

CHAPTER 1
INCORPORATION AND BOUNDARIES

Continuation of Existing Corporation.

Section 1.1. The organized city now existing as a Michigan municipal corporation, known as the City of Marysville, shall be and continue a body corporate under the name: "The City of Marysville".

Boundaries.

Section 1.2. (a) The city shall embrace the territory constituting the City of Marysville on the effective date of this charter, together with such annexation thereto and less any detachments there from which are made in accordance with law.

(b) The current boundaries of the city are set forth in the appendix to this charter and such an appendix, setting forth the then current boundaries of the city, shall be a part of each reprinting of this charter.

(c) The Clerk shall maintain and keep available in his office for public inspection and distribution copies of the official description and map of the current boundaries of the city. Such copies, published under his authority, shall be prima facie evidence of the boundaries of the city for all purposes.

CHAPTER 2
DEFINITIONS AND GENERAL PROVISIONS

Definitions and Interpretations.

Section 2.1 Except as otherwise specifically provided or indicated by the context, for the purposes of this charter:

- 1) "board" includes "commission";
- 2) "city" means the City of Marysville and all of its officers and departments, and shall include its predecessor, the former village of Marysville;
- 3) "Clerk" means the City Clerk as that term may be used in any law;
- 4) "Council" means the City Council or governing body of the City, and shall be synonymous with all terms employed in any law denoting the governing bodies of cities;
- 5) "default" means the failure to pay or perform any debt or obligation to the city which is required by law or by any express or implied contract;
- 6) "law" denotes applicable Federal law, the Constitution and statutes of Michigan, the applicable common law, and this charter;
- 7) "lien" includes security interest as defined by law or as brought into being by operation of law, or both;
- 8) "officer" includes the Mayor, the members of the Council, the Justice of the Peace, the administrative officers named in this charter or created under its authority and their deputies and members of city boards created by or pursuant to law;¹
- 9) "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- 10) "printed" and "printing" include printing, engraving, stencil duplicating, lithographing, typewriting, photostating, or any similar method of duplicating the written word;

¹ The office of Justice of the Peace no longer exists pursuant to provisions of state law (see Chapter 8)

- 11) “publish” or “published” include publication of any matter required to be published, in the manner provided by law, or, where there is no applicable law, at least once in one or more newspapers of the city qualified by law for the publication of legal notices, or, when such newspaper publication is not available, by posting in at least one public place in each election precinct;
- 12) “public utility” shall include all public and private common carriers, water, sewage disposal, electric light, gas, electric power, telephone and telegraph lines and systems, garbage collection, garbage disposal and reduction plants, and such other and different enterprises as the law or the Council may determine to be or designate as public utilities;
- 13) “Treasurer” means the City treasurer as that term may be used in any law;
- 14) “written” and “in writing” include hand written script, printing, typewriting, teletype and telegraphic communications, and other forms of graphic English language readable by the average literate person;
- 15) Words and phrases which are not herein defined shall be taken in their ordinary signification and import and, when there is doubt thereof, the meaning given in the latest edition of Webster’s Standard Unabridged Dictionary, extant at the time the meaning is required, shall govern;
- 16) All words 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 to which the provision is applied;
- 17) The singular shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

Records to be Public.

Section 2.2. All papers, books, or other records of any matter pertaining to the conduct of the affairs of the city shall be public records unless otherwise provided by law, shall be kept in city offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available at city offices for inspection, copying, or reproduction at all reasonable times. Such records, or copies duly certified to be true copies by the Clerk, shall be prima facie evidence of their contents.

Official Performance.

Section 2.3 Whenever this charter requires the performance of any act by an officer, the act may also be performed by a deputy or by a subordinate under the officer’s direction, unless provided or required by law.

Quorum, Effectiveness of Board Actions.

Section 2.4. Except as otherwise expressly provided in this charter, a quorum of any board established by or under authority of this charter shall consist of a majority of the number of its members, as established by this charter or by the ordinance establishing such board. The concurring vote of a majority of such established number of members of each such board shall be necessary for official action by it. No action by any board of the city, except the Board of Review, shall be effective, until a copy of the minutes of the meeting in which such action was taken, showing such action, is filed with the Clerk. Such filing shall be made within fifteen days after the date of the meeting.

Sundays and Holidays.

Section 2.5. Except as otherwise expressly provided in this charter, whenever the date fixed by law or ordinance 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.

Penalties for Violations of Charter.

Section 2.6 Any person found guilty of any violation of this charter or of misconduct in office may be punished by a fine which, in addition to court costs, shall not exceed five hundred dollars, or imprisonment for not more than ninety days, or by both such fine and imprisonment in the discretion of the court. Imprisonment for violations of this charter may be in the City or the County jail, or in any correctional institution which is authorized by law to receive prisoners of the city. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this charter.

Chapter and Section Headings.

Section 2.7. The Chapter and section headings used in this charter are for convenience only, and shall not be considered as part of this charter.

Amendments.

Section 2.8. This charter may be amended at any time in the manner provided by law. Should two or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail as to those provisions.

Severability of Charter Provisions.

Section 2.9. If any provision, section, or clause of this charter, or the application thereof to any person or circumstances, is held invalid by any court of competent jurisdiction, such invalidity shall not affect any remaining portion or application of the charter, which can be given effect without the invalid portion or application, and, to this end, this charter is declared to be severable. This rule shall apply equally to ordinances of the city.

CHAPTER 3

MUNICIPAL POWERS AND LIABILITIES

General Powers.

Section 3.1. (a) Unless otherwise provided or limited by law, the City of Marysville shall be vested with and possess all the powers, functions, privileges, and immunities expressed or implied, to which cities are, or hereafter may be, entitled under and in the spirit of Michigan law and the home rule traditions of the State, and may exercise all powers which are not prohibited by and are not in contravention with law. In the exercise of such powers, functions, and privileges, the city shall manage and control its finances, rights, interests, buildings, and property; enter into contracts; acquire by purchase, grant, lease, or condemnation, hold, and utilize any property, both within and without the limits of the city; acquire, own, and operate any utility, unless the power to do so is denied by law; adopt and enforce ordinances and do any other act to advance the interests,

good government, and prosperity of the city and its inhabitants, and protect and provide for the public peace, morals, health, and general welfare, and the safety of persons and property.

(b) The city may join any municipal corporation or with any other unit of government, or with any number or combination thereof, by contract, or otherwise as may be permitted by law, in the ownership, operation, or performance, jointly, or by one or more on behalf of all, of any property, facility, or service which each would have the power to own, operate, or perform separately. The city may also, as permitted by law, transfer any of its health powers or functions to the county in which it is located unless any such power or function is specifically provided to be executed and performed by the city.

(c) The enumeration of particular powers, privileges or immunities in this chapter or elsewhere in this charter shall not be held or interpreted to be exclusive.

(d) The powers of the city, from whatever source derived, shall be liberally construed in favor of the city.

Permitted and other Powers.

Section 3.2. Under authority of Act No. 279 of the Public Acts of 1909, as amended, and other provisions or customs of law, it is hereby provided in this charter and the power of the city shall include, but shall not be limited, to the following:

- 1) To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including, but not limited to, the accumulation of rubbish and the growing of noxious weeds, which is or may be dangerous to the health, safety, morals, or welfare of the inhabitants of the city and to the safety of property; to provide for the abatement thereof; and to provide that the costs of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located.
- 2) To provide for the public welfare by:
 - a) Regulating trades, occupations, and amusements within the city and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;
 - b) Regulating the preparation, storage, transportation, and sale of foods, drugs, and beverages for human consumption;
 - c) Collecting and disposing of garbage and rubbish;
 - d) Regulating and restricting the locations of oil and gasoline stations;
 - e) Licensing and regulating the number of vehicles which carry persons or property for hire, fixing the rates of fare and charges, and determining the locating of stands for such vehicles;
 - f) Licensing, regulating, restricting, and limiting the number of billboards and advertising signs and the locations thereof;
 - g) Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;
 - h) Establishing zones within the city and regulating therein the use and occupancy of lands or structures; the height, area, size, and location of buildings, and the density of population;
 - i) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public health and safety and to prevent fires;
 - j) Regulating and controlling the use of streams, water, and water courses within the city in any manner not in conflict with provisions of law.
- 3) To establish and reasonably control streets, alleys, and public places, and the space above and beneath them, and the use thereof by:
 - a) Creating and vacating the same and acquiring and disposing of land, or any interest in land, required therefore, including any surplus land which may be incidental to or necessary for the purchase of land require;

