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PREAMBLE

To the end that the people of the City of Lapeer may continue to enjoy, to the fullest extent, the advantages and benefits of local self-government as authorized by the constitution and laws of the State of Michigan, the Charter of the City of Lapeer is hereby revised to read as follows:

CITY CHARTER

Lapeer, Michigan

CHAPTER 1

NAME AND BOUNDARIES

Name:

Section 1.1

The Municipal corporation heretofore created and now known as “The City of Lapeer” shall remain and continue a body corporate and politic under the name and title of “City of Lapeer” and include the territory hereinafter described with power and authority to change its boundaries in the manner authorized by law.

Boundaries:

Section 1.2.

The City of Lapeer shall include all the territory constituting the City of Lapeer in the County of Lapeer, together with such territory as may from time to time be attached thereto, and less such territory as may from time to time be detached therefrom, in accordance with law. The Clerk shall maintain and keep available in his office for public inspection and distribution an official description and map of the current boundaries of the city.

CHAPTER 2

MUNICIPAL POWERS

POWERS OF THE CITY:

Section 2.1. Unless otherwise provided or limited in this charter, the City of Lapeer and its officers shall be vested with any and all powers, privileges, and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the constitution and laws of the State of Michigan, and of the United States of America, including all powers, privileges, and immunities which cities are permitted to exercise or may provide for in their charters by Act No. 279 of Public Acts of 1909, as amended, as fully and completely as though those powers, privileges, and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges, or immunities in this charter be held to be exclusive. The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers shall be expressly enumerated or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitution and general laws of the State and the provisions of this charter.

EXERCISE OF POWERS:

Section 2.2. Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities or townships, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the City Commission shall select that procedure which it deems to be most expeditious and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city is set forth, either in this charter or in any statute of the State of Michigan, the City Commission may prescribe by ordinance a reasonable procedure for the exercise thereof.

CONTINUATION OF RIGHTS AND LIABILITIES:

Section 2.3. The adoption of this charter shall not be regarded as discharging, impairing, or limiting any liability incurred by the City of Lapeer at the time of the adoption of this charter.

INTER-GOVERNMENTAL CONTRACTS:

Section 2.4. The city shall have power to join with any governmental unit or agency, or with any number or combination thereof by contract or otherwise as may be permitted by law, to perform jointly, or by one or more of them, for or on behalf of the other or others any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each governmental unit or agency.

CHAPTER 3

ELECTIONS

QUALIFICATIONS OF ELECTORS:

Section 3.1. The residents of the city having the qualifications of electors in the State of Michigan shall be electors of the city.

ELECTION PROCEDURE:

Section 3.2. The election of all city officers shall be on a non-partisan basis. The general election statutes shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure and except as otherwise provided in this charter.

WARDS AND PRECINCTS:

Section 3.3. The City of Lapeer shall consist of one ward. The election precincts of the city shall remain as they exist on the effective date of this charter, until altered by the Commission as hereinafter provided. The City Commission shall by ordinance from time to time establish convenient election precincts in accordance with this charter and statutes.

ELECTION DATE:

Section 3.4. A regular city election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year at such place in each of the several voting precincts as the Commission shall designate.

History: Amended by electors 11-07-07.

ELECTIVE OFFICERS AND TERMS OF OFFICE:

Section 3.5. The elective officers of the City shall be a Mayor, and five Commissioners all of whom shall be nominated and elected from the city at large.

The term of office of Mayor and Commissioners shall be for four years each. All such terms shall commence at 12:01 a.m. at the then prevailing local time on the Monday next following the regular City Election at which they were elected.

History: Amended by electors 04-07-69; Amended by electors 04-03-78; Amended by electors 11-07-07.

SPECIAL ELECTIONS:

Section 3.6. Special city elections shall be held when called by resolution of the Commission at least ninety (90) days in advance of such election, or when required by this charter or statute. Any resolution calling a special election shall set forth the purpose of such election. No more special city elections shall be called in any one year than the number permitted by statute.

History: Amended by electors 11-07-07.

NOTICE OF ELECTION:

Section 3.7. Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the City Clerk in the same manner and at the same time as provided by statute for giving of election notices by city clerks.

VOTING HOURS:

Section 3.8. The polls at all elections shall be opened and closed at the time prescribed by statute.

NOMINATIONS:

Section 3.9. All nominations shall be by petition, signed in the aggregate by a number of electors of not less than thirty (30), nor more than sixty (60). No person shall sign his name to more than one petition for any one candidate, or to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular City Election. Where the signature of any individual appears on more petitions than he is permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of filing the petitions containing such signatures.

All nominating petitions shall be filed with the City Clerk not later than 4:00 p.m., local time, on the twelfth Tuesday prior to the City's general election date.

The City Clerk shall, prior to every election, publish notice of the last day permitted for filing nominating petitions and of the number of persons to be elected to each office at least thirty (30) days and not more than sixty (60) days before the last day for filing such nominating petitions.

History: Amended by electors 04-03-78; Amended by electors 11-07-07.

FORM OF PETITIONS:

Section 3.10. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the City Clerk. Such petitions shall be without any mark or designation showing the political affiliation of the person being so nominated.

APPROVAL OF PETITION:

Section 3.11. The City Clerk shall accept only nominating petitions which conform with the forms provided and maintained by him, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by this Charter.

When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The City Clerk shall, forthwith after the filing of the petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three (3) days after the deadline for the filing of nominating petitions, the City Clerk shall make his final determination as to the validity and sufficiency of the nominating petitions and whether or not the candidate has the qualifications required for his respective elective city office by this Charter and shall write his determination thereof on the fact of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in this charter shall be filed with such petition.

The City Clerk shall immediately notify in writing the candidate whose name appears thereon of his determination. Such notice to any candidate whose petition is found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger or registered mail. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 4:00 p.m. at the then prevailing local time on the 5th day after the last day for filing original petitions; thereafter no further petitions may be filed.

History: Amended by electors 04-03-78.

PUBLIC INSPECTIONS OF PETITIONS:

Section 3.12. All nomination petitions filed shall be open to public inspection in the office of the City Clerk.

CERTIFICATE OF NOMINATION:

Section 3.13. The City Clerk shall, on the tenth day before every City election, certify a list of the candidates so nominated for office at such election, whose names are entitled to appear on the ballot, as being the list of candidates nominated as required by this charter, together with the offices to be filled at such election, designating whether such election is for a full or unexpired term; and he shall file in his office said certified list of names and the offices to be filled, and he shall cause to be published in a notice calling for such election, once during the time preceding the election, in a newspaper of general circulation in the City of Lapeer, an election notice, which said notice shall contain a list of names of candidates for the offices to be filled, and the time and place of holding such election.

ELECTION COMMISSION:

Section 3.14. The City Commission shall, in January of each year, appoint an Election Commission of three election commissioners, each for a term of one year. No election commissioner shall be a candidate or nominee for any elective city office during the term of his office as an election commissioner. The election commissioners shall serve without compensation and shall elect their own chairman. They shall perform such duties relative to the preparation and printing of the ballots as are required by statute. The election Commission shall appoint the Board of Election Inspectors for each precinct and shall have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the City Commission. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

FORM OF BALLOT

Section 3.15. The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified nominees for each office shall be listed under a separate heading and shall be rotated systematically so that the name of each nominee will appear alternately in the first place on the ballot.

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

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

CANVASS OF VOTES:

Section 3.16. The canvas of votes shall be made in accordance with law.
History: Amended by electors 04-07-69.

THE VOTE:

Section 3.17. If at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Commission shall name a date for the appearance of such persons within one week after said election for the purpose of determining the election of such candidates by lot as provided by statute.

RECOUNT:

Section 3.18. A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

RECALL:

Section 3.19. Any elected official may be recalled from office by the electors of the city in the manner prescribed by statute. A vacancy created by such recall shall be filled in the manner prescribed by this charter and by statute.

CHAPTER 4

ORGANIZATION OF GOVERNMENT

THE CITY COMMISSION:

Section 4.1. The electors of the city shall elect a City Commission of five members, and a Mayor. The Commission shall constitute the legislative and governing body of the city and shall have power and authority, except as in this charter or by statute may be otherwise provided, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Commission" is used in this charter, the same shall be synonymous with the work "Council" or any other term used in any state or federal law in referring to municipal legislation or governing bodies.

QUALIFICATIONS OF COMMISSIONERS:

Section 4.2. Members of the Commission shall meet the eligibility requirements contained in Section 5.1 of this charter. The Commission shall be the sole judge of the election and qualification of its own members, subject only to review by the court.

COMPENSATION OF MAYOR AND COMMISSIONERS:

Section 4.3. The Mayor and Commissioners shall receive such compensation as is determined by the Local Officers Compensation Commission of the City of Lapeer in accordance with the provisions of Act 8 of the Public Acts of 1972, as amended, and the appropriate ordinance adopted by the City of Lapeer in pursuance thereto. The compensation presently established for the Mayor and the Commissioners by the Local Officers Compensation Commission of the City of Lapeer shall continue after the adoption of this section of the Charter for the remainder of the terms of the Mayor and Commissioners unless otherwise changed by said Local Officers Compensation Commission pursuant to said ordinance and law.

