of the City shall be granted by the City without fair compensation to the City therefor. No such compensation by the grantee shall ever be in lieu of any other lawful taxation upon its property, income or activities. Where the franchise, license or permit fixes the rate to be charged for the service or the commodity furnished by the grantee, such rate shall be subject to review and change in such manner and form as provided in the franchise, license or permit.

6.513 Restrictions on Transfer of Municipality Owned Utilities

The City may make a contract to purchase, operate and maintain any public utility property for supplying heat, light, power, water, or transportation to the City and its inhabitants. No such contract shall bind the City unless a proposition therefor receives the affirmative vote of 3/5 of the electors voting thereon at a regular or special election.

Commented [DLH157]: Super majority voter of electors for transportation contract? This type of contract for transportation services should not need 3/5 vote of electors.

Chapter 6

Separately Incorporated Bodies

6.601 Authorities or Other Agencies Separately Incorporated

Any authority or other agency that is separately incorporated by the City or by the City and other governmental bodies shall furnish to the City comprehensive accountings of its receipts and disbursements and all other financial statements concerning its assets and operations, in such detail, on such reporting forms, and at such intervals as the Council may require.

6.602 Conflicts Prohibited

No person shall serve on the governing body of any authority or agency referred to in Section 6.601 when a conflict of interest as defined in Section 6.107 of this eCharter exists.

Commented [DLH158]: What about MCL § 15.183(3) Incompatible Public Offices Act exceptions?

Chapter 7

Rules of Interpretation

6.701 Severability

If any provision of this eCharter of the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provision or applications of the eCharter.

Charter

6.702 Number or Gender

The singular form of a word includes the plural, the plural form of a word includes the singular, and the masculine gender includes the feminine gender and the neuter.

6.703 Tense

This eCharter is to be regarded as speaking in the present and continuously. Thus, for example, the phrase "as provided by law" will incorporate the provisions of law as they change from time to time.

Chapter 8

Board and Commissions

Commented [DLH159]: Why is this necessary? There is no text?

ARTICLE VII

ETHICS AND PUBLIC INTEGRITY

Chapter 1

General Ethical Standards

7.101 Ethical Standards of Conduct

These standards of conduct apply to public servants including the Mayor, City Council members, appointive officers, appointees, employees and contracted entities and their employees working on behalf of the City, as defined in this Charter. The purpose of applying and enforcing these standards is to ensure that governmental decisions are made in the public's best interest by prohibiting City officials and employees from participating in matters that impact their personal or financial interests.

All City ordinances not inconsistent with these sections and that effectuate its operation may be retained. Ordinances may be enacted which are necessary to effectuate the operation of these sections. No ordinance shall be enacted which limits, contradicts, or otherwise conflicts with the intent and purpose of these sections.

Except as otherwise provided by applicable law, a public servant shall not knowingly:

- a. Willfully or grossly neglect the discharge of their duties;
- b. Use or disclose confidential information concerning the property, government or affairs of the City or any office, department or agency thereof, not available to members of the public and gained by reason of their official position;
- c. Use property of the City except in accordance with policies and procedures of the City;

Charter

- d. Engage in or accept private employment or render services when such employment or service is in conflict or incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of official duties;
- e. Represent a private person, business or organization in any action or proceeding pending before the City or any office, department or agency thereof, except:
 - i. A public servant may represent another person, business or organization before a City agency where such representation is a required part of his or her official duties;
 - ii. A public servant who is an uncompensated member of a City board, commission or other voting body may act as an agent, attorney or representative for another person, business or organization in a matter that is pending before a City agency, other than the board, commission or other voting body on which they are a member; or
 - iii. A public servant who is compensated by the City may act as an agent, attorney or representative for another person, business or organization in a matter that is pending before a City board, commission or other voting body, other than the board, commission or other voting body on which he or she serves as an appointee or an employee or under a personal services contract, as long as they do so without compensation and on their leave time.
- f. Vote regarding or otherwise participate in the negotiation of the making of any City contract, or any other type of transaction, with any business entity in which they or an immediate family member has a financial interest; or
- g. Use their official position, in violation of applicable law, to improperly influence a decision of the Mayor, City Council members, appointees or employees.