- b) Providing a plan of streets and alleys within and for a distance of not more than three miles beyond the limits of the city;
 - c) Requiring the owners of real property to build and maintain public sidewalks in the area of street immediately adjacent to such property, and, upon the failure of any owner to do so, constructing and maintaining such sidewalks and assessing the cost thereof against such property as a special assessment;
 - d) Compelling all persons to care for the untraveled portions of streets lying between the curbs and property lines which abut upon premises owned, controlled, or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety, and, upon the failure to do so, cutting and removing such weeds and removing such objects and assessing the cost thereof against such property as a special assessment;
 - e) Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, weeds, shrubbery, or any other object which obstructs such sidewalks, or which makes the same offensive or hazardous to the public health or safety, and upon failure to do so, to cut and remove such weeds and remove such objects and assess the cost thereof against such property as a special assessment;
 - f) Providing for the grade of streets and requiring public utility users of the streets to conform thereto;
 - g) Regulating the speed of vehicles, trains, and locomotives upon or across the streets and the stopping and parking of the same upon the streets and at street crossings, within the provisions and limitations of law;
 - h) Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property;
 - i) Preventing and abating the encumbering of streets and alleys or any part thereof;
 - j) Regulating the location of buildings and structures and of trees and shrubbery at and near street corners and street intersections with alleys, so as to provide for the public safety and welfare in the use of streets and alleys;
 - k) Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owner and occupants thereof to affix numbers thereto;
 - l) Providing for the use by other than the owner, of property located in, above, or under the streets, alleys, and public places, in the operation of a utility, upon the payment of a reasonable compensation therefore to the owner thereof;
 - m) Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the city and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the city.
- 4) To undertake any public work or make any public improvement or any repair or replacement thereof, either directly through its own departments and personnel, or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency;
- 5) To construct, provide, maintain, extend, operate, and improve.
- a) Within the city: a city hall, city office buildings, community building, police stations, fire stations, civic auditoriums, public libraries, and polling places; and
 - b) Either within or without the corporate limits of the city or St. Clair County: public parks, recreation grounds and stadiums, municipal camps, public grounds, zoological gardens, museums, airports and landing fields, cemeteries, public wharves and landings upon navigable waters, levees, embankments, and structures for flood control and other purposes

related to the public health, safety, and welfare, electric light and power plants and systems, public heating plants and systems, water works and water treatment plants and systems, sewage disposal plants and systems, storm sewers, garbage collection and disposal facilities, refuse and rubbish collection and disposal facilities, market houses and market places, public transportation facilities, facilities for the storage and parking of vehicles, hospitals, facilities for the landing of helicopters, and air vehicles having like landing characteristics; and any other structures or facility which is devoted to or intended for public purposes within the scope of the powers of the city.

- 6) Acquiring by purchase, gift, condemnation, lease, or otherwise, real and personal property, and interest in property, either within or without the corporate limits of the city or of St. Clair County, for any public use or purpose within the scope of its powers, including, but not by way of limitation, the uses and purposes set forth in this section.
- 7) Receiving and holding any property, whether real, personal, or intangible, in trust for city hospital, library, park, cemetery, or any other municipal purposes and apply the same to the execution of such trust, subject only to the cy pres doctrine.

CHAPTER 4

OFFICERS AND PERSONNEL OF THE CITY OF MARYSVILLE

City Officers.

Section 4.1 (a) The elective officers of the city shall be the Mayor, the six Councilmen, and the Justice or Justices of the Peace.²

(b) The appointive officers shall be those named in or created under authority of Section 7.2, and the members of the several boards created by or under authority of this charter.

Eligibility for City Office – General Qualifications.

Section 4.2 (a) Except as otherwise provided in this charter a person is eligible for election or appointment to an elective city office if he has been a resident of the city, or of territory annexed to the city, for a total of two years or more immediately preceding his election or appointment and is a registered elector of the city at the time he files his nominating petition for the office he seeks or on the date he is appointed to fill a vacancy in an elective office.

(b) In making appointments of administrative officers, first consideration shall at all times be given to electors of the city. If the appointing authority shall find that no competent person is available for appointment to any such office, the requirement that a person be an elector of the city may be waived by the Council by a vote of five or more of its members.

Except in the case of the City Attorney or any other office requiring professional education for ability to perform the duties of the office, if such qualification is so waived, any such appointment shall be provisional during a period fixed by the Council, but not to exceed eight months, during which period a person so appointed shall become a registered elector of the city. With the approval given by a vote of five or more members of the Council prior to his appointment, a person need not be a registered elector of the city to be eligible for appointment or to hold the office of City Attorney, City Engineer, Health Officer, or any office requiring professional education for eligibility for and ability to perform the duties of the office.³

² The office of Justice of the Peace no longer exists pursuant to provisions of state law (See Chapter 8).

³ State law, MCL #15.602, limits a public employer from requiring residence as a condition of employment with exceptions.

(c) To be eligible for appointment to and to hold office as a member of a city board established by or under authority of law, a person shall possess the qualifications required for eligibility to hold an elective city office.

Certain Persons Ineligible for City Office or Employment.

Section 4.3. (a) A person who is in default to the city shall not be eligible to hold any city office or employment.

(b) A person who holds or has held an elective city office shall not be eligible for appointment to an administrative office or a position of employment for which compensation is paid by the city, until two years have elapsed following the term for which he was elected, or appointed in the case of filling a vacancy.

Terms of Office.

Section 4.4 (a) The terms of office of the Mayor shall be for two years and of the members of the Council and the Justice or Justices of the Peace shall be for four years, unless otherwise provided by law.⁴

(b) Each appointive officer, except members of boards, shall serve for an indefinite term.

(c) Unless otherwise required by law, members of city boards shall be appointed or chosen during the month of May before the time they are to assume the duties of the office to which appointed, and the term of office of each board member shall commence on and date from the first day of July of the calendar year in which his appointment is made.

(d) With the consent of the Council, and for so long as the Council shall permit, an officer may continue, provisionally, in the office held by him, after the expiration of his term, until his successor has qualified for the office.

Notice of Election or Appointment.

Section 4.5. Within five days after a person has been elected to office or a choice or an appointment has been made to any office, the Clerk shall mail to the person elected or appointed a certificate of such election or appointment.

Compensation of Officers.

Section 4.6. (a) Members of the several boards shall serve without compensation, except as otherwise provided in this charter. The compensation for all other officers shall be fixed by the appointing authority within budget allowances therefore and any pay plan adopted by the Council, except as otherwise provided by law. They shall receive no other compensation from the city. The Council shall not act to change the compensation of any elective officer after the thirtieth day preceeding the last day for filing nominating petitions for that office, unless such change is required by law. The Council may provide for the reimbursement to officers and employees of reasonable expenses which are actually incurred on behalf of the city when the claim therefore has been audited by the Finance Director and approved by the Council.

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

⁴ The office of Justice of the Peace no longer exists pursuant to provisions of state law (See Chapter 8).

(c) All fees, commissions, and compensation received by officers and employees of the City which are received by them in the performance of their duties as city officers and employees shall belong to the city and shall be collected and accounted for by such officers and employees and be paid into the city treasury and a statement thereof filed thirty days after receiving with the accounting officer of the city. The provisions of paragraph (b) of this section shall not apply to fees, commissions or other compensation paid by the County of St. Clair to any officer or employee serving as a city representative on the Board of Supervisors.

Oath of Office.

Section 4.7. Every officer, before entering upon his duties, and all employees designated by the Council, before entering upon their employment, shall take the oath prescribed by Section I of Article XI of the Michigan Constitution, and shall file the same with the Clerk. The Clerk shall not administer or accept the oath of office of any elective officer until such officer has filed with him a duplicate original copy of any statement of election expenses required by law to be filed with the County Clerk. In case of a person who is elected or appointed to a city office fails to comply with the requirements of this section and of Section 4.8 within ten days after his election or appointment, such person shall be deemed to have declined the office and such office shall thereupon become vacant, unless the Council shall, by resolution, extend the time in which such person may so comply. No such extension shall exceed sixty days.

Surety Bonds.

Section 4.8. In order to protect the city and the public, the Council shall require appropriate surety bonds of officers and employees and specify the conditions thereof. The terms of surety bonds shall not exceed three years, unless the term of the officer or employee covered thereby exceeds three years, in which case the term of the bond therefore shall be for the term of the officer, or officers covered thereby. No bond shall be renewed upon its expiration. The premium of such bonds shall be paid by the city. Blanket bonds covering two or more officers or employees, or both may be substituted for individual bonds.

Giving of Surety by Officers and Employees Forbidden.

Section 4.9. No officer or employee shall give or furnish any bail or recognizance, nor shall he be the agent of any bondsman or insurer in connection with any bond or insurance, (except for the city, itself, in which case he shall be governed by Section 4.18 of this charter), which may be required by law, ordinance of this city, or by the Council relative to any city function, or which requires the approval of the Council.

Vacancies in Elective Office: Removal from Office.

Section 4.10. Any elective city office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

- 1) For any reason specified by law as creating a vacancy in office;
- 2) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;
- 3) If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;
- 4) If the officer shall absent himself continuously from the city for more than forty-five consecutive days in any one year without the permission of the Council; which

- permission may be rescinded at any time after such officer shall have been absent from the city for more than sixty days;
- 5) In the case of members of the Council, if such officer shall miss four consecutive regular meetings of the Council or twenty-five percent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council at the time of each absence;
 - 6) If the officer is removed from office by the Council in accordance with the provisions of Section 4.12.

Vacancies in Boards and Commissions.

Section 4.11. The office of any member of any board created by, or pursuant to, this charter shall be declared vacant by the Council before the expiration of the term of such office:

- 1) For any reason specified by law as creating a vacancy in office;
- 2) If the board member shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;
- 3) If such officer shall miss four consecutive regular meetings of such board or twenty-five per cent of such meetings in any fiscal year of the city, unless such absence shall be excused by such board and the reason therefor entered in the proceedings of the meeting at which such absence was excused;
- 4) If the officer is removed from office by the Council in accordance with the provisions of Section 4.12.