Such compensation shall be paid quarterly and except as otherwise provided in this charter shall constitute the only compensation which may be paid the Mayor or Commissioners for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the Mayor and Commissioners may, upon the order of the Commission, be paid such necessary bona fide expenses incurred in service on behalf of the city as are authorized and itemized.

History: Amended by electors 04-07-69; Amended by electors 04-03-78.

ELECTION OF MAYOR PRO TEM.:

Section 4.4. The Commission shall, at its first meeting following each regular city election, and after the newly elected members take office, elect one of its members to serve as Mayor Pro Tem. For a term to expire at the first Commission meeting following each regular city election.

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

DUTIES OF MAYOR:

- Section 4.5.**
- (a) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice in all proceedings of the Commission but shall have no vote therein except in the case of a tie; and, in case of a tie, he shall cast the deciding vote. He shall be the presiding officer of the Commission.
 - (b) He shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the city, and to suppress riot and disorderly conduct.
 - (c) The Mayor shall execute or authenticate by his signature such instruments as the Commission, this charter or any statutes of the State of Michigan or laws of the United States shall require.
 - (d) Except as may be required by statute, the Mayor shall exercise only such power as this charter or the Commission shall specifically confer upon him.

ADMINISTRATIVE SERVICE:

Section 4.6. The administrative officers of the city shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance. The City Commission may combine any such offices in one or more persons in any manner not inconsistent with the provisions of the general laws of the state.

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

All administrative officers of the city, except the City Manager and Attorney, shall be appointed by the City Manager for an indefinite period, subject to confirmation by the Commission. Such officers shall be responsible to the

City Manager and shall have their compensation fixed by him within the limits of budget appropriations. Such officers may be discharged by the City Manager.

Except as may be otherwise required by statute or this charter, the Commission may establish by ordinance such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department. The City Manager may prescribe such duties and responsibilities of the officers of each department responsible to him which are not inconsistent with this charter or with any ordinance or resolution.

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

History: Amended by electors 11-07-07.

RELATIONSHIP OF COMMISSION TO ADMINISTRATIVE SERVICE:

Section 4.7.

The functions of the city government shall be divided into two general divisions, policy forming and administrative. It shall be the duty of the City Commission to pass such legislation and formulate such policies as are necessary to the operation of the city government; and to hire a City Manager who shall have complete charge of enforcing such legislation and carrying out such policies, and in general, be charged with and responsible for all details of administration. It shall be the duty of every member of the Commission and every candidate for a seat on the Commission to preserve this distinction between the policy forming and administrative functions of the city government. In order to secure the efficiency of the city government, insofar as possible under this plan and to prevent embarrassment of the City Manager in his administrative duties, therefore the following rules shall be observed:

1. No candidate for a seat on the Commission shall promise employment to any person, the letting of any contract, or the purchase of any equipment or supplies, or promise any other favor, or emolument or expenditure of the city for the purpose of securing votes, but this provision shall not be held to apply to any promise which any candidates for a seat on the Commission may make regarding the advancement or consummation of any public improvement, the passage of any legislation, or any other question of public policy within the authority of the Commission.

2. Except for purposes of inquiry in administrative matters the Commission and its members shall deal solely with the Manager, and neither the Commission nor any member thereof shall give orders to any subordinate employee of the city, either publicly or privately; neither shall any member of the Commission direct or request:
 - (a) the appointment of any person to or the removal of any person from, any employment or office for which the City Manager is responsible;
 - (b) the purchase of any specific materials, supplies or equipment;
 - (c) the recommendation of any specific firm or person for a city contract.

It is not the intention of this provision to prevent frank discussion of the business of the city between the Manager and any member of the Commission at any time, but to prevent the personal favoritism or prejudice of any member of the Commission from hampering the administration on the city under the plan set forth in this section.

Any violation of provisions one and two of this section shall constitute misconduct in office. Any citizen, official, or employee of the city may bring charges of the violation of provision one of this section to the Commission in person or in writing, either before the regular city election or within 90 days thereafter, which charge must be accompanied by a sworn statement of at least one specific violation of this provision: under provision two, such charges may be made at any time during the term of office of any member of the Commission. After presentation of such charges under either of the above provisions and such further inquiry as the Commission may desire to make, if the Commission shall adopt, by at least three affirmative votes, a resolution setting forth the charges and declaring that this section of the charter appears to have been violated, the Commission shall undertake removal proceedings against any so accused candidate or incumbent in office pursuant to Section 5.3. Any person found guilty of such misconduct in office shall immediately forfeit his office and be ineligible to hold office for three years. The decision of the Commission for any violation of this Section shall be subject to appeal to the Circuit Court.

CITY MANAGER: APPOINTMENT AND QUALIFICATIONS:

Section 4.8. The Commission shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of the majority of the Commission, but he shall not be removed from office during a period of sixty days following any regular city election

except by the affirmative vote of five members of the Commission. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience. No member of the Commission shall be eligible to the position of City Manager within two years of the expiration of his last previous term on the Commission.

ACTING CITY MANAGER:

Section 4.9. The Commission may appoint or designate an Acting Manager during the period of a vacancy in the office or during the absence of the City Manager from the city. Such Acting City manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Manager.

CITY MANAGER: FUNCTIONS AND DUTIES:

Section 4.10. 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 Commission for the efficient administration of all departments and utilities of the city government, except the department under the direction of the Attorney;
- (b) To see that all laws and ordinances are enforced;
- (c) To appoint the heads of the several city departments whose appointment is not otherwise specified in this charter, and to direct and supervise such department heads;
- (d) To give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts, or agreements;
- (e) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- (f) To recommend an annual budget to the Commission and to administer the budget as finally adopted under policies formulated by the Commission, and to keep the Commission fully advised at all times as to the financial condition and needs of the city;
- (g) To recommend to the Commission for adoption such measures as he may deem necessary or expedient; and to attend Commission meetings with the right to take part in discussions but not to vote;
- (h) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;

- (i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Commission and to generally accepted principles and procedure of governmental accounting. He shall submit financial statements to the Commission quarterly, or more often as the Commission directs.
- (j) To act as Purchasing Agent for the city or, under his responsibility, delegate such duties to some other officer or employee of the city.
- (k) To perform such other duties as may be prescribed by this charter or required of him by ordinance or by direction of the Commission.

CLERK: FUNCTIONS AND DUTIES:

Section 4.11.

- (a) The Clerk shall be the Clerk of the Commission and shall attend all meetings of the Commission and shall keep a permanent journal of its proceedings in the English language.
- (b) The Clerk shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, bonds, and records pertaining to the city the custody of which is not otherwise provided for.
- (c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Commission.
- (d) The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.
- (e) The Clerk shall have power to administer oaths of office.
- (f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

TREASURER: FUNCTIONS AND DUTIES:

Section 4.12.

- (a) The Treasurer shall have the custody of all monies of the city, any bond pertaining solely to the Clerk, and all evidences of indebtedness belonging to the city or held in trust by the city.
- (b) The Treasurer shall collect all monies of the city the collection of which is not provided for elsewhere by charter or ordinance. He shall receive from other officers and employees of the city all money

belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the treasurer after collection and he shall in all cases give a receipt therefor.

- (c) The Treasurer shall keep and deposit all monies or funds in such manner and only in such places as the Commission may determine and shall report the same in detail to the City Manager.
- (d) The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the Commission.
- (e) The Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.
- (f) The Treasurer shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

ASSESSOR: FUNCTIONS AND DUTIES:

Section 4.13. The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Commission or by the City Manager.

ATTORNEY: FUNCTIONS AND DUTIES:

Section 4.14.

- (a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Commission and shall be responsible solely to the Commission. He shall advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.
- (b) The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the Commission may request. He shall file with the Clerk copies of such records and files relating thereto as the Commission may direct.
- (c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the

Commission and shall promptly give his opinion as to the legality thereof.

- (d) The Attorney shall call to the attention of the Commission and the City Manager all matters of law, and changes and developments therein, affecting the city.
- (e) The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Commission.
- (f) Upon the recommendation of the Attorney, or upon its own initiative, the Commission may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the Attorney therein.

COMPENSATION OF ATTORNEY AND SPECIAL COUNSEL:

Section 4.15. The compensation of the attorney shall be set by the Commission. No compensation to special legal counsel shall be paid except in accordance with an agreement between the Commission and the Attorney or Special Counsel made before the service for which such compensation is to be paid has been rendered.

DEPUTY ADMINISTRATIVE OFFICERS:

Section 4.16. The Clerk, Treasurer and Assessor may appoint their own deputies subject to the written confirmation of the City Manager, and may terminate the status of their deputies at their pleasure upon written notice to the City Manager. Such deputies shall, in each case, possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superiors or by the City Manager.

