

The City shall have the power to create and establish a retirement system for the officers and employees of the City; to provide pensions, annuities and other benefits for the officers and employees of the City and their beneficiaries; to create a board of trustees comprised of three members, one of which shall be selected from among the City employees; to administer the retirement system and prescribe the powers and duties of such board; to provide for contributions to the retirement system by the City and by the officers and employees of the City; to provide for the investment and reinvestment of monies and other assets for the retirement system; and to do and accomplish all other acts necessary in the creation and the operation of such system.
(char. eff. Nov. 25, 1974)

10.105 **Sec. 1.5. MERIT OR CIVIL SERVICE SYSTEM.**

The City may create and maintain a merit or civil service system covering employees of the City. The purpose of the system is to afford all interested persons a fair and equal opportunity for public service, to establish conditions of service which will attract employees of character and capacity, and to increase the efficiency of City departments by the improvements of methods of personnel administration.
(char. eff. Nov. 25, 1974)

10.106 **Sec. 1.6. INDEPENDENT BOARDS.**

The council shall establish by ordinance those independent boards or commissions required by law, and may also establish in like manner, all such other independent boards and commissions, whenever the same are authorized and permitted by law.
(char. eff. Nov. 25, 1974)

10.107 **Sec. 1.7. INTERGOVERNMENTAL CONTRACTS.**

The City shall have the power to join with any governmental unit or agency, or with any number or combination thereof by contract or otherwise, as may be permitted by law, to perform jointly, or by one or more of them, for or on behalf of the others or other, any power or duty which is permitted to be so performed by law or which is possessed or imposed on each governmental unit or agency.
(char. eff. Nov. 25, 1974)

10.200

**CHAPTER 2
ELECTIONS**

10.201

Sec. 2.1. QUALIFICATIONS OF ELECTORS.

All residents of the City of Gaylord having the qualification of electors in the State of Michigan shall be electors of the City.
(char. eff. Nov. 25, 1974)

10.202

Sec. 2.2. ELECTION PROCEDURE.

The election of all City officers shall be on a non-partisan basis. General election statutes shall apply to and control, as near as may be, all procedures relating to registrations and City elections except as such statutes relate to political parties or partisan procedures, and except as otherwise provided in this Charter.
(char. eff. Nov. 25, 1974)

10.203

Sec. 2.3. WARDS AND PRECINCTS.

The City of Gaylord shall consist of three (3) wards. The establishment of which shall be such that each ward shall have equal representation on the council. The City Council shall apportion the wards of the City and make all boundary changes in accordance with the requirements of the statutes and Constitution of Michigan and the Federal Constitution.
(char. eff. Nov. 25, 1974)

10.204

Sec. 2.4. REGULAR ELECTIONS.

A regular City election shall be held on the first Tuesday after the first Monday of November of every odd numbered year hereafter, at such place or places as shall be designated by the council.
(char. eff. Nov. 25, 1974)

10.205

Sec. 2.5. SPECIAL ELECTIONS.

Special City elections shall be held when called by resolution of the council at least forty-five (45) days in advance of such election, or when required by this Charter or the general laws of the state. Any resolution calling a special election shall set forth the purpose of such election.
(char. eff. Nov. 25, 1974)

10.206

Sec. 2.6. ELECTION REGISTRATION.

The general election laws of the State of Michigan shall apply to and control all procedures relating to the registration and City elections except as herein otherwise so specifically provided.

(char. eff. Nov. 25, 1974)

10.207 **Sec. 2.7. ELECTION COMMISSION.**

An election commission is hereby created consisting of the clerk, mayor and the City attorney of which the clerk shall be the chairman. The commission shall have the charge of all activities and duties required by state law and this Charter relating to the conduct of election in the City. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed. The compensation of the commissioners shall be determined in advance by the council and shall be a fixed amount for each election.

(char. eff. Nov. 25, 1974)

10.208 **Sec. 2.8. NOTICE OF ELECTIONS.**

Notice of the time and place of holding any election and of the officers to be elected and the question to be voted upon, shall be given by the clerk as required by general election law.

(char. eff. Nov. 25, 1974)

10.209 **Sec. 2.9. VOTING HOURS.**

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

(char. eff. Nov. 25, 1974)

10.210 **Sec. 2.10. NOMINATIONS.**

The method of nomination of all officers provided for in this Charter who are elected by the electors of this City shall be by petition. Petitions shall be signed by the number of qualified registered electors equal to one per cent (1%) of those voters in the City who cast a ballot, during the last election, for the office of the Secretary of State, but at no time shall said petitions be signed by less than twenty-five (25) nor more than seventy-five (75) qualified registered electors of the City. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office at said election. Where any signature appears on more petitions than there are candidates to be elected to said office, such names shall be counted only in the order of the respective dates of signing as is shown on the petition. All petitions shall be filed with the City clerk no later than 4:00 p.m. of the 49th day preceding the day of said election. The clerk shall publish notice of the last day permitted for filing nomination petitions, at least one week before, and no more than three weeks before such date.

(char. eff. Nov. 25, 1974)

[**NOTE:** The Charter language pertaining to filing nominating petitions for the regular City elections is superseded by Michigan Election Law, MCL 168.644(e) as amended. The candidate nomination petition filing deadline is 4:00 p.m. on the fifteenth (15th) Tuesday prior to the odd year November election.]

10.211 **Sec. 2.11. FORM OF PETITION.**

The form of petition shall be similar to that used for state and county officers with no reference to political parties. Official petition forms shall be prepared and furnished by the clerk.

10.212 **Sec. 2.12. APPROVAL OF PETITION.**

The clerk shall accept for filing only those nominating petitions which in form comply substantially with the statutes of the State of Michigan and contain the required number of signatures for candidates required by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The clerk, shall forthwith after filing of a petition, determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition. Each petition which is found by the clerk to contain the required number of signatures of registered electors for candidates shall be marked "In Order", with the date thereof, and he shall notify the candidate whose name appears thereon, in writing.
(char. eff. Nov. 25, 1974)

10.213 **Sec. 2.13. PUBLIC INSPECTION OF PETITIONS.**

All nomination petitions shall be open to the public inspection in the office of the clerk as soon as the clerk has determined the sufficiency or insufficiency of the petition.
(char. eff. Nov. 25, 1974)

10.214 **Sec. 2.14. WITHDRAWAL OF CANDIDATE.**

Any candidate may withdraw by filing a signed statement to such effect with the City clerk not later than Monday noon following the deadline for filing the original petition.
(char. eff. Nov. 25, 1974)

10.215 **Sec. 2.15. FORM OF BALLOTS.**

The form of ballot used in any City election shall conform as nearly as may be to that prescribed by the general election law of the state, except that no party

designation or emblem shall appear upon any City ballot. The names of qualified candidates or nominees for each office shall be listed in a single column and shall be rotated systematically on the ballot. In all other respects the printing and numbering of ballots shall conform to the general laws of the state relating to elections.

(char. eff. Nov. 25, 1974)

10.216 **Sec. 2.16. CANVASS OF VOTES.**

In accordance with the state law the Otsego County Board of Canvassers will serve as canvassers for all City elections.

(char. eff. Nov. 25, 1974)

10.217 **Sec. 2.17. TIE VOTES.**

If in any City election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Otsego County Board of Canvassers shall name a date within five (5) days after said election for the appearance of such persons for the purpose of determining the election of such candidates by lot, as provided by statute.

(char. eff. Nov. 25, 1974)

10.218 **Sec. 2.18. RECOUNT.**

A recount of the votes cast at any City election for any office or upon any proposition may be held in accordance with the election statutes of the State.

(char. eff. Nov. 25, 1974)

10.219 **Sec. 2.19. RECALL.**

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

(char. eff. Nov. 25, 1974)

10.220 **Sec 2.20. PURITY OF ELECTIONS.**

All laws of the State of Michigan now in force or hereinafter enacted related to the purity of elections, and as to what are lawful and what are unlawful acts shall apply to all elections held under this Charter.

(char. eff. Nov. 25, 1974)

10.300

**CHAPTER 3
THE COUNCIL, MAYOR AND MAYOR PRO TEM**

10.301

Sec. 3.1. GENERAL POWERS.

The government of the City, and all the powers thereof, except the judicial powers, shall be vested in the council. The council shall exercise such powers in the manner and through the agencies provided by law; shall exercise the management and control of all municipal property and the administration of the municipal government whether or not such powers be expressly enumerated in this Charter. It shall pass upon and secure the performance of any act necessary to advance the interests of the City, good government and prosperity of the municipality and its inhabitants; and shall make all laws which may be necessary and proper for carrying into execution the powers granted to the City by law.
(char. eff. Nov. 25, 1974)

10.302

Sec. 3.2. QUALIFICATION.

In case of councilmen, a person shall be eligible for this office who is a duly registered elector in the City and has the qualifications of elective officers in general.
(char. eff. Nov. 25, 1974)

10.303

Sec. 3.3. ELECTION OF COUNCIL.

The electors of the City shall elect a City council which shall consist of six councilmen and the mayor of the City. The said councilmen shall be elected: One from each of the three wards and three from the City at large. At the first regular City election following enactment of this charter, there shall be elected those councilmen from each of the three wards, all to be elected for a term of four years. At the second regular City election following enactment of this charter, there shall be elected three councilmen at large, all to be elected for a term of four years. Thereafter, the election of the councilmen shall follow the rotation as prescribed above. Each elector shall be entitled to vote for not more than the number of candidates to be elected. The terms of all councilmen shall expire at the first regular council meeting to be held after January 1st of the year following the regular election at which their successors are elected.
(char. eff. Nov. 25, 1974)

10.304

Sec. 3.4. REGULAR MEETING.

The council shall provide by ordinance for the place and day of its regular meetings and shall hold two regular meetings each month, during the evening hours. If the time set for the holding of a regular meeting of the council shall be a holiday, the regular meeting shall be held at the same hour and place on the next secular day which is not a holiday.
(char. eff. Nov. 25, 1974)

10.305

Sec. 3.5. SPECIAL MEETINGS.