Removals from Office.

Section 4.12. Removals by the Council of elective officers or of members of boards shall be made for either of the following reasons: (1) for any reason specified by law for removal of city officers by the Governor, (2) for any act declared by this charter to constitute misconduct in office. Any such removal by the Council shall be made by procedures corresponding to the procedure for the removal of city officers by the Governor, as established by law, where under the Council shall act in the place of the Governor. In case of procedures for the removal from office of a member of the Council, such Councilman shall not vote upon the question of his removal.

Resignation.

Section 4.13. Resignation of elective officers and of members of boards shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignation of appointive officers shall be made in writing to the appointing authority and shall be acted upon immediately.

Filling Vacancies in Elective Office.

Section 4.14. (a) Any vacancy which occurs in the council more than one hundred twenty days before the next regular city election shall be filled within sixty days by a majority vote of the remaining members of the Council, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled as provided in Section 5.5 for any balance of the unexpired original term.

(b) Vacancies in the office of Justice of the Peace shall be filled by appointment by the Council for a term expiring on the Monday following the next regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as

provided in Chapter 5, and the Justice of the Peace so elected shall take office on the Monday following such election.⁵

(c) Any vacancy which occurs in the Council one hundred twenty days or less before the next regular city election may not be filled, except by election thereat.

(d) If any vacancy in the office of Councilman, which the Council is authorized to fill is not so filled within sixty days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of Councilman such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in Section 5.10 to 5.13 inclusive; the names of all qualified candidates who file sufficient valid nominating petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of the charter, not inconsistent with this section shall govern.

Filling Vacancies in Appointive Offices.

Section 4.15. Vacancies in administrative offices shall be filled in the manner provided for making the original appointment. In the case of members of boards appointed for a definite term, such appointments shall be for the unexpired term.

Change in Term of Office or Compensation.

Section 4.16. (a) Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards 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 may, after his term has expired, continue to hold office as provided and permitted by Section 4.4 (d).

(b) The Council shall not grant or authorize extra compensation to any officer or employee after his service has been rendered.

Delivery of Office.

Section 4.17. 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, money, 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 law. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine 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 4.18. (a) Except as otherwise permitted by this section, no contract or purchase involving an amount in excess of one hundred dollars shall be made by the city in which any member of the Council, the Manager or Purchasing Agent of the city or any member of his family has any financial interest, direct or indirect. For the purposes of this section, the term 'contract' shall 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

⁵ The office of Justice of the Peace no longer exists pursuant to provisions of state law (See Chapter 8).

transferred by the city, except the furnishing of personal services as an officer or employee of the city. The term “member of his family” shall include only the spouse, child, father and mother of such officer and the spouse of any of them.

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

(c) A contract in which an officer or member of his family has a financial interest may be made by the city if the member of the Council in office at the time having no such interest shall unanimously determine that the best interests of the city will be served by the making of such contract and if either such contract is made after comparative prices are obtained or if the members of the Council having no interest shall unanimously determine that the obtaining of comparative prices is not feasible in such particular case. Any Council member may evidence his participation in either determination required by this paragraph by notice given at a Council meeting or by written instrument filed with the Clerk.

(d) 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 Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (c) of this section, the unanimous determination (by vote or written instrument) of all members of the Council that in a particular case an officer or member of his family will not have a financial interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.

Insurance Benefits.

Section 4.19. The council shall have the power to make available to the administrative officers and employees of the city and its department and boards any recognized standard plan of group life, hospital, health, or accident insurance, either independent of or, as a supplement to, any retirement plan provided for officers and employees.

Nepotism.

Section 4.20. The following relatives and their spouses (1) of any elective official or of his spouse, or (2) of the city Manager or of his spouse, are disqualified from holding any appointive office or employment during the term for which said elective official was elected or during the tenure of office of the City Manager, respectively; child, parent, brother, and sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of said elective official or the appointment of said City Manager.

Appointment and Employment; Civil Service.

Section 4.21. Appointments, removals, promotions, and demotions of officers and employees of the city shall be based upon the qualifications of the officers and employees and upon

their performance of duties without any references to their political or religious preferences. The Council may provide for a merit or civil service system for city employees.⁶

CHAPTER 5

ELECTIONS

Qualification of Electors.

Section 5.1. The residents of the city having the qualifications of electors in the State of Michigan shall be electors of the city.

Election Procedure.

Section 5.2. The election of all city officers shall be nonpartisan. The general election laws shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such laws relate to political parties or partisan procedure and except as otherwise provided in this charter.

Wards and Precincts.

Section 5.3. The City of Marysville shall consist of one ward. The Election Commission shall from time to time establish convenient election precincts. The precincts into which the city is divided on the effective date of this charter shall be the precincts of the city until otherwise required by law.

Election Date.

Section 5.4. A regular city election shall be held on the first Monday in April of 1967 and of each odd number year thereafter.⁷

Elective Officers and Terms of Office.

Section 5.5. (a) At each regular city election there shall be elected a Mayor. The term of office of Mayor shall start at 7:30 P.M. on the Monday next following the regular city election at which he was elected.⁸

(b) At each regular city election there shall be elected three Councilmen for a four year term and such additional number as may be required to fill vacancies pursuant to the provisions of Section 4.14. The terms of office of Councilmen shall commence at 7:30 P.M. on the Monday next following the regular city election at which they are elected.⁹

⁶ The non-discrimination provisions concerning appointment and employment within the City have been supplemented with additional requirements under state law. See MCL #37.2202.

⁷ The election date for regular city elections is governed by state law, MCL #168.644c, and is the first Tuesday in November after the first Monday of each odd numbered year.

⁸ Commencement of the term of the Mayor and Councilpersons is governed by Article I, Chapter 8 of the City of Marysville Code of Ordinance. Time changed from 8 P.M. to 7:30 P.M. with the adoption of Ordinance 143 on March 22, 1971.

⁹ Commencement of the term of the Mayor and Councilpersons is governed by Article I, Chapter 8 of the City of Marysville Code of Ordinance. Time changed from 8 P.M. to 7:30 P.M. with the adoption of Ordinance 143 on March 22, 1971.

(c) At the regular City Election held in the year 1967, and every fourth year thereafter there shall be elected one Justice of the Peace for a term of four years commencing on the fourth day of July next following his election. Should the term of office of the Justice of the Peace be changed by law, the adjustment in the sequence of electing Justice of the Peace of the city shall be made by the Council without necessity of amending this section.¹⁰

Special Elections.

Section 5.6. Special city elections shall be held when called by resolution of the Council at least forty-five days in advance of such election, or when required by law. 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 law.

Notice of Elections.

Section 5.7. Notice of the time and place of holding any city election and of the officers to be nominated or elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the Clerk in the same manner and at the same time as provided by law for the giving of election notices by city clerks.

Voting Hours.

Section 5.8. The polls of all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at state elections.

Non-Partisan Primary Election.

Section 5.9. (a) A non-partisan city primary election shall be held on the third Monday in February of each year in which a regular city election is to be held.¹¹

(b) If, upon the expiration of the time for filing nominating petitions for any elective city office, valid and sufficient petitions have been filed for no more than twice the number of candidates for such office to be elected at the following regular city election, then no primary election shall be held in respect to such office, and the Clerk shall publish notice of this fact as part of, or at the time provided for, the publication of notices for such primary election. Candidates, equal in number to twice the number of persons to be elected to each city office at the following regular city election, who received the highest number of votes at any such primary election shall be declared the nominees for election to the respective offices for which they have filed nominating petitions. The names of such nominees, together with the names of the persons for whom petitions have been filed for offices with respect to which no primary election was held, shall be certified by the Clerk to the Election Commission to be placed upon the ballot for the next subsequent regular city election.

Nominations.

Section 5.10. (a) The method of nomination of all candidates for the city primary elections shall be by petition. Petitions for each candidate shall be signed by not less than twenty-five nor more than fifty registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to the office at the following regular

¹⁰ The office of Justice of the Peace no longer exists pursuant to provisions of state law (See Chapter 8).

¹¹ The election date for city primary elections is governed by state law, MCL #168.644b and is the Tuesday following the first Monday in August of each odd numbered year.

city election. Where the signature of any individual appears on more petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of the respective dates and hour of filing the petitions containing such signature.

(b) Nominating petitions shall be filed with the Clerk between the thirty-fifth day preceding such election and twelve o'clock, noon, on the fourth Saturday preceding the regular city primary election or any special election for the filling of vacancies created under authority of Section 4.12 of this charter.

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

Forms of Petitions.

Section 5.11. The form of petitions shall be substantially as that required by the Michigan Election law for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

Approval of Petition.

Section 5.12. (a) The 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. All petitions shall be accompanied by the affidavit of qualifications provided for in Section 4.2, which is signed by said person or by some other person having knowledge of his qualifications for holding the office named in the petition.

The Clerk shall, forthwith after the filing of a 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 days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each nominating petition 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 face of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in Section 4.2 shall be filed with such petition.