A public servant who, in the course of their duties, exercises significant authority shall not:

- a. Solicit or accept a loan, payment or gift from an individual who is providing service to, receiving tax abatements, credits or exemptions from the City; or
- b. Unduly influence any decision to fill a position in City government with an immediate family member.

Commented [DLH160]: Why limited to those who exercise "significant authority"? What does that mean?

7.102

Disclosures

Except as otherwise provided by applicable law, a public servant who exercises significant authority shall disclose:

Commented [DLH161]: What is "significant authority"?

Charter

- a. Any financial interest, direct or indirect, that they or an immediate family member has in any contract or matter pending before City Council;
- b. Any financial interest, direct or indirect, that they or an immediate family member has in any contract or matter pending before or within any office, department or agency of the City;
- c. Any interest that they, or an immediate family member has in real and personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement or a development agreement;
- d. Campaign contributions and expenditures, in accordance with applicable laws; or
- e. The identity of any immediate family member employed by the City or who is making application to the City.

In addition to compliance with the above section, contractors and vendors shall disclose:

- a. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before City Council; and
- b. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before or within any office, department or agency of the City.

The above disclosures shall be made in writing and be made by sworn, notarized affidavit, in accordance with City ordinance and applicable laws.

7.103 Lobbying Registration and Reporting

A lobbyist, as defined by law, who lobbies within the eCity government shall be required to register with the City and file a report of his or her lobbying activity. All documents filed by lobbyists shall be filed with the City Clerk, be a public recording and additionally published electronically or other format as to provide access to the reports. A fee shall be assessed to each lobbyist, as approved by ordinance.

7.104 Gifts and Gratuities

A public servant shall not accept gifts, gratuities, honoraria, or other things of value from any person or company doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially impacted by the performance of the public servant's official duties, or is registered as a lobbyist under applicable laws.

This prohibition shall not apply to:

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- a. An award publicly presented to a public servant by an individual, governmental body or non-governmental entity or organization in recognition of public service;
- b. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials;
- c. A gift received from a public servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article;
- d. Admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - i. By the sponsor(s) of an event, appearance or ceremony which is related to official City business in connection with such an event, appearance or ceremony and to which one (1) or more of the public are invited; or
 - ii. In connection with teaching, a speaking engagement or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity.

7.105 One Year Post-Employment Prohibition

Subject to law, for one (1) year after employment with the City, a public servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body or receive compensation for any services in connection with any matter in which he or she was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.

Subject to law, for a period of one (1) year after employment with the City, a public servant shall not accept employment with any person or company that did business with the City during the former public servant's tenure if that public servant was in any way involved in the award or management of that contract or the employment would require the sharing of confidential information.

7.106 Contracts Voidable and Rescindable

The City shall include language in its standard contract forms which provides that City contracts shall be voidable or rescindable at the discretion of the Mayor and City Council at any time if a public servant who is a party to the contract has an interest in such contract and fails to disclose such interest. Such contract shall also be voidable or rescindable if a lobbyist or employee of the contracting party offers a prohibited gift, gratuity, honoraria or payment to a public servant in relations to the contract. A fine shall be

Charter

assessed to the contractor in the event of a violation of this section of the Charter. If applicable, the actions of the contractor, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.

Commented [DLH162]: This should be in ordinance.

7.107 Campaign Activities

The Mayor, City Council members, appointees, appointive officers, and employees are prohibited from engaging in campaign activities using City property. Engaging in political activities during working hours is prohibited.

The Mayor and City Council members are prohibited from soliciting appointees, appointive officers and employees to work on political campaign activities or financially contribute to campaigns using City property or during working hours.

No appointee, appointive officer, employee or contracted entity can be required or pressured to work on or financially contribute to campaigns as a condition of their hiring or continued employment.

Chapter 2 Office of Public Integrity

7.201 Establishment of Office

There shall be established an independent Office of Public Integrity (OPI) within the government of the City of Pontiac. The Public Integrity Officer shall head the office. The purpose of the Office of Public Integrity is to ensure honesty and integrity in City government by rooting out waste, abuse, fraud, and corruption.

7.202 Appointment, Removal, Term of Office and Vacancy

a. The Public Integrity Officer shall be appointed by a majority [(51%)] of City Council members serving for a term of [six (6) years].

Commented [DLH163]: Don't need percentage.