Special meetings shall be called by the clerk on the written request of the mayor, or any three members of the council on at least twenty-four (24) hours' notice to each member of the council, served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the council are present or have waived notice thereof in writing.
(char. eff. Nov. 25, 1974)

10.306 **Sec. 3.6. BUSINESS AT SPECIAL MEETINGS.**

No business shall be transacted at any special meeting of the council unless the same shall have been stated in the notice of such meeting.

However, other than the enactment of an ordinance or the appointment to fill a vacancy in an elective office, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the council present consent thereto and all members absent file their written consent. Provided, however that nothing in this section shall be construed to prohibit the enactment of an Emergency Ordinance at a special meeting pursuant to Chapter 6, Sec. 6.3. (b).
(char. eff. Nov. 25, 1974)

10.307 **Sec. 3.7. MEETINGS OPEN TO THE PUBLIC.**

All regular and special meetings of the council shall be open to the public and the rules of order of the council shall provide that citizens shall have a reasonable opportunity to be heard.
(char. eff. Nov. 25, 1974)

10.308 **Sec. 3.8. QUORUM.**

A majority of councilmen in office shall constitute a quorum for the transaction of business at all meetings of the council but in the absence of a quorum a lesser number may adjourn any meeting to a later date.
(char. eff. Nov. 25, 1974)

10.309 **Sec. 3.9. RULES OF THE COUNCIL.**

The council shall determine its own rules and order of business and shall keep a journal of all its proceedings in the English language which shall be signed by the mayor and the clerk. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be taken by "Yea" and "Nay" vote and entered upon the records. No member shall vote on any question in which he has a financial interest (other than the common public interest) or any questions concerning his official conduct, but on all other questions each member of the council who shall be recorded as present shall vote on all questions decided by the council unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the council at all reasonable times.
(char. eff. Nov. 25, 1974)

10.310 **Sec. 3.10. COMPULSORY ATTENDANCE.**

Any four or more members of the council may by vote compel the attendance of its members and other officers of the City at any meeting. Any member of the council or other officer, who when notified of such demand for his attendance, fails to attend such meeting for reasons other than confining illness or extenuating circumstances shall be deemed guilty of misconduct in office unless excused by the council.

Absence from four consecutive regular meetings shall operate to vacate a seat of a member unless the absence is excused by the council by resolution setting forth such excuse and entered upon the journal.

Absence from twenty-five per cent (25%) or more of the regular meetings of the council in a calendar year shall also operate to vacate a seat of a member, provided however, excused absences by the council as provided above, shall not be considered in the computation of the required percentage to create a vacancy.
(char. eff. Nov. 25, 1974)

10.311 **Sec. 3.11. STANDING COMMITTEES.**

There shall be no standing committees of the council.
(char. eff. Nov. 25, 1974)

10.312 **Sec. 3.12. INVESTIGATIONS.**

The council, or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer or employee of the city to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of any employee of the city, it shall be construed as a violation of this Charter.
(char. eff. Nov. 25, 1974)

10.313 **Sec. 3.13. HEALTH AND SAFETY.**

The council shall see that provision is made for the public peace and health, and for the safety of persons and property. The council shall also provide for comprehensive land use planning and zoning administration. Until otherwise provided for by ordinance or resolution, the council shall constitute the board of health of the city, and it and its officers shall possess all the powers, privileges and immunities granted to boards of health by statute.
(char. eff. Nov. 25, 1974)

10.314 **Sec. 3.14. PUBLICATION OF COUNCIL PROCEEDINGS.**

The proceedings or an abstract of the proceedings of the council shall be published at least once within ten days after each meeting of the council in a newspaper of

local circulation in the city.
(char. eff. Nov. 25, 1974)

10.315 **Sec. 3.15. ELECTION OF MAYOR.**

- a. The mayor shall be elected at large at the regular city election for a term of two (2) years commencing on the first regular meeting to be held after January 1st of the year following the regular city election.
- b. At the first regular meeting after January 1st of the year following the regular city election, the council shall elect one of its council members to serve as mayor pro tem for a term to expire on the same date as therein set for the expiration of the mayoralty term.
(char. eff. Nov. 25, 1974)

10.316 **Sec. 3.16. DUTIES OF MAYOR AND MAYOR PRO TEM.**

Insofar as required by law, and for all ceremonial purposes, the mayor shall be executive head of the city.

- a. He shall have an equal voice and vote in the proceedings of the council, but shall have no veto power.
- b. He shall be conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid on the enforcement of the ordinances of the city, and to suppress riot and disorderly conduct.
- c. He shall exercise only such powers as the state law, this Charter, or the council shall specifically confer upon, or required of him.
- d. The mayor pro tem shall serve as executive head of the city in the absence of the mayor and shall have all the powers and duties of the mayor in his absence.
(char. eff. Nov. 25, 1974)

10.317 **Sec. 3.17. COMPENSATION OF MAYOR AND COUNCILMEN.**

The salary of the councilmen shall be \$240.00 per year. The salary of the mayor shall be \$300.00 per year. These salaries shall constitute the only remuneration which may be paid to the members of the council and mayor for the discharge of their official duties, except that reasonable expenses incurred on behalf of the city may be paid if authorized by the council.
(char. eff. Nov. 25, 1974)

10.400

**CHAPTER 4
ADMINISTRATIVE SERVICE**

10.401

Sec. 4.1. ADMINISTRATIVE OFFICERS.

- a. The administrative officers of the city shall be the city manager, city attorney, assessor, city clerk, city treasurer and police chief. The council may not diminish the duties or responsibility of the office of the city manager. The city manager and city attorney shall be appointed by the council for an indefinite period, shall be responsible to and serve at the pleasure of the council and shall have their compensation fixed by the council.
- b. All administrative officers of the city, except the city manager, city attorney, city clerk and city treasurer, shall be appointed by the city manager for indefinite terms of office, subject to confirmation by the council. Such officers appointed by the city manager shall be responsible to the city manager and shall serve at his pleasure. Their compensation shall be fixed by the city manager in accordance with budget appropriations and subject to approval by the council. Removal of such officers may be made by the city manager with the confirmation of the council, provided, however, that ten days' written notice to the officer affected be given, and any action taken by the council be at a regularly scheduled meeting. The officer affected may be present and heard at such meeting.
- c. Except as may otherwise be required by law, the council shall establish, by ordinance, such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities, and responsibility of the officers of each department. The city manager may prescribe such duties and responsibilities of the officers of those departments responsible to him which are not inconsistent with this Charter or with any ordinance or resolution adopted concerning such duties and authorities under authority of this Charter.
- d. All personnel employed by the city who are not elected officers of the city, or under the authority of this Charter are administrative officers, shall be deemed to be employees of the city. The head of each department shall have the power to hire and discharge the employees of his department upon the advice and consent of the city manager, subject to the provisions of any merit or civil service system.
(char. eff. Nov. 25, 1974)

10.402

Sec. 4.2. CITY MANAGER: APPOINTMENT AND QUALIFICATIONS.

The council shall appoint a city manager within ninety (90) days after any vacancy exists in such position. The city manager shall hold office at the pleasure of a majority of the council, but he shall not be removed from office during a period of ninety (90) days following any regular city election except by the affirmative vote of five (5) members of the council. He shall be selected solely on the basis of his executive and administrative qualifications with special reference to his training and experience. At the time of his appointment, he need not be a resident of the city or

state, but during his tenure of office he shall reside within the city. Removal of the city manager may be made by the council in its sole discretion, provided, however, that ten days' notice to the city manager be given, and any action by the council be at a regularly scheduled meeting. The manager affected may be present and be heard at such meeting.

(char. eff. Nov. 25, 1974)

10.403

Sec. 4.3. CITY MANAGER: FUNCTIONS AND DUTIES.

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

- a. To be responsible to the council for the efficient administration of all administrative departments of the city government, except the departments under the direction of the city attorney, city clerk, and city treasurer;
- b. To see that all laws and ordinances are enforced;
- c. To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- d. To recommend an annual budget to the council and to administer the budget as finally adopted, under policies formulated by the council, and to keep the council fully advised at all times as to the financial conditions and needs of the city;
- e. To attend council meetings with the right to take part in discussions but not to vote, and to recommend to the council for adoption such measures as he may deem necessary or expedient;
- f. To exercise and perform all administrative functions of the city that are not imposed by this Charter upon some other official;
- g. To be responsible for the maintenance of a system of accounts for the city; which system of accounts shall be in conformance with any uniform system required by law; and
- h. To perform such other duties as may be prescribed by this Charter or as may be required of him by ordinance or by direction of the council.

(char. eff. Nov. 25, 1974)

10.404

Sec. 4.4. ACTING CITY MANAGER.

The council may appoint or designate an acting city manager during the period of a vacancy in the office or during the absence of the city manager from the city, or during a period of illness or disability on the part of the city manager. Such acting manager shall, while he is in such office, have all the responsibilities, duties, functions, and authority of the city manager.

(char. eff. Nov. 25, 1974)

10.405**Sec. 4.5. CITY ATTORNEY: FUNCTIONS AND DUTIES.**

- a. The council shall appoint and fix the salary of the city attorney who shall hold office at the pleasure of the council and who need not be a resident of the city.
- b. The city attorney shall act as legal advisor to, and be attorney and counsel for the council and shall be responsible only to the council. He shall advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the clerk a copy of all written opinions given by him.
- c. The city attorney shall prosecute all Charter and ordinance violations, and he shall conduct for the city such cases in court and before other legally constituted tribunals as the council may request. He shall file with the clerk copies of all records and files relating thereto as the council may direct.
- d. The city attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the council and shall promptly give his opinion as to the legality thereof.
- e. The City attorney shall call attention to the council all matters of law, and changes or developments therein, affecting the city.
- f. The city attorney shall perform such other duties as may be prescribed for him by this Charter or by the Council.
- g. Upon the recommendation of the city attorney, or on its own initiative, the council may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the city attorney therein.
(char. eff. Nov. 25, 1974)

10.406**Sec. 4.6. CITY CLERK: FUNCTION AND DUTIES.**

- a. The city clerk shall be elected at large at the regular city election for a term of two (2) years commencing at the first regular council meeting to be held after January 1st of the year following the said regular election.
- b. The city clerk shall be clerk of the council. He shall attend all meetings of the council and shall keep a permanent journal in the English language of its proceedings. He shall keep a record of all ordinances, resolutions, and regulations of the council.
- c. He shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents and records pertaining to the City of Gaylord, the custody of which is not otherwise provided for. He shall give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements.