(b) The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petitions are found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger if possible. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 4:00 P.M. of the fifth day after the last filing date for filing original petitions; thereafter no further petitions may be filed.

Public Inspection of Petitions.

Section 5.13. All nominating petitions filed shall be open to public inspection in the office of the Clerk.

Election Commission.

Section 5.14. An Election Commission is hereby created, consisting of the Clerk, the City Attorney, and the Assessor, who shall not be city candidates or nominees for elective city office.

The Clerk shall be chairman. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by law relating to the conduct of elections in the city. Two members of the Commission shall constitute a quorum. The Compensation of election personnel, including election commissioners, shall be determined in advance by the Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. Should only one of said officers be in attendance at any meeting of the Commission, he shall appoint a registered elector of the city to act to make a quorum, until there is a quorum present of the designated officers.

Form of Ballot.

Section 5.15. (a) 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 law, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by law.

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

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

Canvass of Votes.

Section 5.16. (a) All votes cast at city primaries and elections shall be canvassed as provided by law by a city board of canvassers established in accordance with Chapter II of the Michigan Election Law.¹²

(b) The board of canvassers shall convene on the day following each city election at the usual time and place of meeting of the Council and determine the results of the city election upon each question and proposition voted upon and what persons are duly nominated or elected to the several officers respectively at said election, and shall notify, in writing, the successful candidates or nominees of their nomination or election. If said board of canvassers shall fail or refuse to declare the result of any city primary or election as required by law, the Clerk shall declare the result thereof at 2:00 o'clock, p.m., on the Monday following such election and the declaration of the Clerk shall stand, unless reversed by said board of canvassers.

(c) The Clerk shall make, under the corporate seal of the city, duplicate certificates of the determinations of the board and shall file one certificate with the Council Clerk and the other in his own office.

The Vote.

Section 5.17. If at any city primary or election there shall be no choice between candidates because two or more persons received an equal number of votes, the Election Commission shall name a place and time for the appearance of such persons for the purpose of determining the result of the primary or election by lot. Should any person fail or refuse to appear, in person or by representative, at the place and time named, such determination shall be made by lot in his absence,

¹² The County Board of Commissioners presently has authority to canvass the vote under Michigan Election law.

at the direction and under the supervision of the Election Commission. All determinations of tie votes as herein provided, shall be final.

Recount.

Section 5.18. A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with the provisions of law.

Recall.

Section 5.19. Any elected official may be recalled from office by the electors of the city in the manner provided by law. A vacancy created by such recall shall be filled in the manner prescribed by law.

CHAPTER 6

THE COUNCIL

The Council.

Section 6.1 (a) The government of the city, and all the powers thereof, except the judicial powers, shall be vested in the Council, to be comprised of the six Councilmen and the Mayor. The Council shall exercise such powers in the manner and through the agencies provided by law; shall exercise the management and control of all municipal property and the administration of the municipal government whether or not such powers be expressly enumerated in this charter. It shall pass upon and secure the performance of any act necessary to advance the interests of the city, the good government of the municipality and its inhabitants, the health and welfare of its inhabitants and the safety of persons and property and shall pass all laws and ordinances which may be necessary and proper for carrying into execution the powers granted to the city by law.

(b) Each member of the council shall be compensated in the amount of five hundred dollars annually. The Mayor shall receive three hundred dollars annually in addition to his compensation as a member of the Council. Such compensation shall be the only compensation to which such officers shall be entitled for services rendered to the city by them. However, such officers may be reimbursed for necessary and bona fide expenses actually incurred by them on behalf of the city when the incurring of such expenses is authorized by the Council and itemized.¹³

(c) The attendance of a majority of the members of the Council holding office at the time shall be required for the presence of a quorum of the Council at any regular or special meeting thereof and the affirmative vote of the members of the Council equal to that required to constitute a quorum at any meeting shall be required for any official act of the Council at that meeting.

(d) The Council shall be the sole judge of the eligibility and qualification of its own members, subject only to review by courts of competent jurisdiction concerning the interpretation of applicable law.

The Mayor and Mayor Pro-Tempore.

¹³ The compensation of the Mayor and Council members is now established by a Compensation Commission established pursuant to Chapter 11, Title I, of the City Code of Ordinances.

Section 6.2 (a) At the organization meeting provided to be held by Section 6.3, the Council shall meet and elect one of its members as Mayor pro-tempore, who shall hold office until the next succeeding organization meeting. Such election shall be by paper ballot.

(b) Insofar as it is required by law, and for all ceremonial purposes, and for the purposes of military law and service of legal process upon the city, the Mayor shall be chief executive of the city.

(c) He shall preside at meetings of the Council and shall have a voice and vote in its proceedings. He shall not have the power to veto any act of the Council.

(d) He shall be a conservator of the peace and may exercise, within the city, the powers conferred upon sheriffs to suppress disorder and to maintain order in times of emergency or disaster.¹⁴

(e) He shall authenticate, by this signature, such instruments as require such action by law or ordinance.

(f) The Mayor pro-tempore shall perform the duties of the Mayor during the absence or disability of the Mayor. In the absence of both the Mayor and Mayor pro-tempore, the Council shall select one of its members to act in the stead of the Mayor.

(g) The Council may provide, by ordinance, for the continuity of the functions of the Council and of other officers and agencies of the city in the event of disaster or other event which may reduce the membership to less than a quorum or impair the ability of the city to normally conduct its affairs.

Regular Meetings.

Section 6.3. (a) The council shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings in each month.

(b) An organizational meeting shall be held at 7:00 P.M. on the Monday following each regular city election.

Special Meetings.

Section 6.4. Special meetings shall be called by the Clerk on the written request of the Mayor, the City Manager or any two members of the Council on at least six hours written notice to each member of the Council served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have, in writing, waived notice thereof in writing. Such waiver of notice may be made either before or after the holding of the meeting. All such waivers shall be attached to the minutes of the meeting to which they pertain.¹⁵

Business of Special Meetings.

Section 6.5. No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

Meetings to be Public.

¹⁴ State law, MCL #10.31 has superceded Section 6.2(d) and provides the Mayor may make application to the Governor to declare a state of emergency.

¹⁵ The Michigan Open Meetings Act, MCL #15.265, has superceded this provision and requires 18 hours notice for a special meeting.

Section 6.6. All regular and special meetings of the Council shall be open to the public and shall be held within the corporate limits of the city, and citizens shall have a reasonable opportunity to be heard under such rules as the Council may prescribe.

Quorum; Adjournment of Meetings.

Section 6.7. A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, but, in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date. In the absence of all members, the Clerk may adjourn any meeting for not longer than one week.

Compulsory Attendance and Conduct at Meetings.

Section 6.8. (a) Any three or more members of the Council may, by vote, either request or compel the attendance of its members and other officers of the city at any meeting of the Council. Any member of the Council or other officer who, when notified of such request for his attendance, fails to attend such meeting for reasons other than confining illness or absence from St. Clair County shall be deemed guilty of misconduct in office, unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

(b) Any police officer of the city designated by the presiding officer of the meeting shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

Organization and Rules of the Council.

Section 6.9. The Council shall determine its own organization, rules, and order of business subject to the following provisions:

- 1) 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;
- 2) A vote upon all matters before the Council shall be taken by a "Yes" and "No" vote and entered upon the records, except that, where the vote is unanimous, it shall only be necessary to so state;
- 3) No member of the Council shall vote on any question in which he has a financial interest, other than the common public interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called, unless excused by the unanimous consent of the remaining members present;
- 4) In all roll call votes the names of the members of the Council shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote;
- 5) Any member refusing to vote, except when not so required under authority of paragraph (3), shall be guilty of misconduct in office;
- 6) The proceedings of the Council or a brief summary thereof, prepared by the Clerk and approved by the Council showing the substance of each separate proceeding of the Council shall be published within five days after approval.
- 7) There shall be no standing committees of the Council.

Investigations.

Section 6.10. (a) The Council, or any person or committee authorized by it for the purpose, shall have power in inquire into the conduct of any department, office, or officer and to make investigations as to matters in which the municipality has an interest. The Council, for the purposes stated herein, may summon witnesses, administer oaths, and compel the attendance of witnesses and the production of books, papers, and other evidence, which could be compelled to be produced in a court by a subpoena duces tecum.

(b) 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 for not to exceed ninety days, or both, in the discretion of the court.

(c) In case of failure on the part of any person to obey such summons or to produce such books, papers, and other evidence as so ordered, the Council may invoke the aid of the Circuit Court of St. Clair County in requiring obedience of such summons or production of such books, papers and other evidence. The Circuit Court of St. Clair 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 6.11. The Council shall provide for the public peace and health, and for the safety of persons and property. The Council shall constitute the Board of Health of the city, and it and its officers shall possess all powers, privileges, and immunities granted to boards of health by law.¹⁶

Limitations on Council Actions.

Section 6.12. No member or combination of members of the Council shall direct or demand the appointment of any person to, his promotion within, or his removal from, any office or employment in the city government. Except for purposes of inquiry authorized by it, the Council and its members shall deal with the administrative officers and employees of the city solely through the City Manager concerning matters relating to the performance of their several official duties and employments. No action contrary hereto shall be valid or binding upon the City Manager or any officer or employee of the city. Any violation of this section shall constitute misconduct in office and shall be punishable as such.