INDEPENDENT BOARDS AND COMMISSIONS:

Section 4.17. The Commission may not create any board or commission to administer any activity except:

- (a) a municipal hospital,
- (b) a municipal cemetery,
- (c) parks and recreation,
- (d) a municipal library,
- (e) Local Officers Compensation Commission,
- (f) Housing Commission, and

- (g) any activity, board or commission required or permitted by law to act or administer.

The Commission may establish quasi-judicial appeal boards and may also establish boards or commission to serve solely in an advisory capacity.

History: Amended by electors 04-03-78.

Section 4.18. The Commission shall have the power and authority to establish, by ordinance, a Violations Bureau for the handling in accordance with law of violations of ordinances and regulations of the city regarding the parking of vehicles. The creation of such Violations Bureau shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

History: Amended by electors 04-07-69.

CHAPTER 5
GENERAL PROVISIONS REGARDING
OFFICERS AND PERSONNEL
OF THE CITY

ELIGIBILITY FOR OFFICE:

Section 5.1. No person shall hold any elective office of the City unless he has been a resident of the City for at least one year immediately prior to the last day for filing original petitions for such office or prior to the time of his appointment to fill a vacancy. No person shall hold any elective office unless he has been a qualified and registered elector of the City for at least thirty days immediately preceding such last day for filing petitions or at such time of appointment and continue to be a qualified and registered elector throughout his tenure of office.

No person shall be elected or appointed to any office of the City who is a defaulter to the City or any board of officers thereof. All votes for, or any appointment of, any such defaulter shall be void.

No person shall be eligible to any elective office of the City unless he shall have been a taxpayer, or exempt from taxes by operation of the law, to the City of Lapeer for a period of at least six months immediately prior to the last day for filing original petitions for such office or prior to the time of his appointment to fill a vacancy.

No person who holds or has held the office of mayor or commissioner shall be eligible to hold any appointive office of the City for which there is compensation paid by the City until two years have elapsed following the expiration of the term of office for which he was elected.

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

No person shall be eligible for appointment to any public corporation of the City unless either (1) he shall have been a resident of the City for at least one year prior to the date of his appointment and shall be a qualified and registered elector of the City on such date and throughout his tenure of office, or (2) he shall have been a taxpayer to the City of Lapeer for a period of at least one year prior to such appointment and shall be a taxpayer to the City of Lapeer and a qualified and registered elector in the County of Lapeer on such day and throughout his tenure of office.

No incumbent elective city officer shall become a candidate for any elective city office, except to succeed himself, without first resigning from his then incumbent elective city office. Provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which he is to be a candidate for another elective city office. No appointive city officer or employee, shall seek any elective office of the city, unless he resigns from his position with the city nor shall any elected official serve the city in any other position for compensation.

History: Amended by electors 04-02-84.

VACANCIES IN ELECTIVE OFFICES, BOARDS AND COMMISSIONS:

Section 5.2. Any elective city office or the office of any member of any board or commission created by, or pursuant to, this charter, shall be declared vacant by the Commission before the expiration of the term of such office.

- (a) For any reason specified by statute or by this charter as creating a vacancy in office;
- (b) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this charter;
- (c) If such officer shall miss four consecutive regular meetings of such board, or commission, or City Commission or twenty-five percent of such meetings in any fiscal year of the city, unless such absence shall be excused by such board, commission, or City Commission as the case may be, and the reason therefor entered in the proceedings of the appropriate body at the time of each absence;
- (d) If the officer is removed from office by the Commission in accordance with the provisions of Section 5.3;
- (e) If no person is elected to, or qualified for, the office at the election at which such office is to be filled.

REMOVALS FROM OFFICE:

Section 5.3. Removals by the Commission of elective officers, or officers appointed by the Commission, or of members of boards or commissions shall be made for either of the following reasons:

- (a) for any reason specified by statute for removal of city officers by the Governor,
- (b) for any act declared by this charter to constitute misconduct in office.

Such removals by the Commission shall be made only after a hearing of which such officer has been given notice by the Clerk at least ten days in

advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Commission in office at the time, exclusive of any member whose removal is being considered shall be required for such removal.

RESIGNATIONS:

Section 5.4. Resignations of elective officers shall be made in writing and filed with the Clerk and shall be acted upon by the Commission at its next regular meeting following receipt thereof by the Clerk. Resignations of officers appointed by the Commission shall be made in writing to the Commission. All resignations shall be immediately acted upon.

FILLING VACANCIES IN ELECTIVE OFFICES:

Section 5.5. Any vacancy which occurs in the Commission or office of Mayor shall be filled within thirty days by a majority vote of the remaining members of the Commission, said appointee to hold office until the Monday following the election at which such vacancy shall be filled for any balance of the unexpired original term.

If any vacancy in the office of Commissioner or Mayor which the Commission is authorized to fill is not so filled within thirty days after such vacancy occurs, or if three or more vacancies exist simultaneously in the office of Commissioner, such vacancies shall be filled for the respective unexpired terms at a special election, which shall be forthwith called by the City Clerk unless such vacancy or vacancies shall occur and be unfilled less than ninety days prior to a regular election. In connection with any special election to fill a vacancy or vacancies in any elective office no primary election shall be held; candidates shall be nominated by petitions and the names of all qualified candidates who file sufficient valid nomination petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this section shall govern.

The provisions of this section shall not apply to the filling of vacancies resulting from recall.

FILLING VACANCIES IN APPOINTIVE OFFICES:

Section 5.6. Vacancies in appointive offices, boards, and commissions shall be filled in the manner provided for making the original appointment for the unexpired term of such position.

FILLING VACANCIES IN THE OFFICE OF JUSTICE OF THE PEACE:

Section 5.7 Repealed. Repealed by electors 04-07-69.
NOTE: Section 26, Article VI of the Constitution and the State of Michigan of 1963 abolished this office on 01-01-69.

CHANGE IN TERM OF OFFICE OR COMPENSATION:

Section 5.8. Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards and commissions appointed for a definite term shall not be shortened. The terms of elective officers shall not be extended beyond the period for which any such officer was elected except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected or appointed and has qualified.

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

OATH OF OFFICE AND BOND:

Section 5.9. Every officer, elective or appointive, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by statute, this charter or by the Commission. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Commission shall by resolution extend the time in which such officer may qualify.

SURETY BONDS:

Section 5.10. Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Commission shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the Commission shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully

perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or agent of the city, all books, papers, monies, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may further be conditioned as the Commission shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all monies received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

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

DELIVERY OF OFFICE:

Section 5.11. Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner on demand, deliver to his successor in office or to his superior all the books, papers, monies, and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent court may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, or both, in the discretion of the court.

FINANCIAL INTEREST PROHIBITED:

Section 5.12. No person holding any elective or appointive office under the city government shall take any official action on any contract with the city or other matter in which he or any relative by blood or marriage, within the second degree of consanguinity or affinity, is financially interested, or be a bondsman or surety on any contract or bond given to the city. A "contract" shall for the purposes of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city. Financial interest shall not include the ownership, either individually or in a fiduciary capacity, by any such person or such relatives of said person or any beneficial interest in securities of any corporation with which a contract is made, unless the aggregate amount of such securities or beneficial interest in such securities, so owned by such person and such relatives of said person, shall amount to ten percent or

more of any class of the securities of such corporation then issued and outstanding.

Any officer who knowingly permits the city to enter into any contract in which he has a financial interest without disclosing such interest to the Commission prior to the action of the Commission in authorizing such contract, shall be guilty of misconduct in office. Any officer of the Commission or other officer found guilty of violating this provision by a court of competent jurisdiction may be punished by a fine of not to exceed \$500 or imprisonment for not to exceed ninety days or both in the discretion of the court.

NEPOTISM:

Section 5.13. Except and unless relatives by blood or marriage of the Mayor, any Commissioner, or of the City Manager, within the second degree of consanguinity or affinity, are bona fide appointive officers or employees of the city at the time of the election of such officers or appointment of such City Manager, such relative shall be disqualified from holding any appointive office or from being employed by the city, during the term for which such Mayor or Commissioner was elected, or during the tenure of office of such City Manager. If the status of relationship between any employee of the city and any officer of the city changes to a relationship prohibited hereby after one (1) year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

COMPENSATION OF EMPLOYEES AND OFFICERS:

- Section 5.14.**
- (a) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations without regard to specific allocations therein and in accordance with any duly adopted pay plan.
 - (b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services.

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

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

EMPLOYEE WELFARE BENEFITS AND PENSION PLAN:

Section 5.15. The Commission shall have the power to make available to the elective or appointive officers and employees of the city and its departments and boards any recognized standard plan of group life, hospital, health, or accident insurance either independently of, or as a supplement to, any retirement plan provided for such officers and employees.

The Commission may make available to the regular administrative officers and employees of the city and its department heads or boards, a pension and retirement plan.

MERIT SYSTEM:

Section 5.16. The Commission may provide for a merit system for city employees.

CHAPTER 6

THE COMMISSION: PROCEDURE AND MISCELLANEOUS POWERS AND DUTIES

REGULAR MEETINGS:

Section 6.1. The City Commission shall hold regular or stated meetings at least twice each month. Special meetings may be called at any time by the Mayor, Clerk, or by three Commissioners. The first meeting of the City Commission shall be held within ten days after their election and qualification at the Commission Chambers.