Commented [DLH164]: Why term?

b. The Public Integrity Officer may be removed for [cause] by a [three-fourths (3/4)] vote of City Council members serving. The Public Integrity Officer may only be removed from the office for cause, such as gross misconduct or incompetence.

Commented [DLH165]: Cause is defined differently throughout text.

Commented [DLH166]: 3/4's need 6 of 7? Is different super-majority provision than other sections of proposed Charter.

c. If a vacancy occurs in the Office of Public Integrity, the City Council shall, within ninety (90) days, fill the office for a full term.

d. This position is subject to recall provisions as outlined in this City Charter.

Charter

7.203

Minimum Qualifications

The Public Integrity Officer shall be a person who:

1. Has an Associate's Degree from an accredited institution of higher learning.
2. Has at least five (5) years of experience in any combination of the following fields:
 - a. As a federal, state or local law enforcement officer;
 - b. As a federal, state or local government attorney, including a public defender;
 - c. As a federal or state court judge;
 - d. Progressive supervisory experience in an investigative public agency similar to an inspector general or public integrity office;
 - e. Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy; and
 - f. Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary.
 - g. Related field of experience.

7.204

Limitations; Prohibited Activities

During his or her term, the Public Integrity Officer may not engage in an occupation for profit, except for teaching, or hold any other government office outside the duties of the Public Integrity Officer.

Subject to applicable law, the Public Integrity Officer shall not solicit votes or raise monetary or in-kind contributions for any candidate for an elective office.

Any person who has held the position of Public Integrity Officer is not eligible for re-appointment. Subject to applicable law, the Public Integrity Officer may not hold any elective eCity office until two (2) years after leaving the position.

7.205

Powers and Duties; Jurisdiction

The powers and duties of the Public Integrity Officer and their office shall extend to the conduct of any Public Servant and City agency, program or official act, contractors and subcontractors providing goods and services to the City, and business entities seeking contracts or certification of eligibility for eCity contracts.

The Office of Public Integrity shall have the authority and responsibility to conduct independent and objective investigations into allegations of fraud, waste, abuse, corruption, or misconduct in the administration of eCity programs and operations.

Charter

The Public Integrity Officer may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any eCity agency during regular business hours. The Public Integrity Officer may enforce a subpoena or order for production of evidence. The Public Integrity Officer may work with the appropriate court and law enforcement agency to impose any penalty prescribed for failure to obey a subpoena or order.

Commented [DLH167]: Subpoena power?

The Public Integrity Officer shall serve as the liaison for challenges between elected officers of the eCity, including between members of City Council, the Mayor, and other necessary positions.

The Public Integrity Officer shall provide oversight of the Board of Ethics, including providing necessary documentation, agendas, and other necessary information for effective operations. The office shall serve as support the ensure effective operations of the Board.

The Public Integrity Officer shall be the City Official in charge of the transition process, in cooperation with the City Clerk, to ensure effective maintenance of records, ethical standards are addressed, and necessary processes and procedures are followed for a smooth transition between elected and appointed officers of the City.

The Office of Public Integrity shall conduct audits and reviews of eCity agencies, departments, and programs to ensure compliance with applicable laws, regulations, and policies, and to promote efficiency and effectiveness in eCity government. As part of this process, the office shall ensure compliance with ethical standards and policies and procedures of all eCity vendors and contractors.

The Office of Public Integrity shall submit reports outlining findings and recommendations to the relevant eCity authorities, including the Mayor and City Council, detailing any corrective actions necessary and advising on the implementation of best practices to prevent future issues.

If the Public Integrity Officer has probable cause to believe that any Public Servant or any person doing or seeking to do business with the City has committed or is committing an illegal act, then he or she shall promptly refer the matter to the appropriate prosecuting authorities.

7.206

Independence, Retaliation, Confidentiality, and Immunity

The Public Integrity Officer and their office shall operate independently from other eCity agencies and officials in the performance of duties to ensure impartiality and objectivity in investigations and audits.

Charter

It shall be the duty of every Public Servant, contractor and subcontractor and licensee of the eCity, and every applicant for certification of eligibility for a eCity contract or program, to cooperate with the Office of Public Integrity in any investigation pursuant to this Article. Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Public Integrity Officer by withholding documents or testimony is subject to forfeiture of office, discipline, debarment or any other applicable penalty. This requirement and associated penalty shall be incorporated into all contracts and subcontracts to the extent necessary to make them effective against such entities or persons.