- d. He shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter, and shall accept no petitions for any purpose set forth in this Charter which are not on the forms provided by him for such purpose.
- e. He shall certify by his signature all ordinances and resolutions enacted or passed by the council, and perform any other duties required of him by the state law, this Charter, or by the council.
(char. eff. Nov. 25, 1974)

10.407

Sec. 4.7. CITY TREASURER: FUNCTION AND DUTIES.

- a. The city treasurer shall be elected at large at the regular city election for a term of two (2) years commencing at the first regular council meeting to be held after January 1st of the year following the said regular election.
- b. The city treasurer shall have the custody of all moneys of the city, the clerk's bond, and all evidence of values belonging to the city, or held in trust by the city.
- c. He shall receive all money belonging to and receivable by the city, including license fees, taxes, assessments, and all other charges belonging to and payable to the city and shall in all cases give a receipt therefor.
- d. He shall keep and deposit all moneys or funds in such manner and only in such places as the council may determine. He shall report the same in detail to the council.
- e. He shall have such powers and duties in regard to the collection of city taxes and moneys as may be conferred upon him by this Charter or by state law.
- f. He shall perform such other duties as may be prescribed for him by the state law, this Charter, or by the Council.
(char. eff. Nov. 25, 1974)

10.408

Sec. 4.8. CITY ASSESSOR: FUNCTIONS AND DUTIES.

The city assessor shall have all powers vested in, and shall be charged with all duties imposed upon assessing officers by the general law of the state. He shall make and prepare all regular and assessment rolls in the manner prescribed by this Charter, by ordinance or by statute. He shall also perform such other duties as may be prescribed for him in this Charter or by the council.
(char. eff. Nov. 25, 1974)

10.500

**CHAPTER 5
OFFICERS AND EMPLOYEES: GENERAL PROVISIONS**

10.501

Sec. 5.1. ELIGIBILITY FOR OFFICE AND EMPLOYMENT IN THE CITY.

- a. No person shall hold any elective office in the city unless he is a resident of the city, and was a registered elector on the last day for filing petitions for such office or at the time of his appointment to fill a vacancy.
- b. Each member of a city board or commission created by, or pursuant to, this Charter shall have resided in the city for at least thirty (30) days immediately prior to the day of his appointment and shall be a qualified and registered elector of the city on such day and throughout the tenure of office.
(char. eff. Nov. 25, 1974)

10.502

Sec. 5.2. VACANCIES IN OFFICE.

After notice and hearing, any city office shall be declared vacant by the council upon the occurrence of one or more of the following events before the expiration of the term of such office.

- a. For any reason specified by statute or this Charter as creating a vacancy in office and for any reason specified for removal of municipal officers by the governor;
- b. If the officer shall absent himself continuously from the city for more than thirty (30) days without the permission of the council;
- c. If the officer shall be found guilty of any act of misconduct in office under the provisions of this Charter by any court or by the vote of five (5) or more members of the council at or following such hearing.

For the purposes of this section, written notice shall be given the officer ten (10) days before the hearing personally or by delivering the same at his last known place of residence. Such notice shall include a statement of reasons for the proposed removal. The hearing shall afford an opportunity to the officer, in person or by attorney, to cross-examine witnesses and present testimony in defense.
(char. eff. Nov. 25, 1974)

10.503

Sec. 5.3. RESIGNATIONS.

- a. Resignations of elective officers and members of a board or commission shall be made in writing and filed with the clerk and shall be acted upon by the council at its next regular meeting following the receipt thereof by the clerk.
- b. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.
(char. eff. Nov. 25, 1974)

10.504

Sec. 5.4. FILLING VACANCIES.

- a. Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.
- b. If a vacancy occurs in an elective office, the council shall, at a regular meeting and within sixty (60) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office for a term expiring at the first regular council meeting to be held after January 1st of the year following the regular election, at which election such vacancy shall be filled for the balance of the unexpired term, if any, through the regular election procedure as provided elsewhere in the Charter. However, if any such vacancy is not filled within sixty (60) days or if three or more vacancies in the position of mayor and councilmen exist simultaneously, the clerk shall within ten (10) days call a special election to be held within ninety (90) days thereafter to fill such vacancies for the unexpired terms. Notwithstanding the foregoing, no vacancy in an elective office shall be filled in any manner if the term of office of the person whose office has become vacant expires within sixty (60) days after the vacancy occurs.
(char. eff. Nov. 25, 1974)

10.505

Sec. 5.5. CHANGE IN TERM OF OFFICE OR COMPENSATION.

Except by procedures provided this Charter, the terms of office of the elective officers and members of boards and commissions appointed for definite terms shall not be shortened. The terms of elective officers of the city shall not be extended beyond the period for which any such officer was elected, except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered. The salary of any elective officer shall not be increased or decreased from the time of his election or appointment until the end of his term of office for which he was elected or appointed.
(char. eff. Nov. 25, 1974)

10.506

Sec. 5.6. OATH OF OFFICE AND BOND.

Every officer elected or appointed, before entering upon the duties of his office, shall take the constitutional oath of office and shall file the same with the clerk, together with any bond required by law or by the council. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon be vacant. The council may, by resolution, extend the time in which such officer may qualify as set forth above, provided however, such extension does not conflict with the requirement of any statute.
(char. eff. Nov. 25, 1974)

10.507**Sec. 5.7. SURETY BONDS.**

- a. The council may, require any officer or employee to give a bond, to be approved by the city attorney, in such sum as the council determines. The bond shall be conditioned upon the faithful and proper performance of the duties of the office or employment concerned. All officers and employees who receive, distribute, or are responsible for city funds and/or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or the appointment of another person to the office or employment, shall not exonerate the officer or employee or his sureties from any liability incurred by them.
- b. All official bonds shall be corporate surety bonds and the premiums thereof shall be paid by the city. No official bonds shall be issued for a term exceeding three (3) years, except bonds which are required of officers serving times of office which are longer than three (3) years. No bond shall be renewed upon its expiration but a new bond shall be furnished in each case.
- c. The bonds of all officers and employees shall be filed with the clerk, except that the clerk's bond, unless he is covered within the scope of a blanket surety bond, shall be filed with the treasurer.
- d. The requirements of this section may be met by the purchase by the city of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the city. Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office.
(char. eff. Nov. 25, 1974)

10.508**Sec. 5.8. DELIVERY OF OFFICE.**

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five (5) days, or sooner on demand, deliver to his successor in office, or to his superior, all the books, papers, monies and effects in his custody of such officer or employee. Any officer violating this provision may be proceeded against as public officers generally for like offense under statute.
(char. eff. Nov. 25, 1974)

10.509**Sec. 5.9. PECUNIARY INTEREST PROHIBITED.**

- a. Except as permitted by this section no contract or purchase involving an amount in excess of Five hundred dollars (\$500.00) shall be made by the city in which any officer or any member of his family has any financial interest, direct or indirect. A "contract" shall for the purpose of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for valuable consideration be paid by the city or is to be sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city. The term "member

of his family" shall include only the spouse, child, grandchild, father, mother, sister, brother and the spouse of any of them.

- b. Without limiting the generality of the paragraph (a) of this section, an officer shall be deemed to have a financial interest in a contract if he or any member of his family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made. Ownership, individually or in a fiduciary capacity, by an officer or member of his family of the securities of any corporation with which a contract is made, shall not be deemed to create a financial interest in said contract unless the aggregate amount of such securities or interest in such securities, so owned by such officer and the members of his family, shall amount to ten per cent (10%) of any class of the securities of such corporation then outstanding.
- c. A contract in which an officer or member of his family has a financial interest may be made by the city if the members of the council having no such interest shall unanimously determine that the best interests of the city will be served by the making of such contract, and if such contract is made after comparative prices are obtained.
- d. Any officer who knowingly permits the city to enter into any contract or purchase in which he has a financial interest without disclosing such interest to the council prior to the action of the council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (c) of this section, the unanimous determination (by vote or written instrument) of all members of the council that in a particular case an officer or member of his family will not have a financial interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.
- e. No officer shall stand as surety on any bond to the city or give bail for any other person which may be required by this Charter or any ordinance of the city. Any officer who violates the provisions of this paragraph shall be guilty of misconduct in office.
(char. eff. Nov. 25, 1974)

10.510

Sec. 5.10. COMPENSATION OF OFFICERS AND EMPLOYEES.

- a. The compensation of all officers and employees of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the council.
- b. Except as otherwise provided by law, the respective salaries and compensation of officers and employees as fixed by, or pursuant to this Charter shall be in full for all services to the city of such officers or employees and shall be in lieu of all fees, commissions, and other compensation receivable by such officers or employees for such services. Such fees, commissions and compensations shall belong to the city and shall be

collected and accounted for by such officers or employees and paid into the city treasury. A statement thereof shall be filed periodically with the city manager. The provisions of paragraph (b) of this section shall not apply to fees, commissions, or other compensation paid to such officers or employees for services performed for or on behalf of the city or other municipal subdivision of the state, provided said service is of a voluntary and emergency nature.