SPECIAL MEETINGS:

Section 6.2. The City Clerk shall notify all members of the City Commission of any special meeting, personally, by telephone, or shall cause a notice thereof to be served upon them, in either case at least two hours before the time of the meeting.

BUSINESS AT SPECIAL MEETINGS:

Section 6.3. No business shall be transacted at any special meeting of the Commission unless the same is that for which the meeting has been expressly called. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Commission in office at that time are present.

MEETINGS TO BE PUBLIC:

Section 6.4. All regular and special meetings of the Commission shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Commission may prescribe.

QUORUM; ADJOURNMENT OF MEETING; AND REQUIRED AFFIRMATIVE VOTE:

Section 6.5. The majority of the members of the Commission in office at the time shall be a quorum for the transaction of business at all Commission meetings but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the Clerk may adjourn any meeting for not longer than one week. Except as may be otherwise provided in this Charter, no action, other than adjournment, shall be taken by the City Commission except upon the affirmative vote of a majority of the members of the Commission in office at the time.

COMPULSORY ATTENDANCE AND CONDUCT AT MEETINGS:

Section 6.6. Any two or more members of the Commission may by vote either request or compel the attendance of its members and other officers of the city at any meeting. Any member of the Commission or other officer who when notified of such request for his attendance fails to attend such meeting for reason other than confining illness or absence from Lapeer County shall be deemed guilty of misconduct in office unless excused by the Commission. The presiding officer shall enforce orderly conduct at meetings and any member of the Commission or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

Any police officer designated by the presiding officer of the meeting shall serve as the Sergeant-at-Arms of the Commission in the enforcement of the provisions of this section.

ORGANIZATION AND RULES OF THE COMMISSION:

Section 6.7. The Commission shall be the sole judge of the election and qualification of its own members and its own organization, rules, and order of business, subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.
- (b) No member of the Commission shall vote on any question in which he has a financial interest, other than the common public interest, or on any question concerning his own conduct. On all other questions each member who is present shall vote when his name is called, unless excused by the unanimous consent of the remaining members present. Any member refusing to vote, when not excused or disqualified by this paragraph, shall be guilty of misconduct in office.
- (c) The proceedings of the Commission, or a brief summary thereof, shall be published within seven days following the date of approval. Any such summary shall be prepared by the Clerk and shall show the substance of each separate proceeding of the Commission.
- (d) There shall be no standing committees of the Commission.

INVESTIGATIONS:

Section 6.8.

The Commission or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters in which the municipality has an interest. The Commission for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

The Clerk shall issue such summons on behalf of the Commission.

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

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

PROVIDING FOR PUBLIC HEALTH AND SAFETY:

Section 6.9.

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

CHAPTER 7
LEGISLATION

PRIOR CITY LEGISLATION:

Section 7.1. All valid bylaws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this charter and which are in force and effect at the time of the effective date of this charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this charter, be appointed by the Commission.

Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulations which are inconsistent with this charter, are hereby repealed.

FORM OF ORDINANCES:

Section 7.2. All official action of the Commission shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be so done by this charter or by state or federal law or pertaining to the internal affairs or concern of the city government. All other acts of the Commission and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number and by a code section number when the codification of ordinances is completed.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be "The City of Lapeer ordains".

ENACTMENT, AMENDMENT, REPEAL AND EFFECTIVE DATE OF ORDINANCES:

Section 7.3. Subject to the statutes and to the exceptions which follow hereafter,

- (a) ordinances may be enacted by the affirmative vote of not less than a majority of the members of the Commission in office at that time,
- (b) no ordinance shall be amended or repealed except by an ordinance adopted as aforesaid,
- (c) no ordinance shall be enacted at the meeting at which it is introduced nor until after publication of the proceedings or summary thereof of such meeting (which proceedings or summary shall include a statement of its title and purpose), and

- (d) the effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than the date of publication thereof.

It is provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health, or safety may be enacted at the meeting at which it is introduced or before publication of the proceedings of the meeting at which it is introduced, or may be given earlier effect than the date of publication, or all three, by the affirmative vote of all members of the Commission present at the meeting at which it is enacted.

In case an ordinance is given effect earlier than the date of publication, the requirements of publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three public places in the City, other provisions of this Charter notwithstanding; and the Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance a certificate under his hand stating the time and place of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation. Such ordinance shall also be published in accordance with Section 7.4, but not as a requirement for the effectiveness thereof.

No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of Section 14.2.

No ordinance shall be amended by reference to its title only, and the revised sections of the ordinance, as amended, shall be re-enacted and published in full. However, an ordinance or section thereof may be repealed by reference to its title and ordinance or code number only.

History: Amended by electors 04-03-78.

PUBLICATION AND RECORDING OF ORDINANCES:

Section 7.4. Each ordinance shall be published within thirty (30) days after its enactment by publishing the full text thereof in a newspaper as defined in Section 17.8 either separately or as part of the published Commission proceedings.

All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book," but the failure to so record shall not invalidate it or suspend its operation.

History: Amended by electors 04-03-78.

PENALTIES FOR VIOLATIONS OF ORDINANCES:

Section 7.5. The Commission may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both in the discretion of the court.

SPECIAL REQUIREMENTS FOR CERTAIN COMMISSION ACTIONS:

Section 7.6. Any action to vacate, discontinue or abolish any highway, street, alley, lane, or other public place, or part thereof, shall be subject to the provisions of statute and shall be by resolution. After the introduction of such resolution and before its final adoption, the Commission shall hold a public hearing thereon and shall post or publish notices of such hearing at least one week prior thereto.

ENACTMENT OF TECHNICAL CODES BY REFERENCE:

Section 7.7. The Commission may adopt in whole or in part any provisions of state law or any detailed technical regulations as a city ordinance or code by citation of such provisions of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city. Where any code, or amendment thereto, is so adopted, all requirements for its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinance citing such code in the manner provided for the publication of other ordinances and (2) by making available to the public copies of the code cited therein book or booklet format a reasonable charge.

SEVERABILITY OF ORDINANCE:

Section 7.8. Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperative, and to this end ordinances are declared to be severable.

COMPILATION OR CODIFICATION OF ORDINANCES:

Section 7.9. Within two years after the effective date of this charter, the Commission shall direct the compilation or codification and printing in loose-leaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. If a codification is complete it shall be maintained thereafter in current form; if a compilation is

completed, a recompilation shall be completed at least once in every ten years thereafter. Any codification may include provisions not previously contained in ordinances of the city.

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

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

INITIATIVE, REFERENDUM AND RECALL: INITIATIVE:

Section 7.10

All petitions to initiate an ordinance shall be submitted to the City Attorney before being circulated and have his written endorsement thereon certifying that the same is correct in form.

Any proposed ordinance may be submitted to the Commission by petition signed by qualified electors of the City equal in number to 15 percent of the total votes cast for Mayor at the last municipal election at which a Mayor was elected. The street address of each signer to said petition must be given.

Said petition shall be presented to the City Clerk who shall examine the same and certify to the Commission at their next meeting whether or not the necessary number of qualified electors have affixed their signatures thereto.

Said petition shall be accompanied by an affidavit of the person circulating said petition in form substantially as follows:

STATE OF MICHIGAN --
County of Lapeer,

_____ being duly sworn says that he circulated the petition hereto attached; that the signatures are all genuine; that they were affixed to said petition in his presence and that the signers thereof are all legally qualified electors of said City.

Subscribed and sworn to before me this ____ day of

NOTARY PUBLIC.

My commission expires:

In case more than one petition is circulated, such affidavit must be attached to each petition and it shall be deemed a compliance with the requirements of this Charter if the total number of names on all such petitions shall equal the percentage required.

Within thirty days after the presentation to the Commission of such petition said Commission shall either,

- (A) Pass such ordinance as is requested, or
- (B) Call a special election to be held within thirty days, unless a special or general election is to be held within ninety days, at which said general or special election said proposed ordinance shall be submitted to the vote of the qualified electors of said City.

If upon the submission of any proposed ordinance a majority of those voting upon such question shall vote in favor of the adoption of such ordinance, such ordinance shall become effective on the twentieth day after the canvass of said votes.

In case said ordinance fails to receive a majority of the votes so cast, it shall not be re-submitted to the qualified electors of the City of Lapeer within a period of one year following the date of the first submission.

The general provisions of this Charter shall apply to all elections held under the authority of this Chapter, unless inconsistent herewith.

REFERENDUM:

Section 7.11.

If during a period of twenty days after the Commission has adopted any ordinance, a petition signed by legally qualified electors to the number of 25 percent of the votes cast for Mayor at the last municipal election at which a Mayor was elected requesting that such ordinance be repealed, or amended, said ordinance shall not become operative until the following steps have been taken:

- (A) The City Clerk shall examine said petition and shall certify thereon whether or not the necessary number of qualified electors have signed the same.
- (B) He shall present the same to the Commission at its next regular meeting.
- (C) Said Commission shall within twenty days next thereafter either repeal or amend said ordinance in conformity with the petition or confirm said ordinance as originally passed.