No person shall retaliate against, punish or penalize any other person for complaining to, cooperating with or assisting the Public Integrity Officer in the performance of his or her duties. Any person who violates this provision shall be subject to a fine of not less than \$300 and not more than \$500 for each violation and any other penalties under applicable law.

Subject to any applicable state law, all investigative files of the Office of Public Integrity shall be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Michigan Attorney General or Oakland County Prosecutor's Office, or as otherwise provided in this Charter.

The Public Integrity Officer and their staff shall be, to the full extent permitted by law, immune from any suit based on any report or communication within the scope of official duties.

7.207

Funding; Office Staffing

The budget of the Office of the Inspector General shall be separate from the budgets of other eCity agencies and the City Council shall annually appropriate funds sufficient to enable the Office of Public Integrity to fulfill its duties and responsibilities as outlined in this eCharter.

7.208

Reporting and Transparency: Consultation Required

The Public Integrity Officer shall submit regular reports to the Mayor and City Council summarizing the activities, findings, and recommendations of the Office of Public Integrity. These reports shall be made available to the public, ensuring transparency and accountability.

Where there exists a conflict of interest between the Public Integrity Officer and another branch of City government, the Public Integrity Officer has the authority to retain necessary consultative services, including but not included to retention of an attorney licensed to practice law in Michigan who shall represent the Public Integrity Officer in legal proceedings. [Such attorney shall not represent the City as a municipal corporation in any legal other proceeding.

Commented [DLH168]: Should budget adjustment to allow such consultants be required to be approved by Council?

Charter

No report or recommendation that criticizes an official act shall be announced until every agency or person affected is allowed a reasonable opportunity to be heard and consulted as part of the investigative process. A copy of any statement made by the agency or individual affected shall accompany the report. A meeting may be requested of the Board of Ethics by the Public Integrity Officer and/or the agency or individual affected to review the report and provide a response.

Chapter 3 Board of Ethics

7.301 Board of Ethics Creation and Membership

In order to provide an orderly procedure for consideration and review of the issues which may arise concerning questions of standards of conduct for public servants, a Board of Ethics for the City, is hereby created:

- a. The Board of Ethics shall consist of five (5) members;
- b. Two (2) shall be appointed by the City Council;
- c. Two (2) shall be appointed by the Mayor;
- d. One (1) shall be jointly appointed by the Mayor and City Council;
- e. Such appointments shall be made after applications are received, reviewed and interviews conducted.

7.302 Member Appointment, Terms, and Removals

Members of the Board of Ethics shall be City residents. All terms shall be five (5) years, except for the initial terms. The initial terms shall be one Mayoral appointment for three (3) years, one Council appointment for three (3) years and all other appointments for five (5) years. Thereafter, all terms shall be for five (5) years each.

No person shall serve more than two (2) full terms.

No City Council member, appointive officer, appointee or employee of the City or any other governmental unit shall be a Board of Ethics member. Members shall also not have been candidates for any elective City office for two (2) years prior to their appointment or two (2) years after their term.

If any issue before the Board of Ethics involves any member of the board, the Mayor with majority consent of the City Council shall appoint an additional member or members to sit for the purpose of that determination in place of the member or members involved.

Members of the Board of Ethics are subject to removal for cause by two-thirds (2/3) majority vote of the Board.

Charter

7.303 Rules and Procedures

At the initial board meeting, the City Clerk shall convene the meeting and the first order of business will be for a Board Chair to be elected by a majority of the board. The term of board chair shall be one (1) year.

The Board of Ethics shall adopt its own rules of procedure not inconsistent with ordinances, this Charter and law.

All meetings of the Board of Ethics shall be subject to the Michigan Open Meetings Act MCL 15.261, et al., and open to the public unless an individual involved in the matter to be addressed requests in writing that the meeting be closed, or unless otherwise provided by ordinance and consistent with state law.

Commented [DLH169]: Limited by OMA exceptions.

The Board of Ethics shall be supported by the Office of Public Integrity and Public Integrity Officer.