- c. Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in or for any service on behalf of the city.
(char. eff. Nov. 25, 1974)

10.511 **Sec. 5.11. EMPLOYEE WELFARE BENEFITS.**

The council shall have the power to make available to the officers and employees of the city and of its departments and boards any recognized standard plan of group life, hospital, health or accident insurance.
(char. eff. Nov. 25, 1974)

10.512 **Sec. 5.12. ANTI-NEPOTISM.**

Unless the council shall by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives and their spouses (1) of any elective official or of his spouse, or (2) of the city manager or of his spouse, or (3) of any other appointive officer or of their spouse, are disqualified from holding any appointive office or employment of the City of Gaylord during the term of which said elective official was elected or during the tenure of office of the city manager or other appointed official, respectively: Child, grandchild, parent, grandparent, brother, sister, half-brother, and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of said elective official or the appointment of the city manager or other appointed officer, or in the case the relationship arises after the persons, were in each case, an officer of the city.
(char. eff. Nov. 25, 1974)

10.600

**CHAPTER 6
LEGISLATION**

10.601

Sec. 6.1. EXISTING LEGISLATION.

All ordinances, resolution, rules and regulations of the City of Gaylord which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until they expire, are amended or repealed. Any ordinance, resolution, rule or regulation which is inconsistent with this Charter is hereby repealed.

(char. eff. Nov. 25, 1974)

10.602

Sec. 6.2. ORDINANCES AND RESOLUTIONS.

All official action of the council shall be by ordinance or resolution adopted by no less than four (4) members of the council, unless otherwise required by law. All actions of the council which do not constitute ordinances shall be deemed to be resolutions.

Action by resolution shall be limited to matters required or permitted to be done by law or pertaining to the internal administrative affairs or concerns of the city government. All other acts of the council and all acts carrying a penalty for violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number, and always by a code section number when the ordinances of the city are codified.

(char. eff. Nov. 25, 1974)

10.603

Sec. 6.3. ENACTMENT, AMENDMENT, REPEAL AND EFFECTIVE DATE OF ORDINANCES.

- a. Each proposed ordinances shall be introduced in written or printed form. The style of the ordinance shall be: "The City of Gaylord ordains:"
- b. No ordinance shall be passed at the same meeting at which it is introduced, unless the same is declared to be an emergency ordinance by a vote of not less than five (5) members of the council.
- c. An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number and title only.
- d. If a section of an ordinance is amended, the section shall be reenacted and published at length.
- e. The effective date of all ordinances shall be stated therein, but shall not be earlier than twenty (20) days after enactment, unless it is declared by the affirmative vote of not less than five (5) members of the council to be an emergency ordinance.

(char. eff. Nov. 25, 1974)

10.604

Sec. 6.4. PUBLICATION AND RECORDING OF ORDINANCE.

- a. Before an ordinance may become operative, it shall be published. Any ordinance may be published by setting it forth as part of the published proceedings of the council for the meeting at which said ordinance was adopted, in subsequently published proceedings of meetings of the council, or solely in its complete text, but only after adoption by the council.
- b. All ordinances shall be recorded by the clerk in a book to be called "The Ordinance Book," and it shall be the duty of the mayor and the clerk to authenticate such records by their official signature thereon, but the failure to so record and authenticate any such ordinance shall not invalidate it or suspend its operation.
(char. eff. Nov. 25, 1974)

10.605

Sec. 6.5. PENALTIES FOR VIOLATIONS OF ORDINANCES.

Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety (90) days, or both, in the discretion of the court: Said imprisonment may be either in the city or county jail, or in any workhouse in the state which is authorized by law to receive prisoners from the city.
(char. eff. Nov. 25, 1974)

10.606

Sec. 6.6. ENACTMENT OF CODES BY REFERENCE.

In accordance with the Provisions of law now or hereafter in effect, the council may enact technical codes or regulations which have been promulgated or enacted by the State of Michigan or the United States of America, or by any department, board, or other agency thereof, or by an organization or association which is organized and conducted for the purpose of developing any such code or technical regulations, by reference thereto in an adopting ordinance and without publishing any such code in full: Provided, that each statute or technical code or regulation is clearly identified in the ordinance adopting the same. The purpose of the code or regulations shall be published with the adopting ordinance and complete printed copies thereof shall be kept in the office of the clerk, available for inspection by and distribution to the public at all times. Such publication shall contain a notice stating that a complete copy of said code or regulation is available for public use and inspection at the office of the clerk.
(char. eff. Nov. 25, 1974)

10.607

Sec. 6.7. SEVERABILITY OF ORDINANCES.

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

(char. eff. Nov. 25, 1974)

10.608

Sec. 6.8. CODIFICATION OF ORDINANCES.

- a. Immediately after the effective date of this Charter, the council shall direct and within three years, complete the codification of the ordinances of the city and shall provide for the publication of subsequent amendments thereto so that such amendments may readily be made a part of such code and maintain the same in current form. Any such codification may include provisions not previously contained in ordinances of the city.
- b. The council shall provide for making printed copies of the codification available for public inspection and for distribution to the public at a reasonable charge therefor and shall publish notice of the printing and availability of such codification before the effective date thereof. Such making available of printed copies of the codification and notice thereof shall constitute the due and legal publication of any such codification and the provisions thereof, as required by law, other provisions of this Charter for the publication of ordinances notwithstanding.
- c. The copies of the ordinances and the codification thereof, and of provisions adopted by reference in accordance with Section 6.7 may be certified by the clerk and, when so certified, shall be competent evidence in all courts and other legally established tribunals as to the matter contained therein. (char. eff. Nov. 25, 1974)

10.609

Sec. 6.9. INITIATIVE AND REFERENDUM.

An ordinance may be initiated by petition, or referendum or an ordinance enactment may be had, by petition as hereafter provided.
(char. eff. Nov. 25, 1974)

10.610

Sec. 6.10. INITIATORY AND REFERENDARY PETITION.

- a. An initiatory or a referendary petition shall be signed by not less than ten per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within sixty days before the date of filing the petition with the clerk. Any such petition shall be addressed to the council and may be the aggregate of two or more petition papers which are identical as to content, except as to signatures, and simultaneously filed by one person. An initiatory petition shall set forth, in full, the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance or part thereof, or code sections it proposes to have repealed.
- b. Each signer of a petition shall sign his name, and shall place thereon after his name, the date, and his place of residence by street and number, or by other customary residential designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of

signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the city clerk who shall, within fifteen days canvass the signatures thereon. If the petition does not contain a sufficient number of registered electors of the city, the clerk shall notify, forthwith, by registered or certified mail, the person filing such petition and fifteen days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed as required and allowed by this section, the clerk shall present the petition to the council at its next regular meeting.
(char. eff. Nov. 25, 1974)

10.611 **Sec. 6.11. COUNCIL PROCEDURE ON INITIATORY AND REFERENDARY PETITIONS.**

Upon presentation to the council of an initiatory or referendary petition by the clerk, the council shall, within thirty days, unless otherwise provided by law, either:

- a. Adopt the ordinance as submitted by an initiatory petition;
- b. Repeal the ordinance, or part thereof, referred to by a referendary petition; or
- c. Determine to submit the proposal provided for in the petition to the electors.
(char. eff. Nov. 25, 1974)

10.612 **Sec. 6.12. SUBMISSION OF INITIATORY AND REFERENDARY ORDINANCES TO ELECTORS.**

Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the council, at a special election called for that specific purpose. In those cases where the initiatory petition contains a number of signatures equal to twenty-five per cent of the registered electors of the city as of the date of the last regular city election, and if no election is to be held in the city for any other purpose within one hundred fifty days from the time the petition is presented to the council and if the council does not enact the ordinance, then the council shall call for a special election within ninety days from such date. The results of all elections, held under the provisions of this section shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law or the terms of this Charter.
(char. eff. Nov. 25, 1974)

10.613 **Sec. 6.13. ORDINANCE SUSPENDED: MISCELLANEOUS PROVISIONS ON INITIATORY AND REFERENDARY PETITIONS.**

- a. The presentation to the council by the clerk of a valid and sufficient referendary petition, containing a number of signatures equal to twenty-five per cent of the registered electors of the city as of the date of the last regular city election, which signatures have been obtained within sixty days before filing the petition with the clerk, shall automatically suspend the operation of

the ordinance in questions, pending repeal by the council or final determination by the electors.

- b. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the council for a period of two years after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted by the council for a period of two years after the date of the election at which it was repealed. Any such ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this chapter or if submitted to the electorate by the council on its own motion.
- c. If two or more initiated ordinances, adopted at the same election, shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.
(char. eff. Nov. 25, 1974)

10.700

**CHAPTER 7
GENERAL FINANCE; BUDGET AUDIT**

10.701

Sec. 7.1. FISCAL YEAR.

The fiscal year of the city shall begin on the first day of July and end on the 30th day of June of the following year. Such year shall also constitute the budget year of the city government.
(char. eff. Nov 25, 1974)

10.702

Sec. 7.2. BUDGET PROCEDURE.

The city manager shall prepare a complete itemized budget for the next fiscal year based upon information submitted to him by the various city officers and department heads which he shall submit to the council on or before its first regular meeting in May. The proposed budget shall include:

- a. Detailed estimates, with his supporting explanations, of all proposed expenditures for each department, office and agency of the city, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to April first and expenditures for the balance of the current fiscal year;
- b. Statements of the bonded and other indebtedness of the city showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- c. Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to April first, and estimated revenues for the balance of the current fiscal year;
- d. An estimate of the balance or deficit for the end of the current fiscal year;
- e. An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- f. Such other supporting information as the council may request.
(char. eff. Nov. 25, 1974)

10.703

Sec. 7.3. BUDGET DOCUMENT.