- (D) If said ordinance be confirmed, the Commission shall present the same at a general or special election to be voted on by the qualified electors of said City in the same manner as in case of ordinances originating by petition.
- (E) If repealed or amended in conformity with said petition said ordinance shall stand as repealed or amended, and if amended shall be effective at the expiration of twenty days thereafter.

The form of the petition, authentication by oath and certification to the Commission shall be the same as hereinbefore provided in the case of ordinances originating by petition.

Any resolution involving the granting of a franchise shall for the purpose of this Charter be deemed an ordinance.

RECALL:

Section 7.12.

Any elective officer of the City of Lapeer, may be recalled from office by the electors in the following manner:

A petition demanding the recall of such officer shall be submitted to the City Clerk.

Such petition shall be signed by qualified electors to the number of 30 percent of the total vote cast for Mayor at the last municipal election at which a Mayor was elected.

Any person desiring to circulate such a petition shall make affidavit to that effect stating in said affidavit the name or names of the officers desired to be recalled and setting forth the reasons for such recall.

Upon receipt of such affidavit the City Clerk shall thereupon furnish the applicant with the necessary petition blanks signed by the City Clerk upon which there shall be printed, or typewritten, the object of the petition, the name or names of the officer or officers desired to be recalled and the reasons for such recall. (Provided that the wording of the petition in regard to the reasons for such recall shall be identical with that part of the original affidavit.)

The city address of each signer to such petition shall be given. Said name and address shall be with ink or indelible pencil.

More than one petition may be circulated, but for the purpose of determining the number of signers all related petitions shall be deemed one petition.

Each petition shall be accompanied by an affidavit of the party circulating the same stating that the signatures thereon are all genuine and that they are affixed in his presence.

Upon receipt of said petition the Clerk shall within three days determine whether or not the necessary number of qualified electors have signed the petition.

If his determination is that the number signing said petition is less than said 30 percent he shall return said petition to the party making the original affidavit.

If said petition be again filed with the City Clerk within five days thereafter with additional names the Clerk shall thereupon again examine the same and if the number be still less than the 30 percent herein before mentioned, he shall thereupon cancel said petition. His action, however, shall be without prejudice to the filing of a new petition.

The determination of said City Clerk shall be based upon the poll books used at the last municipal election.

If as provided above, the Clerk shall determine that the necessary number of qualified electors has signed said petition, he shall certify that fact to the Commission at its next meeting.

If within five days, thereafter the person whose recall is demanded does not resign, the Commission shall call a special election within thirty days thereafter (unless a general or municipal election is to be held within sixty days) and at such special or general election in the discretion of the Commission, the question of the recall of the officer or officers shall be submitted to the electors in form as follows:

Shall _____ be recalled.

YES ()

NO ()

If a majority of the electors voting on said question vote for the recall of said official, he shall be deemed removed and the Commission shall fill the vacancy so caused in the manner provided for filling of vacancies in elective offices.

Any person so removed from office shall not be appointed to any municipal office for one year thereafter.

MISCELLANEOUS PROVISIONS ON INITIATORY AND REFERENDARY PETITIONS:

Section 7.13.

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

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

Chapter 8

GENERAL FINANCE--BUDGET, AUDIT

FISCAL YEAR:

Section 8.1. The fiscal year of the City shall begin on the first day of July of each year, commencing July 1, 1978.

History: Amended by electors 04-03-78.

BUDGET PROCEDURE:

Section 8.2. The City Manager shall prepare and submit to the Commission on or before the second Monday in May of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimates, with supporting explanations of proposed expenditures for each department office, and agency of the city together with the expenditures for corresponding items for the last preceding fiscal year in full;
- (b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the conditions 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;
- (d) A statement of the balance or deficit for the end of the past fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and revenues from all other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting information as the Commission may request.

ADOPTION OF BUDGET:

Section 8.3. During the month of May in each year, the Commission shall by resolution adopt a budget for that fiscal year, shall appropriate the money needed for municipal purposes and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes.

BUDGET CONTROL:

Section 8.4. At the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the City Manager shall submit to the Commission data showing the relation between the estimated and actual revenues and expenditures to date.

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

DEPOSITORY:

Section 8.5. The Commission shall designate depositories for city funds and shall provide for the regular deposit of all city monies. The Commission shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

INDEPENDENT AUDIT: ANNUAL REPORT:

Section 8.6. An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the Commission. Such audit shall be made by a Certified Public Accountant experienced in municipal accounting selected by the Commission.

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

CHAPTER 9

TAXATION

POWER TO TAX; TAX LIMIT:

Section 9.1. The city shall have the power to assess taxes and levy and collect rents, tolls, and excises. The annual ad valorem tax levy shall not exceed that percentage allowed by statute of the assessed value of all real and personal property subject to taxation in the city.

SUBJECTS OF TAXATION:

Section 9.2. The subject of ad valorem taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law. Except as otherwise provided by this charter, city taxes shall be levied, collected, and returned in the manner provided by statute.

EXEMPTIONS:

Section 9.3. No exemptions from taxation shall be allowed except as expressly required or permitted by statute.

TAX DAY:

Section 9.4. Subject to the exceptions provided or permitted by statute the taxable status of persons and property shall be determined as of the first day of January, which shall be deemed the tax day.

PREPARATION OF THE ASSESSMENT ROLL:

Section 9.5. On or before the first Monday in March in each year the Assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

BOARD OF REVIEW:

Section 9.6. The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in

Section 5.1 and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the Board of Review of his nomination petition for an elective office or the filing of a consent thereto shall constitute a resignation from the Board of Review. On the first January after the adoption of this charter, the Commission shall appoint the Board of Review. The term of each member of such Board shall be for three years, provided however, that the first term of the first member appointed shall be for one year, the first term for the second member appointed shall be for two years, and the first term for the third member appointed shall be for two years, and the first term for the third member appointed shall be for three years, so that one member of such Board is appointed in each January thereafter.

The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. The Commission shall fix the compensation of the members of the Board of Review. The Board shall annually in February select its own chairman for the ensuing year, and the Assessor shall be clerk of the Board and shall be entitled to be heard at its sessions, but shall have no right to vote.

MEETINGS OF BOARD OF REVIEW:

Section 9.7. The Board of Review shall convene in its first session on the second Monday in March from nine o'clock in the forenoon until four o'clock in the afternoon for the purpose of examining the assessment roll and to correct any errors or deficiencies found therein. On the following day and for three days thereafter the assessment roll shall be available for public inspection, and shall be advertised as such, from nine o'clock in the forenoon until four o'clock in the afternoon at the City Hall. The Board of Review shall convene in its second session on the third Monday in March of each year from nine o'clock in the forenoon until four o'clock in the afternoon to review the assessment roll, and shall continue in session at least two days successively and as much longer as may be necessary to complete the review. At the second session, the Board may not increase any assessments or add any property to the rolls, except in those cases in which the Board resolved at its first session to consider such increases or addition at its second session.

NOTICE OF MEETINGS:

Section 9.8. Notice of the time and place of the second session of the Board of Review shall be published prior to such session of the Board.

DUTIES AND FUNCTIONS OF BOARD OF REVIEW:

Section 9.9. For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of review in townships, except as otherwise provided in this charter. It shall hear the

complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to, the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

ENDORSEMENT OF ROLL:

Section 9.10. After the Board of Review has completed its review of the assessment roll, and not later than the thirty-first of March, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not effect the validity of such roll.

CLERK TO CERTIFY TAX LEVY:

Section 9.11. Within three days after the Commission has adopted the budget for the ensuing year, the Clerk shall deliver to the Assessor a certified copy of the Commission resolution determining the total amount to be raised by general ad valorem tax together with certified copies of such resolution regarding amounts which the Commission requires to be assessed, reassessed, or charged upon any property or against any person.

CITY TAX ROLL:

Section 9.12. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised, as provided in Section 9.11 and 9.19, the Assessor shall spread upon said tax roll the several amounts determined by the Commission to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general ad valorem city tax, county tax, and school tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

TAX ROLL CERTIFICATION FOR COLLECTION:

Section 9.13. After spreading the taxes and on or before the first Monday in June the Assessor shall deliver a certified copy of the tax roll to the City Treasurer to which roll shall be annexed a warrant signed by the City Assessor and directed to the Treasurer, and in all other respects as near as may be to warrants to township treasurers for the collection of state, county, school, and township taxes.

TAX LIEN ON PROPERTY:

Section 9.14. On July first the taxes thus assessed shall become a debt due the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by statute and shall continue until such taxes, interest, and charges are paid.

TAXES DUE: NOTIFICATION THEREOF:

Section 9.15. City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall

- (a) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and
- (b) mail a bill to each person named in said roll, but in case of multiple ownership only one bill need be mailed.