CHAPTER 7

THE ADMINISTRATIVE SERVICE

Council – Manager Government.

Section 7.1. The intent of this charter is to provide for the Council-Manager form of government. Under this form of government the City Manager shall be the chief administrative

¹⁶ St. Clair County now maintains a County Board of Health with jurisdiction over health matters within the County.

officer of the city; shall be vested with all the administrative powers of the city delegated to him by this charter; and shall be responsible to the Council at all times for the performance of the duties of his office.

Administrative Officer.

Section 7.2 (a) The administrative officers of the city shall be the City Manager, City Attorney, Clerk, Treasurer, Assessor, City Engineer, Police Chief, Fire Chief, Superintendent of Public Works, Superintendent of Filtration Plant, and if the Council deems necessary, a Health Officer and a Harbor Master. The council may, by ordinance, create additional administrative offices and may so combine any administrative offices in any manner not in contravention of law which it deems necessary or advisable for the proper and efficient operation of the City, but the Council may not diminish the duties or responsibilities of the office of the City Manager.

(b) Each such officer shall be selected for appointment subject to Section 4.2 (b) of this charter and upon the basis of his ability to fulfill the duties of the office to which he is appointed and the good of the administrative service.

The Administrative Service – General.

Section 7.3. (a) The City Manager and Attorney shall be appointed by the Council for indefinite terms of office, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council. Except as otherwise provided by law, all administrative officers of the city, except the City Manager and Attorney, shall be appointed by the City Manager for indefinite terms of office, subject to confirmation by the Council. All officers appointed by the City Manager shall be responsible to the City Manager, shall have their compensation fixed by the City Manager in accordance with budget appropriations and any pay plan adopted by the Council, and may be removed from office by the City Manager with confirmation by the Council. The City Manager may, however, relieve any administrative officer of the duties of his office for reasons of malfeasance in office, which action by the City Manager shall constitute a removal from office when confirmed by the Council.

(b) Except as may be otherwise required by law, the Council shall establish, by ordinance, such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities, and responsibilities of the officers of each such department. Each such officer shall be responsible to the City Manager for the performance of such duties and responsibilities.

(c) The City Manager may prescribe such duties and responsibilities of the officers of those departments responsible to him, which are not prescribed by the Council under (b) and are not inconsistent with this charter or with any ordinance or resolution of the Council.

(d) All personnel employed by the city who are not elected officers of the city or declared to be administrative officers, assistant administrative officers, or deputies, 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, discharge or take other appropriate disciplinary action against the employees of his department with confirmation by the City Manager and subject to any civil service or merit service plan adopted by the Council.

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

City Manager – Appointment and Qualifications.

Section 7.4. The Council shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council but he shall not be removed from office during a period of thirty days following any city election, except by the affirmative vote of five members of the Council. He shall be selected on the basis of Section 4.2 (b) of this charter and his executive and administrative qualifications with special reference to his training and experience, without regard to his political or religious preferences. If he is not a resident of the city at the time of his appointment, he shall become a resident and elector of the city within the time set by Section 4.2 (b) and shall so remain throughout his tenure in office.

City Manager – Functions and Duties.

Section 7.5. The City Manager shall be the chief administrative officer of the city. His functions and duties shall be:

- 1) To be responsible to the Council for the efficient administration of all administrative departments of the city government except the City Attorney's department;
- 2) To see that all laws and ordinances are enforced;
- 3) Supervise and coordinate the personnel policies of the city, subject to any civil service or merit service plan adopted by the Council;
- 4) To appoint and remove the heads of the several city departments in the manner specified in Section 7.3;
- 5) 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;
- 6) To recommend all annual budgets to the Council and to administer the budget as finally adopted under the policies formulated by the Council and to keep the Council fully advised at all times as to the financial condition and needs of the city;
- 7) To recommend to the Council for adoption such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote;
- 8) In case of conflict of authority between any officers or city departments, or both, or in case of absence of administrative authority, occasioned by inadequacy of charter or ordinance provisions to resolve the conflict, making a full report to the Council at its next meeting;
- 9) To exercise and perform all administrative functions of the city that are not imposed by law or ordinance upon some other official;
- 10) To perform such other duties as may be prescribed by law or as may be required of him by ordinance or by direction of Council.

Acting City Manager.

Section 7.6. The Council may appoint or designate an Acting City Manager during the period of a vacancy in the office or during the absence of the City Manager from the city and shall fix his compensation. Such Acting City Manager shall, while he is in such office, have all the responsibilities, duties, functions, and authority of the City Manager.

Clerk – Functions and Duties.

Section 7.7. (a) The Clerk shall be the Clerk of the Council and shall attend all meetings of the council and shall keep a permanent journal, in the English language, of its proceedings.

(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, and records, pertaining to the city the custody of which is not otherwise provided for.

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

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

(e) Unless otherwise provided by ordinance, the Clerk shall be the accounting officer of the city and shall make such periodic reports concerning the financial status of the city as the Council and the City Manager shall require. The accounts so kept and the records of the Treasurer shall be checked at least semi-annually.

(f) The Clerk shall give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts, or agreements, and to elected officers, notice of the termination of the office held by them at least thirty days before the last day for filing nominating petitions for election to offices.

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

(h) The Clerk shall perform such other duties in connection with his office as may be prescribed for him by law, by the Council, or by the City Manager.

Treasurer – Functions and Duties.

Section 7.8. (a) The Treasurer shall have the custody of all moneys of the city, and bond pertaining solely to the Clerk, and all evidence of indebtedness belonging to the city or held in trust by the city.

(b) The Treasurer shall collect all moneys of the city the collection of which is not provided for elsewhere by law or by 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 fees and charges. All money shall be turned over to the Treasurer after collection or receipt, and he shall in all cases give a receipt therefore.

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

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

(e) The Treasurer shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes as are conferred by law 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 in connection with his office as may be prescribed for him by law, by the Council, or by the City Manager.

Assessor – Functions and Duties.

Section 7.9. The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by law. He shall prepare all regular and special assessment rolls in the manner prescribed by this chapter, by ordinance, and by law. He shall perform such other duties in connection with his office as may be prescribed for him by this charter, by the Council, or by the City Manager.

Attorney – Functions and Duties.

Section 7.10. (a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

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

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

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

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

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

Compensation of Attorney and Special Counsel.

Section 7.11. The compensation set by the Council for the Attorney shall be in contemplation of the normal duties of that office. Special compensation may be provided at the discretion of the Council for appeals to or litigation commenced in, Federal Court, Circuit Court, or State Appellate Courts; for work requiring extensive hearings before quasi-judicial or administrative tribunals; for legal work in connection with the issuance of bonds of the city; for condemnation proceedings; or for other matters outside the scope of his normal duties. No such special compensation, nor any compensation to assistant or special legal counsel, shall be paid, except in accordance with an agreement between the Council and the Attorney or special counsel made before the service for which such compensation is to be paid has been rendered.

Deputy Administrative Officers.

Section 7.12. The Clerk and Treasurer 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.

Boards and Commissions.

Section 7.13. The Council may not create any board, other than those provided for in this charter, to administer any activity, department, or agency of the city government except (1) a municipal hospital, (2) recreation, or (3) any activity, which, by law, is required to be so

administered. The Council may, however, establish (1) quasi-judicial appeal boards and (2) boards to service solely in an advisory capacity.¹⁷

Planning and Zoning.

Section 7.14. (a) The Council shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of law relating to such commission.

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

Police Department.

Section 7.15. (a) The Police Department shall be in the charge of the Police Chief who except as otherwise provided by law, shall be responsible to the City Manager.

(b) The Police Chief shall perform and be responsible for the performance of all duties and acts required to be performed by him or the police department by law and shall account for any pay over to the proper agencies all moneys received by him or the police department in the performance of such duties and acts.

(c) Police officers of the city shall have all the powers, immunities, and privileges granted to peace officers by law for the making of arrests, the preservation of order, and the safety of persons and property in the city and on lands and premises owned by the city outside its corporation limits. Any person arrested shall be taken before the proper magistrate or court, as required by law, or, in lieu thereof, be given notice to appear before such a magistrate or court. Police officers may make and sign complaints to or before the proper magistrates concerning violations of this charter and the ordinances of the city. For purposes of making arrests, violations of this charter and of city ordinances shall be governed by the provisions of law relating to arrests for misdemeanors.

Fire Department.

Section 7.16. (a) The Fire Department shall be in the charge of the Fire Chief, who, except as otherwise provided by law, shall be responsible to the City Manager.

(b) The Fire Department shall be responsible for the prevention and extinguishment of fires and the protection of persons and property against damage and accident resulting there from. The Fire Chief shall be responsible for the use, care, and management of the city's fire fighting apparatus and property. He shall conduct supervisory and educational programs to diminish the risk of fires within the city. He, or any of his authorized subordinates, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of life or property. If any person willfully disobeys any such lawful requirement, he shall be deemed guilty of a violation of this charter.