The budget document shall present a complete financial plan for the ensuing fiscal year and shall contain such detail as the council may request or as the city manager believes necessary. It shall include at least:

- a. Estimates of all proposed expenditures for each department and office of the

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city showing the expenditures for the current and last preceding fiscal year;

- b. Statements of the bonded and other indebtedness of the city showing the debt redemption and interest requirements;
- c. Detailed estimates of all anticipated income of the city from sources other than taxes and borrowing, with comparative statements for previous years and the current fiscal year;
- d. Statement of the estimated balance of surplus or deficit, as the case may be, for the end of the current fiscal year;
- e. An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues necessary to meet proposed expenditures.
(char. eff. Nov. 25, 1974)

10.704 **Sec. 7.4. BUDGET HEARINGS.**

A public hearing on the budget shall be held before its final adoption at such time and place as the council shall direct, and notice of such public hearing shall be published at least one week in advance by the clerk. A copy of the proposed budget and copies of the budgets from the three preceding fiscal years shall be on file and available to the public for inspection during the office hours at the office of the clerk for a period of not less than one week prior to such public hearing.
(char. eff. Nov. 25, 1974)

10.705 **Sec. 7.5. ADOPTION OF BUDGET.**

Not later than the second regular meeting in May, the council shall, by resolution, adopt the budget for the next fiscal year and shall in such resolution, provide for a levy of the amount necessary to be raised by tax upon real and personal property for municipal purposes.
(char. eff. Nov. 25, 1974)

10.706 **Sec. 7.6. TRANSFERS OF APPROPRIATIONS.**

After the budget has been adopted no money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred except pursuant to the budget appropriations. The council may transfer any unencumbered appropriation balance or any portion therefrom from one department, fund or agency to another. The balance of any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund and may be reappropriated during the next fiscal year.
(char. eff. Nov. 25, 1974)

10.707 **Sec. 7.7. BUDGET CONTROLS.**

At the beginning of each quarterly period of the fiscal year, and more often if required by the council, the city manager shall submit to the council data showing the relation

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between the estimated and actual income and expenses to the last day of the preceding month; and if it shall appear that the income is less than anticipated, the council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures with the case income.

(char. eff. Nov. 25, 1974)

10.708

Sec. 7.8. DEPOSITORY.

The council shall designate a depository or depositories for city funds, and shall provide for the regular deposit of all city moneys. The council shall provide for such security for city deposits as is authorized or permitted by the general laws of the state, except that personal surety bonds shall not be deemed proper security. City funds may be withdrawn from such depository on the signature of such person or persons as the council shall, by resolution, determine.

(char. eff. Nov. 25, 1974)

10.709

Sec. 7.9. INDEPENDENT AUDIT: ANNUAL REPORT.

- a. An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants, experienced in municipal accounting, selected by the council.
- b. The city manager shall prepare an annual report of the affairs of the city, including a financial report.
- c. Copies of such audit and annual report shall be made available for public inspection at the office of the city manager.

(char. eff. Nov. 25, 1974)

10.800

**CHAPTER 8
GENERAL TAXATION**

10.801 Sec. 8.1. **POWER TO TAX.**

The city shall have the power to assess, levy and collect taxes, rents, tolls and excises. The subjects of ad valorem taxation shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this Charter, city taxes shall be levied, collected and returned in the manner provided by state statute.

(char. eff. Nov. 25, 1974)

10.802 Sec. 8.2. **TAX LIMITS.**

Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds and exclusive of any other levies authorized by law to be made beyond Charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed one and twenty five hundredths per cent of (twelve and one-half mills on) the assessed value of all real and personal property in the city.

(char. eff. Nov. 25, 1974)

10.803 Sec. 8.3. **EXEMPTIONS.**

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

(char. eff. Nov. 25, 1974)

10.804 Sec. 8.4. **TAX DAY.**

Subject to the exceptions provided or permitted by the statute, the taxable status of persons and property shall be determined as of the 31st of December, which shall be deemed the tax day.

(char. eff. Nov. 25, 1974)

10.805 Sec. 8.5. **PREPARATION OF THE ASSESSMENT ROLL.**

On or before the first Monday in March of each year the assessor shall prepare and certify an assessment roll of all property in the city liable to taxation. Such roll shall show separate figures for the value of the land and of the building improvements, and otherwise be prepared in accordance with statute and this Charter. Immediately after preparation and certification by the assessor, he shall file the assessment roll in the office of the City Clerk for public examinations. It shall be the duty of the City Clerk to give notice by publication in one or more of the daily newspapers printed and circulated in the city, by not less than one insertion, which shall be published not less than five days preceding said last mentioned date, that said assessment rolls will be on file in his office subject to public examination, from the first Monday in March until the second session of the board of review, when they shall be delivered to said board.

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

(char. eff. Nov. 25, 1974)

10.806 **Sec. 8.6. BOARD OF REVIEW.**

The board of review shall consist of three qualified freeholders who are electors of the city but not city officers or employees, and are to be appointed annually by the city council to serve three-year staggered terms subject to the pleasure of the council. Each term shall commence as of January 1. The assessor shall serve ex officio without vote as clerk of the board of review. The board shall be entitled to such remuneration as shall be determined by the council.

(char. eff. Nov. 25, 1974)

10.807 **Sec. 8.7. BOARD OF REVIEW: DUTIES: FUNCTIONS.**

For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are conferred by law upon and required of boards of review in townships, except as otherwise provided in this Chapter. It shall hear complaints of all persons themselves aggrieved by assessments, and, if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just. In all cases, the roll shall be reviewed according to the facts existing on tax day and no change in the status of any property after that day shall be considered by the board in making its decisions. Except as otherwise provided by law, no person, other than the board of review, shall make or authorize any change upon, or additions or corrections, to the assessment roll. It shall be the duty of the assessor to keep a permanent record of all proceedings of the board and to enter therein all resolutions and decisions of the board. Such proceedings shall be filed in the office of the clerk not later than thirty days following the last meeting of the board of review.

(char. eff. Nov. 25, 1974)

10.808 **Sec. 8.8. BOARD OF REVIEW: MEETINGS REQUIRED: TIME: PLACE.**

The board of review shall convene in its first session in the forenoon of the Tuesday following the first Monday in March of each year at the City offices, and shall continue in session during that day, and at any adjourned meetings of the first session, for purpose of initial review and correction of the assessment roll of the city.

Immediately after review, and correction, if any, the board of review shall certify that it has completely reviewed the entire assessment roll in detail, and has, in its discretion, made only those corrections or adjustments which were fair and equitable under the circumstances.

In any case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the assessor, or any property is added to such roll by the board, or the board has resolved to consider at its

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second session such increasing of an assessment or the adding of any property to such roll, the assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the board. Such notice shall state the date, time, place and purpose of the second session of the board. The failure to give such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The board or review shall convene in its second session on the Tuesday following the third Monday in March of each year at such time of day and place as shall be designated by the council. Provided, however, that on at least one day of the session, its meeting shall begin at one (1:00) p.m. and continue until all interested persons have had an opportunity to be heard, but in no case less than six hours. At the said second session, the board may not increase any assessment or add any property to the rolls, except in those cases in which the board resolved at its first session to consider such increase or addition at its second session.
(char. eff. Nov. 25, 1974)

10.809 **Sec. 8.9. NOTICE OF MEETINGS.**

Notice of the time and place of the sessions of the board of review shall be published by the city clerk at least ten days prior to the third Monday in March.
(char. eff. Nov. 25, 1974)

10.810 **Sec. 8.10. ENDORSEMENT OF ROLL.**

After the board of review has completed its review of the assessment roll, a majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.
(char. eff. Nov. 25, 1974)

10.811 **Sec. 8.11. VALIDITY OF ASSESSMENT ROLL.**

Upon the completion of the assessment roll, and from and after midnight ending the last day of the sessions of the board of review, it shall be the assessment roll of the city for county, school and city taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all courts, and tribunals to be valid, and shall not be set aside, except for cause set forth by law.
(char. eff. Nov. 25, 1974)

10.812 **Sec. 8.12. CLERK TO CERTIFY TAX LEVY.**

Within three days after the council has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the council requires or orders to be assessed, reassessed, or charged upon the said roll against any property or any person in accordance with the provisions of this Charter of any ordinance of the city.
(char. eff. Nov. 25, 1974)

10.813 **Sec. 8.13. CITY TAX ROLL.**

After the board of review has completed its review of the assessment roll, the assessor shall prepare a copy of the assessment roll, to be known as the "city tax roll." Upon receiving the certification of the several amounts to be raised, as provided in section 8.12, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the general ad valorem city tax, county tax, and school tax, according to and in proportion to the several valuations set forth in said assessment roll.
(char. eff. Nov. 25, 1974)

10.814 **Sec. 8.14. TAX ROLL CERTIFIED FOR COLLECTION.**

After spreading the taxes the assessor shall certify the tax roll, and shall annex his warrant thereto directing and requiring the treasurer to collect, prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax, charge, or assessment, and granting to him for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June first, the roll shall be delivered to the treasurer for collection.
(char. eff. Nov. 25, 1974)

10.815 **Sec. 8.15. TAX LIEN ON PROPERTY.**

On July first the taxes thus assessed shall become a debt due the city from the persons to whom they are assessed and the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon, and all personal taxes shall become a debt of, and first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.
(char. eff. Nov. 25, 1974)

10.816 **Sec. 8.16. PERSONAL PROPERTY: JEOPARDY ASSESSMENT.**

If the treasurer finds or reasonably believes that any person who is, or may be, liable for taxes upon personal property, the taxable situs of which was in the city on tax day, intends to depart from the city; or to remove therefrom personal property, which is, or may be, liable for taxation; or to conceal himself or his property; or to do any other act tending to prejudice, or to render wholly or partly ineffectual the proceeding to collect such tax, unless proceedings therefor be brought without delay, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.
(char. eff. Nov. 25, 1974)

10.817 **Sec. 8.17. TAXES DUE AND NOTIFICATION.**

City taxes shall be due on the first day of July of each year. The treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall (a) publish, between June fifteenth and July first, notice of the time when said taxes be due for collection and the penalties and fees for late payment of the same, and (b) mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed.

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

(char. eff. Nov. 25, 1974)

10.818 **Sec. 8.18. COLLECTION FEES AND INTEREST.**

All taxes paid on or before September fourteenth of each year shall be collected by the treasurer without additional charge. On September fifteenth he shall add to all the taxes paid thereafter a collection fee equal to one-half of one per cent of the amount of said taxes, and on the first of each succeeding month he shall add an additional one-half of one per cent of said taxes as a collection fee. Such collection fees shall belong to the city and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectable in the same manner as the taxes to which they are added.