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

INTEREST ON LATE PAYMENT OF TAXES:

Section 9.16. All taxes paid on or before the thirty-first day of July shall be collected by the Treasurer without interest. On August first he shall add to all taxes paid thereafter four percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one half of one percent of said taxes that remain unpaid. Such interest shall not exceed six percent and shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes themselves apply collectible in the same manner as the taxes to which they are added. It is provided, however, that if the delivery of the tax roll to the Treasurer, as

provided in Section 9.13, is delayed for any reason by more than thirty days after June first, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days or major fraction thereof, such delay.

FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX:

Section 9.17. If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them by October first, the Treasurer shall collect the same by seizing the personal property of such person, firm, or corporation to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may make a jeopardy assessment of any personal property and collect said tax in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm, or corporation to whom it is assessed.

DELINQUENT TAX ROLL TO COUNTY TREASURER:

Section 9.18. All city taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school, and county taxes. Such returns shall include all the additional assessments, charges, and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property and person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Lapeer is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

STATE, COUNTY AND SCHOOL TAXES:

Section 9.19. For the purpose of assessing and collecting taxes for state, county, and school purposes, the city shall be considered the same as a township, and all provisions of statute relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as township treasurers under statute.

Chapter 10

BORROWING POWER

GRANT OF AUTHORITY TO BORROW:

Section 10.1. Subject to the applicable provisions of statute and this charter, the Commission may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by statute and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations including bonds for the city's portion of public improvements;
- (b) Notes issued in anticipation of the collection of taxes,
- (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 payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special district or districts and a general obligation of the city. If the cost of any improvement is to be paid in part by special assessments and in part by the city-at-large, and if said special assessments are to be divided into annual installments, then the city's portion of the cost of said improvements may likewise be paid in annual installments and in full faith and credit bonds of the city may be issued in anticipation of the payment of such installments. Bonds pertaining to more than one improvement may be combined in one issue or series: provided, that no special assessment district shall be obligated to answer for the default of another. The bonds to be issued under the provisions of this section shall not require the approving vote of the electors.
- (e) Mortgage bonds for the purpose of acquiring, owning, purchasing, constructing, improving or operating any public utility which the City is authorized by this charter to acquire or operate, can be issued beyond the general limits of bonded indebtedness prescribed by law:

provided however, that such mortgage bonds shall not impose any liability on the city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility, 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. In the event of the issuance of such bond, there shall be created, in such cases as may be required by law, a sinking fund by setting aside such percentage of the gross or net earning 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 a nature that no sinking fund is required.

- (f) Bonds to refund the 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 revenues from a public improvement and do not constitute a general obligation of the city.

AUTHORIZATION OF ELECTORS REQUIRED:

Section 10.2.

- (a) Except as provided in Section 10.2 (b), no bonds pledging the full faith and credit of the city shall be issued without the approval of three-fifths of the electors voting thereon at any general or special election.
- (b) The restriction of Section 10.2 (a) shall not apply to general obligation bonds issued to pay for the city's portion of public improvements the remainder of which are to be financed by special assessments, tax anticipation notes issued under Section 10.1 (b), emergency bonds issued under Section 10.1 (c), special assessment bonds issued under Section 10.1 (d), refunding bonds issued under Section 10.1 (g) or to bonds the issuance of which cannot, by statute, be so restricted by this charter.
- (c) Only those persons who have property assessed for taxes in the city and their husbands and wives shall be entitled to vote on the approval of any issue of bonds which constitute a general obligation of the city, but no person may so vote unless he is a registered elector.

APPLICABILITY OF OTHER STATUTORY RESTRICTIONS:

Section 10.3.

The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in

advance of the authorization of such issues, filing of petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

LIMITS OF BORROWING POWERS:

Section 10.4. The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum percentage of the assessed value of all the real and personal property in the city permitted by statute, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections: 10.1 (b) (tax anticipation notes), 10.1 (d) (special assessment bonds even though they are also a general obligation of the city), 10.1 (e) (mortgage bonds), 10.1 (f) (special assessment refunding bonds), 10.1 (h) (revenue bonds), and any other obligations excluded by statute or Constitution from such limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

The amount of emergency loans which may be made under the provisions of Section 10.1(c) may not exceed the maximum amount permitted by statute, and such a loan may be made even if it causes the indebtedness fixed in this charter.

The total amount of such special assessment bonds issued under Section 10.1 (d) which are a general obligation of the city shall at no time by reason of future issues other than issues of refunding bonds, exceed the maximum amount permitted by statute, nor shall such bonds be issued in any calendar year in excess of the maximum amount so permitted to be issued by statute unless authorized by a majority vote of the electors in the manner required by statute.

PREPARATION AND RECORD OF BONDS:

Section 10.5. Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office, except that whenever the proceeds of any bond issue or part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Commission may authorize the use of said funds for the retirement of bonds of such issue. 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 signature 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 City Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked canceled.

UNISSUED BONDS:

Section 10.6. No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within five years after authorization, such authorization shall as to such bonds, be null and void, and such bonds shall be canceled.

DEFERRED PAYMENT CONTRACTS:

Section 10.7. The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years nor shall the total amounts of principal payable under all such contracts exceed a sum of one-half of one percent of the total assessed valuation of the city in any one fiscal year.

All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11

SPECIAL ASSESSMENTS

GENERAL POWERS RELATIVE TO SPECIAL ASSESSMENTS:

Section 11.1. The Commission shall have the power to determine that the whole or any part of the cost of a public improvement shall be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and a special assessment therefor and for the issuance of bonds in anticipation of such special assessments, shall be deemed to be a part of the cost of the improvements. The cost of any improvement shall also include the cost of acquiring any lands necessary therefor.

FINANCING PUBLIC IMPROVEMENTS:

Section 11.2. When the Commission shall propose to make any public improvement, any part of the cost of which is to be defrayed by special assessment, it shall refer the matter to the City Manager who shall prepare or cause to be prepared plans showing the improvement and the location thereof, and an estimate of the cost thereof. Upon receipt of such plans and estimate the Commission shall order the same to be filed with the Clerk, and if it shall desire to proceed with the improvement, it shall by resolution declare its intention to make such public improvement and shall designate the special assessment district and what part or proportion of the cost of said improvement shall be made by special assessment against the lots and parcels of land in said special assessment district, and what part, if any, shall be paid from the general fund of the city. The Commission shall also fix a time and place when it will meet and hear any objections to such improvement and to the special assessment district, and shall cause notice of such hearing to be given by publication thereof once prior to such hearing in a newspaper circulating in the city, and said publication to be at least one week prior to the time of such hearing, together with such further notice as is required by law. Such notice shall state that the plans and estimate are on file with the Clerk and shall contain a description of the proposed assessment district. At the time of such hearing, or any adjournment thereof, which may be without further notice, the Commission shall hear any objections to such improvement and to the special assessment district, and may without further notice revise, correct, amend or change the plans, estimates and/or district, provided that no property shall be added to the district until notice be given as above provided or by personal service upon the owners thereof, and a hearing afforded such owners. The Commission in order to ascertain whether or not a reasonable number of property owners to be assessed desire a public improvement to be made under the

provisions of this charter, may request that a petition therefor be presented to it but in event a petition be so filed, it shall be advisory only and shall not be jurisdictional.

History: Amended by electors 04-07-69.

SPECIAL ASSESSMENT ROLL:

Section 11.3. After the hearing provided for in the preceding section, if the Commission desires to proceed with such improvement it shall by resolution determine to make such improvement and shall approve said plans and estimate, as originally presented or as revised corrected, amended or changed. The Commission shall also direct the Assessor to make a special assessment roll in which shall be entered and described all the lots and parcels of land to be assessed, with the names of the respective owners thereof, if know, and the amount to be assessed against each such lot or parcel of land, which amount shall be such relative portion of the whole sum to be levied against all the lots and parcels of land in the special assessment district as the benefits to all lots and parcels of land in the special assessment district. There shall also be entered upon said roll the amount, if any, which has been assessed to the city-at-large. When the Assessor shall have completed the assessment roll, he shall affix thereto a certificate stating that it was made pursuant to a resolution of the Commission of said city adopted on a specified date and that in making such assessment roll he has, according to his best judgment, conformed in all respects to the directions contained in such resolution and to the charter of the city.

REVIEW OF SPECIAL ASSESSMENT ROLL:

Section 11.4. When any special assessment roll shall be reported by the Assessor to the Commission, the same shall be filed in the office of the Clerk. Before confirming such assessment roll, the Commission shall appoint a time and place when it will meet and review the same, and hear any objections thereto, and shall cause notice of such hearing and of the filing of such assessment roll, to be published once prior to such hearing in a newspaper circulating in the city, the said publication to be at least one week before such hearing, and the Commission shall cause such further notice to be given as is required by law. Such hearing may be adjourned without further notice. Any person objecting to the assessment roll shall file his objections thereto in writing with the Clerk before the close of such hearing or within such further time as the Commission may grant. After such hearing the Commission may confirm such special assessment roll as reported to it by the Assessor, or may correct the same as to any matter appearing thereon and confirm it as so corrected, or may refer it back to the Assessor for revision, or may annul it and direct a new roll to be made. When a special assessment roll shall be confirmed, the Clerk shall endorse thereon the date

of the confirmation. After such confirmation, the special assessment roll and all assessments therein shall be final and conclusive.