7.304 Powers and Duties

The Board of Ethics shall:

- a. Issue advisory opinions regarding the meaning and application of provisions of the Charter, eCity ordinances or other laws or regulations establishing standards of conduct for elected and appointed officials. Advisory opinions shall be rendered upon written request by a Public Servant regarding his or her own actions. The advisory opinions shall not disclose the identity of the Public Servant concerned.
- b. Receive and resolve complaints arising under Article VII of this Charter. The Board of Ethics shall work in cooperation with the Office of Public Integrity to conduct investigations on its own initiative, subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, appoint independent counsel when necessary, and to perform other functions essential to ensure the integrity of City government.
- c. Work in cooperation with the Office of Public Integrity to prepare an annual report for submission to the Mayor and City Council. Consistent with state law, the Board of Ethics may recommend improvements in the standards of conduct to ensure the ethical behavior of City elective officers, appointees and employees, or in the organization and procedures related to the administration and enforcement of those standards.
- d. Work with the Public Integrity Officer to provide training for the Mayor, City Council, Clerk, appointive officers and appointees and employees who exercise significant authority in the execution of his or her official duties.

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7.305 Board of Ethics Funding

The City shall annually appropriate funds sufficient to enable the Board of Ethics to perform its duties. Funding shall be in accordance with this Charter.

ARTICLE VIII TRANSITIONAL PROVISIONS

8.101 Effect on Existing City Legislation

All ordinances and resolutions of the City and all orders, rules and regulations made by any officer or agency of the City which are not inconsistent with this eCharter shall remain in effect, until changed by action taken under this eCharter.

The City's aAttorney shall, as soon as practicable, recommend to the Council such changes as may be necessary to make the provisions of existing ordinances, resolutions, orders, rules and regulations consistent with this eCharter.

8.102 Continuation of Public and Private Rights

All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing when this eCharter takes effect shall continue unaffected except as modified in accordance with this eCharter.

8.103 Rights and Liabilities Continued

At the time this Charter takes effect, all property, monies, contracts, rights, credits, effects, and records, files, books and papers of the City; all rights, liabilities or debts of the City; all suits or prosecutions of any character involving the City; all fines and penalties imposed and all taxes and assessments levied and uncollected and all licenses issued by the City shall be and remain the same as if such changes had not been made. However, when a new remedy is given in this Charter, or in any ordinance, which can be made applicable to any right existing at the time this Charter takes effect, it is cumulative to the remedies before provided, unless a newly provided remedy is declared exclusive.

8.104 Rights of Officers and Employees

Except as otherwise provided by this eCharter, no provision of this eCharter shall affect or impair the rights or privileges of City officers or employee

Charter

existing when this eCharter takes effect with respect to appointment, ranks, grades, tenure of office, promotions, removal, pension and retirement rights.

8.105 Successor Officers

When an office or department no longer exists and a reference is made to that discontinued office or department in ordinances, resolutions, rules, regulations or orders which remain in effect under this eCharter, the references shall be understood as meaning the officer or department which has succeeded to all or most of the functions of the discontinued office or department.

8.106 Amendments and Revisions

This eCharter may be amended or revised as provided by law.

8.107 Compensation

Except as otherwise provided by ordinance, this Charter, the Mayor and Council shall remain compensated at existing levels prior to the effective date of this Charter, unless and until the compensation is changed by ordinance, this Charter or law.

8.108 Headings

The article, chapter and section headings of this eCharter are provided merely for the convenience of the reader. They are not part of the eCharter and shall be given no legal effect.

8.109 Transitional Provision

If any question concerning transition from the old charter to this eCharter (for which this eCharter has not provided) arises, the City may provide for a resolution of the question by ordinance.

ARTICLE IX SCHEDULE

9.101 Electoral Vote and Effective Date

(a) This eCharter shall be submitted to the people of Pontiac for adoption at a special election to be held on November 4, 2014.

Commented [DLH170]: Year?

(b) If this eCharter is adopted, this eCharter shall take effect on May 1, 2015.

Commented [DLH171]: Year?

Charter

- (c) City Council members serving in office under the previous charter shall continue to serve as a member of the City Council under this Charter for extended terms which expire on the first business day following January 1, 2019.

Commented [DLH172]: Year

- (d) The Mayor serving in office under the previous charter shall continue to serve as Mayor following this Charter taking effect.

9.102

Ballot Question

This eCharter shall be submitted to the electors on November 4, 2014 for adoption in the manner and with the effect prescribed by law as follows:

Commented [DLH173]: Year?

Shall the City Charter proposed by the Pontiac Charter Revision Commission be adopted?

Yes __ No __