(char. eff. Nov. 25, 1974)

10.819 **Sec. 8.19. FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX.**

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

(char. eff. Nov. 25, 1974)

10.820 **Sec. 8.20. COLLECTION OF DELINQUENT TAXES.**

All taxes and charges, together with fees, penalties and interest upon real property on the tax roll, remaining uncollected by the treasurer on the first day of March following the date when the roll was received by him shall be returned to the county treasurer, to the extent and in the same manner and with like effect as provided by law for returns by township treasurers of the township and county taxes. Such returns shall include all the additional assessments, charges, fees, penalties and interest hereinbefore provided, which shall be added to the amount assessed in said

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tax roll against each property or person. The taxes, assessments and charges thus returned shall be collected in the same manner as other taxes returned to the county treasurer are collected in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.
(char. eff. Nov. 25, 1974)

10.821 **Sec. 8.21. STATE, COUNTY AND SCHOOL TAXES.**

For the purpose of assessing and collecting taxes for state, county and school purposes, the city shall be considered the same as a township, and all provisions of law relative to the collection of or accounting for such taxes shall apply. For these purposes, the treasurer shall perform the same duties and have the same powers as are granted and imposed upon township treasurers by law.
(char. eff. Nov. 25, 1974)

10.822 **Sec. 8.22. PROTECTION OF CITY LIEN.**

The city shall have power to acquire, by purchase, any premises with the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the city for taxes, or special assessments, or both, on said premises and the lien for other charges, collection charges and interest, and may hold, lease, or sell the same for purpose of securing therefrom the amount of such taxes, special assessments, charges, collection charges and interest, together with any incidental expense incurred in connection with the exercise of this power. Any such procedure exercised by the city in the protection of such liens shall be deemed to be for a public purpose.
(char. eff. Nov. 25, 1974)

10.900

CHAPTER 9
BORROWING POWER

10.901

Sec. 9.1. **AUTHORITY TO BORROW: NOTES, BONDS, ISSUANCE: REGULATIONS.**

Subject to the applicable provisions of statute and constitution, the council may by ordinance or resolution borrow money and issue bonds and other evidence of indebtedness therefor, for any purpose within the scope of powers vested in the city.

Such bonds or other evidences of indebtedness shall include, but not be limited to, the following types:

- a. General obligation bonds which pledge the full faith, credit and resources of the city for the payment of such obligations, including bonds for the city's portion of public improvements.
- b. Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in the manner provided by law.
- c. In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the city and for the preservation of municipal property.
- d. Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an obligation of the special assessment district or districts and a general obligation of the city.
- e. Mortgage bonds for the acquiring, owning, purchasing, constructing, improving or operating of any public utility which the city is authorized by this charter to acquire or operate; provided any such bonds shall not impose any liability upon such city but shall be acquired only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such nature that no sinking fund is required.
- f. Bonds issued at a rate of interest not to exceed that statutory limit per annum to refund money advanced or paid on special assessments.
- g. Bonds for the refunding of the funded indebtedness of the city.
- h. Revenue bonds as authorized by statute which are secured only by the

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revenues from a public improvement and do not constitute a general obligation of the city.
(char. eff. Nov. 25, 1974)

10.902 **Sec. 9.2. NET INDEBTEDNESS, RESTRICTION.**

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten per cent of the assessed value (state equalized) of all the real and personal property in the city, provided that in computing such net bonded indebtedness there shall be excluded therefrom all borrowed moneys permitted to be excluded by the laws or statutes of the State of Michigan.

The amount of emergency loans which the council may take under the provisions of section 9.1.(c) of this Charter may not exceed three-eighths of one per cent of the assessed value (state equalized) of all the real and personal property in the city.
(char. eff. Nov. 25, 1974)

10.903 **Sec. 9.3. BONDS, ISSUANCE; STATE LAW; ELECTORS; APPROVAL REQUIRED.**

- a. Except as provided in section 9.3.(b), no bonds pledging the full faith and credit of the city shall be issued without the approval of the majority of the electors voting thereon at any general or special election.
- b. The restrictions of 9.3.(a) shall not apply to general obligation bonds issued to pay the city's portion of public improvements the remainder of which are to be financed by special assessments; tax anticipation notes issued under section 9.1.(b); emergency bonds issued under section 9.1.(c); special assessment bonds issued under section 9.1.(d); refunding bonds issued under section 9.1.(g); or to bonds the issuance of which cannot, by statute, be so restricted by this Charter.
(char. eff. Nov. 25, 1974)

10.904 **Sec. 9.4. SAME; STATE LAW.**

The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issues, holding of such referendum and other applicable procedural requirements.
(char. eff. Nov. 25, 1974)

10.905 **Sec. 9.5. BONDS; CONTENTS, SIGNATURES; RECORDS; CANCELLATION; PROCEEDS, USE RESTRICTION.**

Each bond or other evidence of indebtedness shall contain in its face a statement specifying the general purpose for which the same is issued, and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidences of indebtedness issued by the city shall be signed by the mayor and countersigned by the clerk, under the seal of the city. Interest

coupons may be executed with the facsimile signatures of the mayor and clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the treasurer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "cancelled".
(char. eff. Nov. 25, 1974)

10.906

Sec. 9.6. UNISSUED BONDS; VOID AFTER SPECIFIED TIME.

No unissued bonds of the city shall be issued or sold to secure funds for any other purpose other than that for which they were specifically authorized, and if such bonds are not sold within three years after authorization such authorization shall, as to such bonds, be null and void, and such bonds shall be cancelled, except when delay is caused by liquidation or when a bond issue has been authorized to be issued in two or more parts or series. In case of liquidation, the three-year period shall start at a time of the filing of the final judgment or decree. In case of bonds authorized to be issued in two or more parts or series, the first part or series shall be sold within three years after authorization and the final series shall be sold within ten years after authorization.
(char. eff. Nov. 25, 1974)

10.907

Sec. 9.7. DEFERRED PAYMENT CONTRACTS.

The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years nor shall the total amounts of principal payable under all such contracts exceed the sum equal to one-quarter (1/4) of one per cent of the total assessed valuation (state equalized) of the city in any one fiscal year, unless a majority of the electors voting thereon at any general or special election approve thereof.

All such deferred payments shall be included in the budget for the year in which the installment is payable.
(char. eff. Nov. 25, 1974)

10.1000

**CHAPTER 10
SPECIAL ASSESSMENTS**

10.1001

Sec. 10.1. GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS.

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

(char. eff. Nov. 25, 1974)

10.1002

Sec. 10.2. DETAILED PROCEDURE TO BE FIXED BY ORDINANCE.

a. The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of public improvement projects, the preparation of plans and cost estimates, the creation of special assessment districts, notices and hearings, making of special assessment rolls, the correction of errors in such rolls, the confirming of special assessment rolls, the number of installments in which special assessments may be paid, the collection of special assessments, the making of additional assessments where the original special assessment roll proves insufficient to pay the cost of the improvement or the cost of the repayment of the principal of and interest on money borrowed to pay for such improvement, refunds of assessments which prove to be larger than the cost of the improvement. Provided that, when such surplus is less than five per cent (5%) of the total amount of the assessment roll, the surplus may be placed in the general fund; and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall include provisions for the following:

1. The procedure for filing petitions for public improvements.
2. A survey and report concerning the need for, desirable extent of, and probable cost of such proposed public improvement.
3. A public hearing by the Council on the necessity of the making of such public improvement and on the proposed special assessment district with a publication of notice of such hearing; Provided, that no such public hearing shall be required when a petition for a public improvement is signed by all owners of property to be assessed therefor.
4. A resolution of the Council, determining to proceed or not to proceed with the proposed public improvement and if the determination is to proceed, determining the probable life of the improvement, finally fixing the special assessment district therefor, and ordering the assessor to prepare a special assessment roll therefor; provided that, if prior to the adoption of the resolution to proceed with the making of

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the public improvement, written objections thereto have been filed by the owners of property in the district which will be required to bear more than fifty per cent (50%) of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted while such objections remain, except by the affirmative vote of five members of the Council.

5. A public hearing by the Council on the special assessment roll for the project with a publication notice of such hearing.
 6. A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefor, or the installments thereof, if installment payments be allowed, shall be due and payable, the number of annual installments, if allowed, in which the special assessment may be paid, and the rate of interest to be charged upon such deferred installments.
- b. That no additional assessment for any public improvement which exceeds 10 per cent (10%) of the original assessment shall be made, unless such additional assessment be reviewed at a meeting of the Council, for which meeting notices shall be published as provided in the case of review of the original special assessment roll.
 - c. Publication of notices required by this section shall be given in a newspaper of general circulation in the city and by first class mail to the owners of the property to be affected and other parties having an interest therein, as shown by the current assessment roll of the city, which publication and mailing shall not be less than ten days prior to the hearing to which it applies.
 - d. In the event that funds are on hand or a revolving fund exists to defray the expense of any public improvement prior to the completion thereof, the special assessment roll therefor may be made within sixty (60) days after the improvement is completed and shall be based upon the actual cost thereof.
 - e. When the city, may by law, participate in intergovernmental improvements, the cost of which may be defrayed in whole or part by special assessments, the procedure therefor shall be as provided by the law permitting the same. If such procedure is not so provided, the procedure established by and under authority of this chapter shall govern.
(char. eff. Nov. 25, 1974)

10.1003

Sec. 10.3. RECONSIDERATION OF PETITIONS.