History: Amended by electors 04-07-69.

COLLECTION POLICY: PAYMENTS: INSTALLMENTS: INTEREST:

Section 11.5. Special assessments shall be payable in one installment or in such number of approximately equal annual installments not exceeding ten as the Commission may determine. The amount of each installment (if more than one) need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before such time after confirmation as the Commission shall fix, and the several subsequent installments shall be due at intervals of twelve months from the due date of the first installment or from such other date as the Commission shall fix. All unpaid installments prior to their transfer to the city tax roll, shall bear interest, payable annually, at a rate to be fixed by the Commission not exceeding six percent per annum such interest to commence at such time as shall be fixed by the Commission. The whole assessment against any lot or parcel of land may be paid to the Treasurer at any time in full with interest and penalties accrued to the date of the payment of the next installment. If any installment of a special assessment is not paid when due, then the same shall be deemed to be delinquent and there shall be collected thereon, in addition to interest as above provided, a penalty at the rate of one-half of one ($\frac{1}{2}$ of 1) percent for each month or fraction thereof that the same remains unpaid before being reported to the Commission for reassessment upon the city tax roll. The city's portion of the cost of any improvement may be divided into installments the same as the assessments against lands in the district and in such case the provisions of this chapter relative to such installments shall apply to the city installments insofar as they are applicable.

SPECIAL ASSESSMENT CONSTITUTES LIEN:

Section 11.6. All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall from the date of the confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for city taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the Commission vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed, for such amount of the assessment as may be equitably charged against the same, or by a regular mode of proceeding might be lawfully assessed thereon.

COLLECTION AND ENFORCEMENT OF DELINQUENT ASSESSMENTS:

Section 11.7. When any special assessment shall be confirmed, the Commission shall direct the assessments so made in the special assessment roll to be collected. The clerk shall thereupon deliver to the Treasurer said special assessment roll to which he shall attach his warrant commanding the Treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein, and in case any such person shall neglect or refuse to pay his assessment, or any part thereof, upon demand after the same has become due, then to levy and collect the same by distress and sale of the goods and chattels of such person. Said warrant shall further require the Treasurer on the first day of May following the date when any such assessments, or any part thereof, have become due, to submit to the Commission a sworn statement setting for the names of the persons delinquent, if known, a description of the lots and parcels of land upon which there are delinquent assessments, and the amount of such delinquency, including accrued interest and penalties computed to May first of such year.

DELINQUENT ASSESSMENT ROLL: SEIZURE AND AUCTION OF PROPERTY:

Section 11.8. Upon receiving such special assessment roll and warrant, the Treasurer shall proceed to collect the several amounts assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the Treasurer shall seize and levy upon any personal property belonging to such person, found within the city or elsewhere within the State of Michigan, and sell the same at public auction, first giving six days' notice of the time and place of such sale by posting such notice in three (3) of the most public places in the city or township where such property may be found, the proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment and the cost and expenses of such seizure and sale, and the surplus shall be paid to the person entitled thereto.

DELINQUENT ASSESSMENTS PLACED ON CITY TAX ROLL:

Section 11.9. In case the Treasurer, pursuant to the provisions of Section 11.7, shall report as delinquent any assessment or part thereof, the Commission shall certify the same to the Assessor who shall reassess on the next annual city tax roll in a column headed special assessments, the sum so delinquent with interest and penalty to May first of such year and an additional penalty of five percent of such total amount and when so reassessed upon said tax roll shall be collected in all respects as provided for the collection of city taxes, except from and after the 31st day of August of the year of such reassessment and until March first of the following year, there shall be added a penalty of one percent for each month or fraction thereof that the same remains unpaid. Unpaid special assessments reassessed upon a city

tax roll shall be returned to the county treasurer for collection, at the same time and in the same manner as city taxes.

COLLECTION OF DELINQUENT ASSESSMENTS IN ACTION OF ASSUMPSIT

Section 11.10. In addition to any other remedies and without impairing the lien therefore, any delinquent special assessment together with interest and penalties may be collected in an action of assumpsit in the name of the city against the person assessed, in any court having jurisdiction of the amount. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the premises sought to be charge, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city, which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

DIVISION OF ASSESSED LOT OR LAND PARCEL:

Section 11.11. Should any lot or parcel of land be divided after a special assessment thereon has been confirmed and before the collection thereof, the Commission may require the Assessor to apportion the uncollected amounts upon the several parts of such lot or parcel of land. The report of such apportionment when confirmed shall be conclusive upon all parties, provided that before such confirmation, notice of hearing shall be given to all the interested parties either by personal service or by publication as above provided in case of an original assessment roll.

DISPOSITION OF EXCESSIVE SPECIAL ASSESSMENTS: ADDITIONAL ASSESSMENTS:

Section 11.12. Should the assessments in any special assessment roll prove insufficient for any reason, including the non-collection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection of such assessments, then the Commission shall make additional prorata assessments to supply the deficiency, but the total assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. Should the amount collected on assessments prove larger than necessary by five percent or less the amount of the original roll, the Commission may place the excess in any of the funds of the city, but if such excess shall exceed such five percent, then the same shall be credited prorata on the assessments against the several parcels of lands according to the amounts thereof, such credit as to each parcel to be made upon the unpaid installments in inverse numerical order: provided, that if as to any parcel there shall be no unpaid installments or, if the unpaid installments are less than the amount of the

credit, then such total or surplus amount of credit shall be applied toward the payment of the next city tax levied against such property. If the city shall have been assessed for any portion of the cost of the improvements then it shall be considered in the same category as the owner of private lands and shall be entitled to its share of any excess except that any amount due the city, which in case of private lands would be applied to the payment of city taxes, shall be refunded to the city in cash.

CORRECTION OF INVALID SPECIAL ASSESSMENTS:

Section 11.13. Whenever any special assessment shall, in the opinion of the Commission, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Commission shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever the assessment, or any part of thereof, levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied.

RESPONSIBILITY OF PRIVATE OWNER FOR CITY EXPENSES INCURRED ON PREMISES:

Section 11.14. When any expense shall have been incurred by the city upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of this charter or any ordinance of the city or law of the State of Michigan, and is not of that class required to be pro-rated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the Treasurer, who shall immediately charge and bill the owner, if known. The Treasurer at the end of each quarter shall report to the Commission all sums so owing to the city and which have not been paid within fifteen days after the mailing of the bill therefor. The Commission shall at such times as it may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges reported to it, together with a penalty of ten percent. Such roll shall be filed with the Clerk, who shall present the same to the Commission. Thereafter the same proceedings shall be followed in respect to such special assessment roll as are provided in section 11.4. et. seq., of this chapter and all the provisions of said sections with reference to special assessments generally shall apply to special assessments under this section, insofar as the same may be applicable.

ADDITIONAL PROCEDURE MAY BE PROVIDED BY ORDINANCE:

Section 11.15. In any case where the provisions of this chapter may prove to be insufficient to carry into full effect the making of any special assessment, the Commission may by ordinance provide any additional steps or procedure required to effect the improvement by special assessment.

LEGAL EXEMPTIONS:

Section 11.16. No lands in a special assessment district which are benefited by the improvement therein, shall be exempt from assessment, but if the same are owned by a public or other corporation exempt by law from the payment of special assessments, then the special assessments against such land, or the installments thereof, shall be paid by the city as the same become due or may be paid in advance of their due dates.

CHAPTER 12

PURCHASES--CONTRACTS—LEASES

PURCHASE, SALE, OR LEASE OF PROPERTY:

Section 12.1. The city may acquire and purchase such personal property, and acquire, purchase, and erect such public buildings as may be required for the use of the city; and may purchase, acquire, and own such real estate as may be necessary or convenient for the public good, and such personal property, public buildings, and real estate or any part thereof may be sold, leased, appropriated, and disposed of as the occasion may require as herein provided.

PURCHASE AND SALE OF PROPERTY:

Section 12.2. The City Manager, or some other person designated by him, shall be responsible for the purchase and sale of all city property, subject to such limitations and procedures as the Commission may prescribe.

Comparative prices or sealed bids shall be obtained for the purchase or sale of all materials, supplies and public improvements except

- (a) In the employment of professional services,
- (b) when the City Manager or Commission shall determine that no advantage to the city would result or
- (c) when the public interest would best be served by joint purchase with, or purchase from, another unit of government.

Public improvements or the performance of any other city work by any city agency may be authorized without competitive bidding.

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

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

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

The city may not purchase, appropriate, sell or lease any real estate or any interest therein except by the affirmative vote of a majority of the Commission members in office at the time.

CONTRACTS;

Section 12.3. All contracts and leases to which the city is a party when this charter becomes effective shall remain in full force and effect.

The authority to contract on behalf of the city is vested in the Commission and shall be exercised in accordance with the provisions of statute and this charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.2.