(c) The Fire Chief or any of his authorized subordinates may cause any building to be pulled down or destroyed when deemed necessary in order to arrest the progress of a fire. In such case no action shall be maintained against the city or any person therefore. If any person having an interest in such a building shall apply to the Council, within three months after the fire, for damages or compensation for such building, the Council may pay him such compensation as it may deem just. The Council may ascertain the amount of such damages or compensation by agreement with the

¹⁷ Amended to authorize the creation of a commission to administer the municipal golf course (voted and passed by the electorate at specialelection of April 9, 1968.

owner of the property or by the appraisal of a jury selected in the same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid by the city on account of any loss which would probably have occurred to a building by or on account of fire, if it has not been pulled down or destroyed under authority of this section. In making any award under authority of this section, the Council or the jury, as the case may be, shall credit against the damages arising out of the pulling down or destruction of the building any insurance recoverable by persons having an interest in the property.

City Engineering Services.

Section 7.17. (a) The council shall provide for engineering services for the city by retaining as City Engineer a legally qualified Engineer or engineering firm whose work shall be coordinated by the City Manager respecting public works and public improvements of the city and copies of all drawings, plans, specifications, surveys, and reports necessary to such work shall be filed with the city. Engineering services so provided shall include those of official surveyor of the city.

(b) The Council shall provide office and filing space for the work of the City Engineer or engineering firm in which shall be preserved the engineering and surveying records of the city, including the boundaries of the city, the location of streets, alleys, easements and other interests in real estate, and public places; the location of all utility and sewer mains, lines, conduits, manholes, valves, junctions, public works and improvements, and appurtenances thereof located on, above or under streets, alleys, and easements of the city; and may provide facilities for performing such drafting and engineering work as shall be required to be done thereat.

(c) The Council shall have the power to employ the engineering services of any qualified Engineer or engineering firm, in connection with any specific engineering work. Such services may be performed in conjunction with, or independently of, the regularly retained City Engineer or engineering firm. A copy of all final plans and specifications provided by such Engineer or engineering firm shall be filed with the city.

Additional Administrative Powers and Duties.

Section 7.18. From time to time, the Council may prescribe additional powers and duties or diminish any powers and duties in a manner not inconsistent with law, to be exercised and administered by appropriate officers and departments of the city.

Citizens Committees.

Section 7.19. The Council may create citizens committees for the purpose of studying specific problems or needs of any department, function, or interest of the city. Each such committee shall conduct, its study in cooperation with the City Manager and his subordinates and submit its findings and recommendations to the Council. Each such committee shall render its report to the Council within one year after its creation and shall then cease to exist, unless the work of the committee is extended thereafter by the Council for a period not exceeding one year.

CHAPTER 8
JUSTICE COURT¹⁸

Continuation of Court.

Section 8.1. The Justice court of the City of Marysville is hereby continued subject to the provisions of law.

Justice of the Peace.

Section 8.2. The Justice of the Peace in office at the time of the adoption of this charter shall remain in office until the expiration of the term for which he was elected.

Compensation and Bond of the Justice.

Section 8.3. (a) The Justice of the Peace shall receive as his compensation the usual fees of this office as provided by law. In the event that the compensation of justices of the peace shall cease to be provided by law, the Council shall provide therefore in accordance with law. The Council may, by ordinance, whenever it deems that the best interests of the city will be served thereby, provide that the Justices of the Peace be paid an annual salary. Any such salary provided shall be in lieu of all fees, costs, and charges to which such Justice would be entitled but for the provision of this section, except those for the performance of marriage ceremonies and the notarization of instruments.

(b) The Justice of the Peace, before entering upon the duties of his office, shall give bonds to the County of St. Clair in such sum as is provided by law and the City of Marysville in like amount. Such bonds shall be subject to the provisions of Section 4.8 of this charter.

Power and Jurisdiction – General.

Section 8.4. The Justice of the Peace of the city shall have and exercise therein and within the county the same jurisdiction, powers, and duties as are or may be conferred upon or required of justices of the peace in townships by law and shall be subject to the general laws with respect to such justices, except as otherwise provided in this charter. He shall have concurrent jurisdiction with other justices in the County of St. Clair as to all crimes, offenses, and misdemeanors when alleged to have been committed within the County of St. Clair, whether within or without the city.

Jurisdiction in Charter and Ordinance Cases.

Section 8.5. The Justice of the Peace shall have authority to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by this

¹⁸ The Justice Court and office of Justice of the Peace was abolished by the adoption of Article 6 Section 26 of the Michigan Constitution of 1963.

charter and the ordinances of the city and to punish offenders for the violation of this charter and the ordinances as is prescribed and directed.

Extended Jurisdiction.

Section 8.6. The Justice of the Peace shall also have: (1) Jurisdiction to the amount of five hundred dollars in all civil matters ex contractu and ex delicto with such exceptions and restrictions as are provided by law, (2) Such power and authority as can, under Public Act 279 of 1909, as amended, be conferred by this charter to set aside the verdict or judgment in any civil cause and grant a new trial therein, to be exercised in such manner and on such conditions as provided in said act, which powers are hereby adopted as though expressly set forth herein. (3) Such additional powers and authority as may or hereafter be conferred upon city Justices of the Peace by statute. (4) The filing of a motion for a new trial or to set aside a verdict of judgment and the effect thereof shall be as provided in Section 28 of Act 279, P.A. 1909 as amended.

Procedure in Justice Court.

Section 8.7. The proceedings in all suits and actions before the Justice and in the exercise of the powers and duties conferred upon and required of the Justice, shall, except as otherwise provided by law be according to and governed by the laws applicable to justice courts and to the proceedings before such court.

Place and Conduct of Courts.

Section 8.8. The Council shall furnish necessary supplies and a suitable place for the conducting of court by the Justice. It may regulate the hours of court of the Justice and may make other necessary and proper rules and regulations for the conduct of the business of the court, which are not inconsistent with law.

Transfer of Cases.

Section 8.9. In the case of the absence, disability, or disqualification of the Justice, any other Justice of the Peace or Municipal Judge of the County of St. Clair shall be qualified to act in the place of and for the Justice in the performance of any duties imposed upon him by law.

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

Section 8.10. (a) All fees and fines, penalties, forfeitures, and moneys collected or received by the Justice for any violation of the city charter or ordinances shall be paid over to the Treasurer on or before the 10th day of the next month after the collection or receipt thereof; and the Justice shall take the receipt of the Treasurer therefore and file the same with the Clerk. Failure of the Justice to comply with the foregoing provision shall constitute misconduct in office.

(b) If the Justice be paid an annual salary, all fees, and all fines, penalties, forfeitures, and moneys collected in city ordinance and charter cases shall be credited to the general fund of the city.

(c) All costs and fines recovered for violations of the penal laws of the State, when collected by the Justice of the Peace, shall be disposed of as provided by law.

(d) The expenses of prosecution before the Justice for violation of the penal laws of the State, and of punishing the offenders, shall be paid by the County of St. Clair.

Docket.

Section 8.11. The Justice of the Peace shall keep, at the place of holding court, a docket in the manner required by law. Failure to comply with the requirements of this section shall constitute misconduct in office.

Constables.

Section 8.12. The Council shall appoint one or more citizens of the city as constables for a term of one year commencing January 1st of each year. Such constables shall have like powers and authority in matters of civil and criminal nature, and in the relation of service of process, civil and criminal as are conferred by law on constables in townships. They shall have the power also to serve all process issued for breaches of ordinances of the city. The bond of the constable shall be that required of constables in townships. A constable shall receive as compensation the usual fees of the office of constable usually provided by law, unless the Council, by ordinance, shall otherwise prescribe.

Violations Bureau.

Section 8.13. The Council shall have power and authority to establish, by ordinance, a violations bureau within the Court for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any such ordinance may, within the time specified in the notice of such charge, answer at the violations bureau to the charges set forth in such notice in writing pleading guilty to the charge, by paying a fine, waiving a hearing in court, and giving power of attorney to make such a plea and pay such a fine in court. Acceptance of the prescribed fine and power of attorney by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given a receipt, which so states. The creation of such bureau shall not operate so as to deprive any person of a full and impartial hearing in Court should a person so choose.

Transfer of Justice of Peace Jurisdiction Under State Constitution.

Section 8.14. (a) When a new system for courts of lower jurisdiction is adopted by law, as required by Article VI, Section 26 of the State constitution, which affects the justice court established by this chapter, the Council shall have the power to adopt, by ordinance, whatever system of courts is substituted by law. Such ordinance shall have the same force and effect as if its provisions were written into this charter.

(b) The Council shall also have the power to provide for a Municipal Court, by ordinance, if, in its judgment, such a Court is deemed advisable and necessary for the City of Marysville. Such Municipal Court shall have all the powers and jurisdiction conferred upon such courts by law. Subject to law, should such court be established, it shall be presided over by a Municipal Judge who shall be an attorney licensed to practice law in the State of Michigan. The Council shall determine the salary for the office of Municipal Judge not less than thirty days before the last day for filing nominating petitions for election to that office.

LEGISLATION

Prior City Legislation.

Section 9.1. (a) All valid bylaws, ordinances, resolutions, rules, and regulations of the city which are not inconsistent with this charter and which are in force and effect at the time of the effective date of this charter shall continue in full force and effect, until repealed or amended. If any such ordinance, resolution, rule, or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this charter, be appointed by the Council, except as otherwise required by law.