In the event that the Council shall fail to make any public improvement petitioned for under the provisions of the special assessment ordinance during the calendar year during which any petition is filed, such petition shall be reconsidered by the Council prior to the first day of March of the succeeding calendar year for the purpose of determining whether such improvements should be made during such calendar year.
(char. eff. Nov. 25, 1974)

10.1004 **Sec. 10.4. CONDEMNATION COSTS.**

The cost of condemning or otherwise acquiring property needed for any public improvement shall constitute a part of the cost of the improvement, but in no case shall the amount of such cost which is included in any special assessment for any public improvement cause the assessment to exceed the amount of benefit received by any property assessed therefor through the making of the improvement.
(char. eff. Nov. 25, 1974)

10.1005 **Sec. 10.5. LIMITATIONS ON SUITS AND ACTIONS.**

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or additional special assessment unless (1) within thirty days after the confirmation of the special assessments roll, written notice be filed with the Clerk of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal, and (2) such suit or action shall be commenced with sixty (60) days after the confirmation of the roll.
(char. eff. Nov. 25, 1974)

10.1006 **Sec. 10.6. LIEN FOR AND COLLECTION OF SPECIAL ASSESSMENTS.**

Upon the confirmation of each special assessment roll, the special assessments thereon shall, until paid, be and continue to be lien upon the property assessed for the amount of such assessments and all interest and collection charges which may accrue thereon. Such lien shall be of the same character and effect as that which is created by this charter for the city taxes and shall be treated as such in all procedures for the collection of special assessments as in this charter provided. Such special assessments or the property assessed, according to the records of the assessor's office at the time the special assessment or installment thereof, as the case may be, is due for payment. All special assessments, or installments thereof, made in any calendar year which remain unpaid on the first Monday of March of the succeeding calendar year, together with the collection charges and interest which have accrued thereto, shall be placed upon the delinquent tax roll of the city as required in Chapter 8 of this Charter and shall be collected, or the collection thereof enforced, in the same manner as are delinquent taxes of the city. For this purpose, the word "assessment" used in Chapter 8 shall include special assessments authorized by this chapter.
(char. eff. Nov. 25, 1974)

10.1007 **Sec. 10.7. HAZARDS AND NUISANCES.**

When any lot, or premises, building, or structure within the city, because of age or dilapidation, the accumulation of refuse or debris, the uncontrolled growing of noxious weeds, or because of any other condition or happening becomes, in the opinion of the Council, a public nuisance, or hazard which is dangerous to the health, safety or welfare of the inhabitants of the city or of those residing or habitually going near such lot or premises, or such building, or structure, the Council may after investigation, give notice to the owners or owner of the land upon which such

nuisance or hazard exists or to the owner or occupant of the land or the building or structure itself, specifying the nature of the nuisance or hazard and ordering such owner or occupant to alter, repair, tear down, abate, or remove the nuisance or hazard within the time specified by the Council which shall be commensurate with the nature of the hazard or nuisance, or show cause at a hearing before the Council why such order was not obeyed. The notice herein required shall be in writing and delivered in person or by first class mail with postage prepaid thereon, addressed to the address set forth in the current assessment roll of the city or the records of the assessor and shall also specify the time and place of hearing, which hearing shall be at least ten (10) days later than set for the alternation, repair, tear down, abatement or removal of the nuisance or hazard. Such notice shall be given by the Clerk. If, after diligent and reasonable effort to locate the owner of the premises, or his agent, he cannot be found, such notice shall be given to the occupant of the premises, if any, and by posting upon the premises in plain view of all persons going upon or passing near such premises. If, at said hearing before the Council, it is determined that such nuisance or hazard does exist, or in any case where the owner of the land or building or structure itself is not known or cannot be found, the Council shall set a reasonable time for abatement of such nuisance or hazard. Such order as issued by the Council shall be given in writing to the owner or his representative, and in those cases where the owner is not known or cannot be found, a copy of said order shall be given to the occupant of the premises, if any, and by posting a copy of same in like manner as required for the initial notice. If, at the expiration of the time limit set in the order of abatement, the owner has not complied with the requirement thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such nuisance or hazard to be abated by the proper department or agency of the city qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises or description of property upon which such nuisance or hazard is located by special assessment.
(char. eff. Nov. 25, 1974)

10.1008 **Sec. 10.8. BOULEVARD LIGHTING.**

The council may provide a system of boulevard lighting for the city or any parts thereof, and may assess the cost thereof on any street for which such lighting is provided against the lands abutting thereon if the property owners of a majority of the frontage on such streets, or part thereof so to be improved, shall petition therefor.
(char. eff. Nov. 25, 1974)

10.1009 **Sec. 10.9. ALL REAL PROPERTY LIABLE FOR SPECIAL ASSESSMENTS.**

All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefitting such property, unless specifically exempted from special assessments by law.
(char. eff. Nov. 25, 1974)

10.1010 **Sec. 10.10. SPECIAL ASSESSMENTS ACCOUNTS.**

Monies raised by special assessment for any public improvement shall be credited to a special assessment account, and shall be used to pay the special assessment

portion of the cost of the improvement for which the assessment was levied and of expenses incidental thereto, including the repayment of the principal of and interest on money borrowed therefor, and to refund surplus assessments, if refunds be authorized.

(char. eff. Nov. 25, 1974)

10.1011

Sec. 10.11. CERTAIN POSTPONEMENTS OF PAYMENTS.

The Council may provide that any person who, in the opinion of the Assessor and Council, by reason of poverty is unable to contribute toward the cost of the making of a public improvement by special assessment, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by him and benefitted by any public improvement, which lien will mature and be effective from and after the date of the execution of such instrument which then shall be recorded with the Register of Deeds of Otsego County, and shall not be discharged or released until the terms thereof are met in full. In such event, the amount of the assessment for which such lien is created shall be advanced by the city. The Council shall establish the procedure of making this section effective.

(char. eff. Nov. 25, 1974)

10.1100

**CHAPTER 11
CONTRACTS AND LEASES**

10.1101

Sec. 11.1. **PURCHASE AND SALE OF PROPERTY; RESTRICTIONS.**

- a. The city manager shall be responsible for the purchase and sale of all city property.
- b. Comparative prices shall be obtained for the purchase or sale in an amount not in excess of two thousand dollars, of all materials, supplies, and public improvements, except (1) in the employment of professional services and (2) when the city manager shall determine that no advantage to the city would result.
- c. In all sales or purchases in excess of two thousand dollars, (1) the sale or purchase shall be approved by the council, (2) sealed bids shall be obtained, except that where the council shall determine by unanimous resolution of those present at the meeting that the public interest will be best served by joint purchase with, or purchase from, another unit of government, and (3) shall comply with the requirements of section 11.2. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The council may authorize the making of public improvements or the performance of any city work by any city agency, without competitive bidding.
- d. Purchase shall be made from the lowest qualified bidder meeting specifications, unless the council shall determine that the public interest will be better served by accepting a higher bid; sales shall be made to the bidder whose bid is most advantageous to the city. In any case where a bid, other than the lowest, is accepted, the council shall set forth its reasons therefor in its resolution accepting such bid.
- e. All purchases and sales shall be evidenced by written contract or purchase order.
- f. The city may not sell any park, cemetery, or any part thereof, except in accordance with restriction placed thereon by law.
- g. The city may not sell, exchange, or lease any real estate or any interest therein, except by the affirmative vote of five or more members of the council and subject to the referendary requirements of paragraph (h) of this section.
- h. Agreement or contracts for the sale, exchange or the lease of real estate or any interest therein shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the council at which such agreement or contract is authorized.
(char. eff. Nov. 25, 1974)

10.1102**Sec. 11.2. OPENING AND ACCEPTANCE OF BIDS.**

Except as provided by section 11.1 of this chapter, each contract for public improvement or for the purchase of personal property shall be let only after opportunity for competitive bidding. All bids shall be opened in public in the council room by the clerk or the purchasing officer at the time designated in the notice that such bids will be received and shall be reported by him to the council at its next meeting. The council may reject any or all bids or parts of bids, if deemed advisable. When one or more parts of a bid are rejected, the council may accept any part or parts which are not rejected. If, after two or more opportunities for competitive bidding have been had, with like notice and opportunity for bidding in each case, no bids have been received or the bids that have been received were not satisfactory to the council and were rejected by it, the council may endeavor to obtain new bids or may authorize the purchasing officer or proper official of the city to negotiate in the open market for a contract. If the council shall accept any bid, other than the lowest bid according to specifications, the reason for such action shall be set forth in the resolution accepting such bid.
(char. eff. Nov. 25, 1974)

10.1103**Sec. 11.3. CONTRACTS.**

- a. The authority to contract on behalf of the city is vested in the council and shall be exercised in accordance with the provisions of the law; provided, that purchases and sales may be made by the city manager, subject to the provisions of Sec. 11.1.
- b. Any contract or agreement in an amount of two thousand dollars or more, made with form or terms other than the standard city purchase form, shall, before execution, be submitted to the city attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed with the office of the clerk, together with a copy of the opinion.
- c. Before any contract, agreement, or purchase order which obligates the city to pay an account of two thousand dollars or more is executed the accounting officer of the city shall first certify that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds, by special assessments, or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing or purchase of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring the same or shall be filed as an attachment or rider thereto.
- d. No contract or purchase order shall be subdivided for the purpose of

circumventing the dollar value limitations contained in this section.

- e. No contract shall be altered or amended, after the same has been made, except upon the authority of the council; provided that, the city manager may alter or amend contracts for those purchases and sales made by him under authority of section 11.1.
- f. No compensation shall be paid to any contractor except in accordance with the terms of the contract made with him.
- g. No contract shall be made with any person who is in default to the city.
(char. eff. Nov. 25, 1974)

10.1104

Sec. 11.4. RESTRICTION ON POWERS TO LEASE PROPERTY.

- a. Any agreement or contract for the renting or leasing of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinance passed by the council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the council at which such agreement or contract is authorized.
- b. The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the council but the approval of such transfer or assignment shall not be subject to referendum.
- c. Rentals and leases, and renewals thereof, shall be for a fair consideration as determined by the council.
(char. eff. Nov. 25, 1974)

10.1200

**CHAPTER 12
UTILITIES**

10.1201

**ARTICLE A
MUNICIPAL UTILITIES**

10.1202

Sec. 12.1. GENERAL POWERS RESPECTING UTILITIES.

The city shall possess and hereby reserves to itself all the powers granted to cities by statute and Constitution to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and solid waste disposal facilities, or any of them, to the municipality and the inhabitants thereof, and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and Constitution.

(char. eff. Nov. 25, 1974)

10.1203

Sec. 12.2. MANAGEMENT OF PUBLIC UTILITIES.