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

No contract shall be amended after the same has been made except upon the authority of the Commission, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.2.

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

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

An individual agreement of employment shall not be deemed a contract.

CHAPTER 13

MUNICIPALLY OWNED UTILITIES

GENERAL POWERS RESPECTING UTILITIES:

Section 13.1. Subject to statutory provisions as now or hereafter authorized, the city shall have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, any public utility.

MANAGEMENT OF MUNICIPAL UTILITIES:

Section 13.2. All municipally owned and operated utilities shall be administered as a regular department of the city government under the management and supervision of the City Manager.

RATES:

Section 13.3. The Commission shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the city.

UTILITY RATES AND CHARGES -- COLLECTION:

Section 13.4. The Commission shall provide by ordinance for the collection of all public utility rates and charges of the city.

Such ordinance shall provide at least:

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

With respect to the collection of rates charged for water the city shall have all the powers granted to cities by Act 178 of the Public Acts of 1939.

DISPOSAL OF UTILITY PLANTS AND PROPERTY:

Section 13.5. Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

UTILITY FINANCES:

Section 13.6. The rates and charges for any municipal public utility shall be so fixed as to at least meet all the costs of such utility including depreciation.

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

CHAPTER 14

PUBLIC UTILITY FRANCHISES

FRANCHISES REMAIN IN EFFECT:

Section 14.1. All franchises to which the City of Lapeer is a party when this charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

GRANTING OF PUBLIC UTILITY FRANCHISES:

Section 14.2. Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

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

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

CONDITIONS OF PUBLIC UTILITY FRANCHISES:

Section 14.3. All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the Commission to insert in such franchise any provision within the power of the city to impose or require:

- (a) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;
- (f) To impose such other regulations as may be determined by the Commission to be conducive to the safety, welfare, and accommodation of the public.

REGULATION OF RATES:

Section 14.4. All public utility franchises shall make provision therein for fixing rates, fares and charges, and may provide the readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

USE OF PUBLIC PLACES BY UTILITIES:

Section 14.5. Every public utility whether it has a franchise or not shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys, and other public places of the city by the city and by other utilities insofar as such joint use may be reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Commission shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

CHAPTER 15
SUPERVISORS

History: Repealed. Repealed by electors 04-07-69.
NOTE: Act 261 of 1966 governs this section.

CHAPTER 16

JUSTICE COURT

History: Amended by electors 04-01-68.
Repealed. Repealed by electors 04-07-69.
NOTE: Section 26, of Article VI of the Constitution of the State of Michigan of 1963, and the provisions of Act 154 of 1968 govern the creation of a District Court and the abolishment of certain Municipal Courts.

CHAPTER 17
MISCELLANEOUS

CITY LIABILITY:

Section 17.1. The city shall not be liable for damages sustained by any person either to his person or property by reason of negligence of the city, its officers or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow, or other encumbrance upon such highway, street, bridge, sidewalk, crosswalk or culvert situated in the city, unless such person shall serve or cause to be served upon the Clerk within sixty days after such damages shall have occurred a notice in writing and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him. Such notice shall set forth substantially the time and place of the damages, the manner in which they occurred, the extent of such damages as far as the same has become known, and the names and addresses of the witnesses known at the time by the claimant. No person shall bring any action against the city for any damages to person or property arising out of any of the reasons or circumstances aforesaid unless he shall have first presented to the Clerk his claim in writing and under oath setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the Commission by the Clerk and the Commission given opportunity to act thereon either by allowing or refusing to allow such claim.

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

NO ESTOPPEL:

Section 17.2. No estoppel may be created against the city.

PROCESSES AGAINST CITY:

Section 17.3. All process against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the Mayor, Clerk or Attorney.

VESTED RIGHTS CONTINUED:

Section 17.4. After the effective date of this charter, the city shall be vested with all the property, monies, contracts, rights, credits, effects and the records, files, books and papers belonging to the city.

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

TRUSTS:

Section 17.5. All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Commission may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

QUORUM:

Section 17.6. Except as provided otherwise in this charter, a quorum of any board or commission created by or pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but not less than two members.

RECORDS TO BE PUBLIC:

Section 17.7. All records of the city shall be public, shall be kept in city offices except when required for official reasons or for purposes of safekeeping, and shall be available for inspection at all reasonable times.

DEFINITION OF PUBLICATION; MAILING OF NOTICES:

Section 17.8. The requirement contained in this charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have a general circulation at regular intervals in the city.

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.

SUNDAYS AND HOLIDAYS:

Section 17.9. Whenever the date fixed by this charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

CHAPTER AND SECTION HEADINGS:

Section 17.10. The chapter, section and subsection headings used in this charter are for convenience only and shall not be considered as part of the charter.

INTERPRETATIONS:

Section 17.11. Except as otherwise specifically provided or indicated by the context:

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

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

PENALTIES FOR VIOLATIONS OF CHARTER:

Section 17.12. Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 5.2. and 5.3.

AMENDMENTS:

Section 17.13. This charter may be amended at any time in the manner provided by statute. Should two or more amendments adopted at the same election have conflicting provisions the one receiving the largest affirmative vote shall prevail as to those provisions.

SEVERABILITY OF CHARTER PROVISIONS:

Section 17.14. If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable and to this end this charter is declared to be severable.

CHAPTER 18

SCHEDULE

STATUS OF SCHEDULE CHAPTER:

Section 18.1. The purpose of this schedule chapter is to inaugurate the government of the City of Lapeer under this charter and it shall constitute a part of said charter only to the extent and for the time required to accomplish that end.

ELECTION TO ADOPT THIS CHARTER:

Section 18.2. This charter shall be submitted to a vote of the qualified electors of the City of Lapeer at a Special City election to be held on August 5, 1958. This election shall be conducted by the officers under the existing charter charged with the conduct and supervision of elections, and shall follow the election procedure and be canvassed in the manner provided in the existing city charter.

FORM OF BALLOT:

Section 18.3. The form of the ballot for the submission of this charter shall be as follows:

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

Shall the proposed revised charter for the City of Lapeer drafted by the Charter Commission elected on April 12, 1956 be adopted?

_____ Yes

_____ No

EFFECTIVE DATE OF THIS CHARTER:

Section 18.4. For all purposes not otherwise provided for herein, this charter shall take effect on Friday, August 8, 1958, at 12:01 a.m., Eastern Standard Time.

CONTINUATION OF APPOINTED OFFICERS AND EMPLOYEES:

Section 18.5. Except as otherwise provided herein, after the effective date of this charter all appointive officers and all employees of the city shall continue in that city office or employment which corresponds to the city office or employment which they held prior to the effective date of the charter as

though they had been appointed or employed in the manner provided in this charter, and they shall in all respects be subject to the provisions of this charter.

TERMS OF ELECTED OFFICIALS FOLLOWING ADOPTION OF CHARTER:

Section 18.6. The Mayor and Commissioners in office at the time of adoption of this charter shall remain in office until the expiration of the terms for which they were elected. At the regular city election held in 1959, there shall be elected two Commissioners for terms of three years each and a Mayor for a term of one year. At the next regular city election held in 1960 there shall be elected one Commissioner and a Mayor for a term of three years each. At the next regular city election held in 1961, there shall be elected two Commissioners for terms of three years each. Thereafter, the office of Mayor and Commissioner shall be for terms of three years each and shall be filled at the regular city election held in the year in which their respective terms expire.

The Justices of the Peace in office at the time of the adoption of this charter shall remain in office until the expiration of the terms for which they were elected and shall have powers and duties prescribed in this charter for the Justices of the Peace.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Lapeer held on the 22nd day of May, 1958, at the usual meeting place of the Commission, the following resolution was introduced by Commissioner Shurlow, who moved for its adoption, and was seconded by Commissioner Parsch.

RESOLVED, that the Charter Commission of the City of Lapeer does hereby adopt the foregoing proposed revised Charter for the City of Lapeer, and

BE IT FURTHER RESOLVED, that the Clerk of this Commission is hereby directed to (1) transmit copies of this Charter to the Governor of the State of Michigan for his approval in accordance with statute, (2) file a copy of this Charter with the City Clerk on May 22, 1958, and (3) cause this proposed revised charter to be published in accordance with law.

Ayes: Commissioners Beyer, Carter, Godfrey, Goodrich, Newton, Parsch, Rogers,
Shurlow and Zemmer.
Nays: None

RESOLUTION CARRIED

Howard R. Gohike,
Clerk of the Charter Commission of the City of Lapeer, Michigan.

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

ATTEST: Donald F. Beyer
Norman B. Carter
Charles R. Godfrey, Sr.
Raymond M. Goodrich
Ward W. Newton
Roderick L. Parsch, Vice Chairman
Harold R. Rogers, Chairman
Ray H. Shurlow
Richard J. Zemmer

RESIGNED MEMBERS:
Curtis E. Bishop
Lyle J. Jones
Elmer W. Pleger

I do hereby approve the above and foregoing charter of the City of Lapeer.

Approved: G. Mennen Williams.
Governor.

Dated July 15, 1958

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