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

Ordinances and Resolutions.

Section 9.2. (a) All official action of the Council 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 law, or which pertain to the internal affairs or concerns of the city government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number and by a code section number as soon as the codification of ordinances is completed.

(b) Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of Marysville ordains".

Enactment, Amendment, Repeal, and Effective Date of Ordinances.

Section 9.3. (a) Subject to the exceptions which follow hereafter, (1) ordinances may be enacted by the affirmative vote of not less than four members of the Council, (2) no ordinance shall be amended or repealed, except by an ordinance adopted as aforesaid, (3) 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 (4) the effective date of all ordinances shall be prescribed therein, but the effective date shall not be earlier than ten days after enactment nor before publication thereof.

(b) Notwithstanding subsection (a), 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 ten days after its enactment, or all three, by six affirmative votes, if six or seven members of the Council are present at the meeting at which it is enacted or by four affirmative votes if four or five members of the Council are present at the meeting at which it is enacted.

(c) In case an ordinance is given effect earlier than ten days after its enactment, the requirements for 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, which certificate shall be prima facie evidence 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 9.4 of this chapter.

(d) No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of Section 16.2.

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

Publication and Recording of Ordinance.

Section 9.4. (a) Unless a later date is set by the Council, each ordinance shall be published within fifteen days after its enactment by one of the following two methods: (1) The full text thereof may be published in a newspaper defined in Section 2.1 (11) either separately or as part of the published Council proceedings, or summary thereof, or (2) in cases or ordinances over five hundred words in length, a digest, summary, or statement of purpose of the ordinance, approved by the Council may be published in a newspaper as defined in Section 2.1 (11) including any such newspaper publication a notice that printed copies of the full text of the ordinance are available for inspection by and distribution to the public at the office of the Clerk. If method (2) is used, then printed copies shall promptly be so made available as stated in such notice.

(b) All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book," and it shall be the duty of the Mayor and Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation.

Penalties for Violations of Ordinances.

Section 9.5. Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court.

Special Requirements for Certain Council Actions.

Section 9.6. (a) Action to vacate, discontinue, or abolish any highway, street, lane, alley, or other public place, or part thereof, shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing thereon and shall publish notices of such hearing at least one week prior thereto.

(b) The following actions shall require the affirmative vote of four members of the Council for the effectiveness thereof;

- 1) Vacating, discontinuing, or abolishing any highway, street, lane, alley, or other public place or part thereof;
- 2) Purchasing, selling, or leasing of any real estate or interest therein;
- 3) Authorizing the condemning of private property for public use;
- 4) Creating or abolishing any office;
- 5) Appropriating any money;
- 6) Imposing any tax or assessment;
- 7) Reconsidering or rescinding any vote of the Council.

(c) The Council shall not have power to engage in any business enterprise requiring any investment of money in excess of the amount permitted to be so invested by law or to sell any park, cemetery or any part thereof, except where such park is not required under any official master plan of the city, unless approved by a three-fifths vote of the electors voting thereon at any general or special election.

Technical Codes Adopted by Reference.

Section 9.7. Subject to the provisions of this section, there may be adopted as a city ordinance or code, by reference thereto in an adopting ordinance, in whole or part, provisions of (1) any Michigan law, or (2) any detailed technical regulations promulgated or enacted by any state or federal agency, any municipality, or any organization or association which has developed a recognized standard code or set of such technical regulations. Such adopting ordinances shall clearly identify and state the purpose of the provisions or regulations to be adopted. Where any ordinance or code, or amendment thereto, adopting provisions by reference is enacted, all requirements for its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinances referring to such provisions in the manner provided by this charter for the publication of other ordinances, and including as part of such publication a notice that printed copies of the provisions so referred to are available for inspection by and distribution to the public at the office of the Clerk and (2) so making copies available for public inspection and for distribution to the public at a reasonable charge.

Codification of Ordinances.

Section 9.8. (a) Within one year after the effective date of this charter the Council shall direct the codification of all ordinances of the city in printed loose-leaf form and shall cause such codification to be maintained thereafter in current form. Such codification shall be completed within one year thereafter. Such codification may originally include provisions not previously contained in ordinances of the city.

(b) The Council shall provide for making copies of the codification available for public inspection and for distribution to the public at a reasonable charge therefore and shall publish notice of the printing and availability of such codification before the effective date thereof. Such printing and making available of the codification and notice thereof shall constitute publication of any such codification, other provisions of this charter for publication notwithstanding.

(c) Copies of the ordinances and of the codification thereof, and of provisions adopted by reference in accordance with Section 9.7 may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and other legally established tribunals as to the matter contained therein.

Initiative and Referendum.

Section 9.9. An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, as hereinafter provided.

Initiatory and Referendary Petitions.

Section 9.10. (a) An initiatory or a referendary petition shall be signed by not less than ten percent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within sixty days before the date of filing the petition with the Clerk. Any such petition shall be addressed to the Council and may be the aggregate of two or more petition papers which are identical as to contents except for the signatures thereon and simultaneously filed by one person. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or part thereof, or code sections it proposes to have repealed.

(b) Each signer of a petition shall sign his name, and shall, himself, place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

Council Procedure on Initiatory and Referendary Petitions.

Section 9.11. Upon the presentation to the Council of an initiatory or referendary petition by the Clerk, the Council shall, within thirty days, unless otherwise provided by law, either;

- 1) Adopt the ordinance as submitted by the initiatory petition;
- 2) Repeal the ordinance, or part thereof, referred to by the referendary petition; or
- 3) Determine to submit the proposal provided for in the petition to the electors.

Submission of Initiatory and Referendary Ordinances to Electors.

Section 9.12. Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose or, at the discretion of the Council, at a special election called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred fifty days from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special election within sixty days from such date of presentation for the submission of the initiative proposal, if such an election may be legally held in that time; otherwise as soon thereafter as the legal limitation ceases. The result of all elections held under the provisions of this section shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

Miscellaneous Provisions on Initiatory and Referendary Petitions.

Section 9.13. (a) An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of one year 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 two years after the date of the election at which it was repealed. Any ordinance may be adopted, amended, or repealed at any time by appropriate initiatory or referendary procedure, in accordance with the foregoing provisions of this chapter or, if submitted to the electorate by the Council on its own motion.

(b) 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 10

GENERAL FINANCE – BUDGET – AUDIT

Fiscal Year.

Section 10.1. The fiscal year of the city and of all its agencies shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Budget Procedures.

Section 10.2. The City Manager shall prepare and submit to the Council on or before the first regular meeting in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

(1) Detailed estimates with his supporting explanations of all proposed expenditures for each department, office, and agency of the city, including those for the retirement system, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to February first, and estimated expenditures for the balance of the current fiscal year;

(2) Statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(3) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to February first, and estimated revenues for the balance of the current fiscal year;

(4) A statement of the estimated balance or deficit at the end of the current fiscal year;

(5) An estimate of the amount of money to be raised from current and delinquent taxes, and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(6) Such other supporting information as the Council may request.

Schedule of Capital Outlay; Public Improvement Fund.

Section 10.3. Simultaneously with his recommended budget, the City Manager shall submit to the Council a schedule showing all recommended capital outlay expenditures during the following five years. The City manager shall prepare this schedule after consulting with the City Planning Commission. This schedule shall list separately each proposed acquisition of capital equipment or facility and each proposed capital expenditure program, with estimates of cost as accurate as may be made without detailed plans and specifications. It shall also include proposed capital expenditures by the public school, library, or any other organization financed in whole or in part by property taxes. This schedule shall be for the guidance of the Council in adoption of the regular annual budget and the Council may delete items or make such revision as is deemed appropriate and may arrange items in the order or priority for acquisition or construction. After making any desired corrections or additions, the Council shall adopt the capital outlay program at the same meeting as it adopts the regular annual budget. Such adoption shall be only for the purpose of setting up a guide for future capital expenditures and in no way shall obligate the city to carry out the programs listed nor to include any of the items in future budgets nor to appropriate funds for any of the items or programs. In the preparation of the annual budget, neither the City Manager nor the Council shall include or appropriate funds for any capital expenditure unless the item was included in the capital outlay program adopted the previous year or is included in the capital outlay program submitted with the budget. In the event funds are appropriated by the Council under such capital outlay program, they shall be credited to a Public Improvement Fund,

which is hereby created and established and shall be administered according to the provisions and under the authority of Public Act 177 of 1943, as amended.

Budget Hearing.

Section 10.4. A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Council shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Clerk shall be published at least six days in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one week prior to such hearing.

Adoption of Budget.

Section 10.5. (a) Not later than the first Monday in June, the Council shall, by resolution, adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city, and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject of the limitations contained in Section 11.1 of this charter.

(b) In the event that the Council shall not adopt a budget for any fiscal year by the second Monday in June, the budget proposal presented to the Council by the City Manager shall be deemed to be the budget for the ensuing fiscal year and there shall be an appropriation therefore without the necessity of Council action.

Budget Control.

Section 10.6. (a) Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city, except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council, by resolution, may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, agency, or fund, excepting from the public improvement fund and moneys appropriated for the payment of debt obligations, to another.