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

(char. eff. Nov. 25, 1974)

10.1204

Sec. 12.3. RATES.

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

(char. eff. Nov. 25, 1974)

10.1205

Sec. 12.4. UTILITY RATES AND CHARGES; COLLECTION.

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

- a. The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rate or charges.
- b. That suit may be instituted by the city before a competent tribunal for the collection of such rates or charges. With respect to the collection of rates charged for water, the city shall have all the powers granted to cities by Act No. 178 of the Public Acts of 1939.

(char. eff. Nov. 25, 1974)

10.1206

Sec. 12.5. DISPOSAL OF UTILITY PLANTS AND PROPERTY.

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

(char. eff. Nov. 25, 1974)

10.1207

Sec. 12.6. UTILITY FINANCES.

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

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

(char. eff. Nov. 25, 1974)

10.1208

**ARTICLE B
PRIVATELY-OWNED UTILITIES; FRANCHISES**

10.1209 Sec. 12.7. **FRANCHISE REQUIRED.**

No person, partnership, association or corporation operating a public utility shall have the right to use the highways, streets, alleys or other public places of the city for wires, poles, pipes, tracks or conduits without first obtaining the consent of the council; nor may it transact a local business in the city without first obtaining a franchise therefor from the city.
(char. eff. Nov. 25, 1974)

10.1210 Sec. 12.8. **RIGHT OF CITY.**

The city shall have the right

- a. To regulate public utilities;
- b. To regulate the location of poles and other facilities used by public utilities, and
- c. To require that wires in alleys and streets be placed underground.
(char. eff. Nov. 25, 1974)

10.1211 Sec. 12.9. **PERMIT REVOCABLE.**

Temporary permits for public utilities, revocable at any time at the will of the city council, may be granted, by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises.
(char. eff. Nov. 25, 1974)

10.1212 Sec. 12.10. **GRANTING OF PUBLIC UTILITY FRANCHISE.**

- a. Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted by ordinance. No franchise shall be granted for a longer period than thirty (30) years.
- b. No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same has been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application therefor has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the council, shall have first been paid to the treasurer by the grantee.

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- c. A franchise ordinance, or renewal or extension thereof, or amendment thereto, which is subject to revocation at the will of the council may be enacted by the council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.
(char. eff. Nov. 25, 1974)

10.1213 **Sec. 12.11. FRANCHISE; LIMITATION AS TO TYPE.**

No exclusive franchise shall ever be granted to any person, firm or corporation.
(char. eff. Nov. 25, 1974)

10.1214 **Sec. 12.12. FURTHER REGULATORY POWERS.**

The grant of every franchise shall be subject to the right of the city whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience. Such right of the city shall include but shall not be limited to the following viz:

- a. To repeal the same for misuse, or nonuse, or for failure to comply with the provisions thereof;
- b. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- c. To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys and public places of the city, by the city and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that, in event of the inability of the parties to agree, upon application by either party, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- d. To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof and to protect and save the city harmless from all damages arising from such use.
(char. eff. Nov. 25, 1974)

10.1215 **Sec. 12.13. ORDINANCE REGULATION.**

The council may by ordinance provide for efficient inspection and regulation of all public utilities operated in the city. It is the intention of this section to provide means for securing to the city efficient service from all public utilities operated in the city and

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the proper observance of the conditions imposed by the franchise, the Charter and ordinance of the city and law of the state.
(char. eff. Nov. 25, 1974)

10.1216 **Sec. 12.14. REPEAL AND TERMINATION OF FRANCHISE; ACQUISITION OF UTILITY PROPERTY.**

All ordinances granting franchises, or extensions or renewals thereof, shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, used in or useful for the operation of the utility, at a price fixed in the ordinance or to be fixed in the manner provided by the ordinance granting the same. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods or acquisition shall be alternative to the power to purchase reserved in the ordinance granting such franchise, extension or renewal as herein before provided. Upon the acquisition by the city of the property of any utility by purchase, condemnation or otherwise, all franchises, extensions and renewals shall at once terminate.
(char. eff. Nov. 25, 1974)

10.1217 **Sec. 12.15. FRANCHISE ORDINANCE REQUIREMENTS.**

No ordinance granting such franchise, or extension or renewal thereof, shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that any be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such franchise, extension or renewal, except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount of and for the unused period of any compensation paid the city for such franchise, extension or renewal.
(char. eff. Nov. 25, 1974)

10.1300

**CHAPTER 13
MISCELLANEOUS**

10.1301 **Sec. 13.1. LIABILITY.**

The city shall not be liable for damages sustained by any person either to his person or property by reason of the negligence of the city, its officers or employees, nor by reason of any defective condition or obstruction in its highways and public buildings unless such person shall serve or cause to be served upon the clerk or other official authorized by law to receive process, within one hundred twenty days after the injury resulting in such damage shall have occurred, a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him. Such notice shall also comply with the provisions of Act 170, Public Acts of 1964, and any amendment thereof. (char. eff. Nov. 25, 1974)

10.1302 **Sec. 13.2. ESTOPPEL; NO DEFENSE AGAINST CITY.**

No estoppel may be created against the city.
(char. eff. Nov. 25, 1974)

10.1303 **Sec. 13.3. RECORDS TO BE PUBLIC.**

All city records shall be public and shall be available for inspection at reasonable times. All books, papers, records and accounts shall be kept in the city offices unless otherwise designated by the council for official reasons or purposes of safekeeping.
(char. eff. Nov. 25, 1974)

10.1304 **Sec. 13.4. PLATS.**

No land or premises shall be laid out, divided and platted into lots, streets, and alleys within the city except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the clerk a correct survey, plan and map of such ground and subdivisions thereof, platted and subdivision as provided by the council, and made to its satisfaction; showing also the relative position and location of such lots, streets, and alleys with respect to the adjacent lots and streets of the city; nor shall the city by reason of the approval of any such lot be responsible for the improvement, care and repairs of any streets and alleys shown thereon, excepting such of them as the council shall accept and confirm by ordinance or resolution. No plat shall be approved by the council wherein the lots and subdivisions thereof are described by metes and bounds.
(char. eff. Nov. 25, 1974)

10.1305 **Sec. 13.5. VACATION OF PUBLIC PLACES.**

Council action to vacate, discontinue or abolish any highway, street, lane, alley or

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other public place or part thereof shall be by resolution. After the introduction of such resolution and before its final adoption, the council shall appoint a time when it shall meet and hear objections thereto; and notice of the time, place and purpose of such meeting shall be published either separately or as part of the proceedings of the council. Objections to any such proposed resolution may be filed with the clerk in writing, and if any objections shall be filed, the highway, street, lane, alley, or other public place or part thereof shall not be vacated, discontinued or abolished except by a vote of five members of the council.

(char. eff. Nov. 25, 1974)

10.1306 **Sec. 13.6. AMENDMENTS.**

This charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts of 1909, as amended. Should two or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

(char. eff. Nov. 25, 1974)

10.1307 **Sec. 13.7. NOTICES; MAILING; PUBLICATION; REQUISITES.**

The requirement contained in this charter for the publishing or publication of notices or ordinances shall be met by publishing an appropriate insertion in a newspaper in the English language for the dissemination of news of a general character which newspaper shall have a general circulation at regular intervals in the city or county for at least two years immediately preceding the time that it is used for such publication purposes. The affidavit of the printer/publisher of such newspaper, or his foreman or principal clerk, annexed to a printed copy of such notice, ordinance, or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

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

(char. eff. Nov. 25, 1974)

10.1308 **Sec. 13.8. SAVING CLAUSE.**

All franchises, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this Charter and which are in force on the effective date of this Charter shall continue in full force until repealed or amended by action of the proper authorities.

(char. eff. Nov. 25, 1974)

10.1400

**CHAPTER 14
SCHEDULE**

10.1401 Sec. 14.1. **PURPOSE.**

The purpose of this schedule charter is to implement the government of the City of Gaylord under this Charter and it shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.
(char. eff. Nov. 25, 1974)

10.1402 Sec. 14.2. **ELECTION ON ADOPTION OF CHARTER.**

This Charter shall be submitted for adoption to a vote of the electors of the City of Gaylord at a regular election to be held on Tuesday, November 5, 1974, between the hours of 7:00 a.m. and 8:00 p.m. The clerk shall give notice of such submission as the law requires.
(char. eff. Nov. 25, 1974)

10.1403 Sec. 14.3. **FORM OF BALLOT.**

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

Instruction

A cross (X) in the square before the word "yes" is in favor of the proposed Charter and a cross (X) in the square before the word "no" is against the proposed Charter. "Shall the proposed charter for the City of Gaylord as drafted by the Charter Commission elected on November 7, 1972, be adopted?"
(char. eff. Nov. 25, 1974)

10.1404 Sec. 14.4. **CANVASS AND ADOPTION.**

A canvass of the votes taken shall be had in accordance with the procedures and rules governing such matters, under the provisions of this Charter and the election laws of the state. If, at said election, a majority of the electors voting on said Charter shall vote in favor of the adoption of said Charter, then said Charter shall be declared adopted. The Clerk of the Charter Commission shall send a Certification and two (2) copies of the Charter both to the Secretary of State and to the County Clerk.
(char. eff. Nov. 25, 1974)

10.1405 Sec. 14.5. **ELECTIVE OFFICERS; RETENTION OF.**

All elective officers elected prior to and at the election wherein this Charter is submitted for adoption and whose terms of office shall not have expired at the time this Charter shall go into effect, shall hold their offices until the end of the terms for which they were elected. Upon the expiration of their terms of office aforesaid, all elective offices will be subject to the provisions of this Charter and the applicable state laws in such cases made and provided.

Provided, however, any vacancy created for any reason in any elective office the

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The chairperson thereupon declared the foregoing resolution to be adopted and requested the members of the Commission to authenticate said resolution to be filed along with a true copy of said proposed charter with the City Clerk and presented to the Governor of the State of Michigan for his approval.

Clark Bates

Joan Glasser

Bonnie Vance

Shirley Bates

Jim Mongeau