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

(c) Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to any contingency fund (or other similar fund). Instead, the necessary part of the appropriations for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure than charged to such account.

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

(e) The Balance in any budget appropriation, other than to the public improvement fund, which has not been encumbered at the end of the fiscal year, shall revert to the general fund.

Depository.

Section 10.7. The Council shall designate depositories for city funds and shall provide for the regular deposit of all city moneys. The Council shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

Claims Against City.

Section 10.8. Procedures for the examination and payment of claims against the city shall be as prescribed by law. In the absence of any such law, the Council shall prescribe such procedures by ordinance.

Withdrawal of City Funds.

Section 10.9. (a) Unless otherwise provided by law or by ordinance, all funds drawn from the treasury shall be drawn pursuant to the authority of the Council. The City Manager, where necessary to expedite operating procedures, may authorize, in writing, other officers and employees of the city to make minor disbursements from petty cash accounts, which disbursements shall be accounted for and shall be audited by the Clerk.

(b) Checks may be issued prior to authorization by the Council for such purposes and up to such amounts as the Council shall provide by ordinance.

(c) Checks for the disbursement of city funds may be signed by the Treasurer only, when the disbursement is authorized by the Council, or by a retirement system Board of Trustees respecting disbursements which it may authorize under authority of Chapters 18 and 19 of this charter. The Council may, however, provide by ordinance that checks shall also be countersigned by the Clerk. Signatures may be by facsimile, when and as authorized by the Council.

System of Accounting.

Section 10.10. The accounting system or methods of the city shall be governed by law. If no such law exists, and to the extent that such law does not apply to any accounting requirement of the city, the Council shall provide therefore by resolution. Any such system or details of accounting so provided shall conform to generally accepted principles and practices of municipal accounting.

Independent Audit – Annual Report.

Section 10.11. (a) An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the Council. Such audit shall be made by Certified Public Accountants, experienced in municipal accounting, selected by the Council.

(b) The City Manager shall prepare an annual report of the affairs of the city, including a financial report.

(c) Copies of such audit and annual report shall be made available for public inspection at the office of the City Manager.

TAXATION

Power to Tax and Tax Limits.

Section 11.1. (a) The city shall have the power to annually levy and collect ad valorem taxes, rents, tolls, and excises for municipal purposes.

(b) The subjects of ad valorem taxation for municipal purposes shall be the same as for State, county, and school purposes under the general law. Except as otherwise provided by this charter, city taxes shall be levied, collected, and returned in the manner provided by law.

(c) Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds and exclusive of any other levies authorized by law to be made beyond charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed two percent of (twenty mills on) the assessed value of all real and personal property in the city.

Tax Day.

Section 11.2. Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the thirty-first day of December of each year, or such other day as may be provided by law, which shall be deemed to be the tax day as defined by state law for all taxes levied in the city during the ensuing calendar year.

Preparation of the Assessment Roll.

Section 11.3. (a) 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, in the manner and form required by law. Values of all property listed on such assessment roll shall be estimated according to recognized methods of systematic assessment which are uniform for comparable properties. On or before the first Monday in March in each year, the Assessor shall give notice of any change in the assessed value of any property on, or of the addition of any property to, the assessment roll, as compared with the assessment roll for the previous year. Such notice shall be given to the owner thereof, as shown by such assessment roll and other records of the assessor's office, by first class mail. The failure of the owner to receive any such notice shall not invalidate any assessment roll or any assessment or levy of taxes thereon.

(b) No exemption from taxation shall be allowed, except as expressly required or permitted by law.

Board of Review.

Section 11.4. (a) A Board of Review is hereby created, composed of three members who have the qualifications for holding elective city office as set forth in this charter and who are freeholders of property assessed for taxes in the city. The Council shall set the compensation of the members of the Board of Review. Such compensation shall be on a per diem basis.

(b) The members of the Board of Review shall be appointed by the Mayor, subject to confirmation by the Council, and may be removed for reasons of non-feasance or misfeasance by a vote of five or more members of the Council. The first members shall be appointed during the month of January, 1966, for terms which shall be such that the term of one of the members will expire in the month of January of each year. Thereafter, one member shall be appointed in the month of January of each year, for a term of three years, commencing upon his appointment.

(c) Members of the Board of Review shall not hold any other city office or employment during their term of office, nor shall any member of the Board be a candidate for any elective city

office. Any such candidacy, whether voluntary or not, shall vacate the office held by him, immediately upon the expiration of the last day for withdrawing his candidacy.

(d) The Board shall, annually on the first day of its meeting, select one of its members chairman for the ensuing year. The Assessor shall be the Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

Duties and Functions of Board of Review.

Section 11.5. 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 law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter. At the time, and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessments. 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. Except as otherwise provided by law, no person, other than the Board of Review, shall make any change upon, or addition or correction to, the assessment roll. The assessor shall make a permanent record of all proceedings of the Board and enter therein all resolutions and decisions of the Board. Such record shall be filed with the Clerk on or before the first day of May following the meeting of the Board of Review.

Meetings of Board of Review.

Section 11.6. The Board of Review shall convene in its first session on the second Monday in March of each year and in its second session on the fourth Monday in March at such place and time of day as shall be designated by the Council or as is prescribed by law. The Board shall be in session on the first day of its first session for at least eight hours and for such times as may be required by law on other days of its sessions. The Council may require that the Board be in session between the hours of 7:00 o'clock p.m. and 9:00 o'clock p.m. on the first day of its meeting in each year. The Assessor shall secure the publication of the place and time of the meetings of the Board of Review not less than one week before it convenes for its first session in each year. The Assessor shall provide printed copies of the statutory law pertaining to board of review to each member of the Board and to the public at the meeting place of the Board while it is in session.

Endorsement of Roll.

Section 11.7. After the board of Review has completed its review of the assessment roll, and not later than the first Monday in April, a majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement or statement shall not affect the validity of such roll. In the event that the Board of Review shall fail or refuse to so review the assessment roll of the city, such roll, as prepared and presented to the Board of Review by the Assessor, shall be the assessment roll for the year for which it was prepared and shall stand as though it had been certified by the Board of Review and the amounts required to be certified by Section 11.9 shall be spread thereon by the Assessor and collected by the Treasurer.

Validity of Assessment Roll.

Section 11.8. Upon the completion of the assessment roll, and from and after midnight ending the last day of the meeting of the Board of Review, it shall be the assessment roll of the city for county, school, and city taxes, and for other taxes on real and personal property that may be

authorized by law. It shall be presumed by all courts and tribunals to be valid, and shall not be set aside, except for cause set forth by law.

Clerk to Certify Tax Levy.

Section 11.9. Within three days after the Council has adopted the budget for the ensuing fiscal year of the city, the Clerk shall certify to the Assessor the total amount which the Council has determined shall be raised by general tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts, which the Council requires to be assessed, reassessed, or charged upon such roll upon any property or against any person.

City Tax Roll.

Section 11.10. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare the city tax roll. Such city tax roll may be either a copy of the assessment roll with the authorized city taxes, assessments, and charges spread thereon, or may be a combined tax roll upon which county, school, and other taxes may be spread for collection under the general property tax act, in addition to city taxes, assessments, and charges, as determined by the Council. Upon receiving the certification of the several amounts to be raised, or to be assessed, reassessed, or charges as provided in Section 11.9, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be raised, charged, assessed, or reassessed against persons and property. He shall spread the amount to be raised by general city tax, according to and in proportion to the several valuations set forth in said roll as required by law. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised thereon not more than the amount prescribed or permitted by law. Any excess created thereby on any tax roll, for the levy and collection of taxes in the city, shall belong to the city.

Tax Roll Certified for Collection.

Section 11.11. After spreading the city taxes and any assessments, reassessments, and charges, the Assessor shall certify the tax roll and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the persons named in said roll the several sums mentioned therein opposite their respective names, as a tax, assessment, reassessment, or charge, and granting to him, for the purpose of collecting of taxes, assessments, and charges on such roll, all of the statutory powers and immunities possessed by township treasurers for the collecting of taxes. On or before July 10th¹⁹, the city tax roll shall be delivered to the Treasurer for the collection of the taxes, assessments, reassessments, and charges set forth thereon.

Taxes a Debt and Lien.

Section 11.12. (a) The taxes on real and personal property shall become a debt to the city from the owner or person otherwise to be assessed, on the tax day provided by law. The amounts assessed on any interest in real property shall become a lien upon such real property on the first day of August following the same tax day and the lien for such amounts, and for all interest and charges thereon shall continue until payment thereof. All personal property taxes shall be a first lien, prior,

¹⁹ Changed from July to June after Special Election of August 5, 1986 – Ordinance 110.

superior, and paramount, on all personal property of persons so assessed from and after the first day of August following the said tax day, unless such lien shall come into being against any such property at an earlier time as provided by law, and shall so remain until paid. Said tax liens on personal property shall take precedence over all other claims, encumbrances, security interests, and liens upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgment, or otherwise. No transfer of personal property assessed for taxes shall operate to divest or destroy such lien, except where such property is actually sold in the regular course of retail trade.

Personal Property – Jeopardy Assessment.

Section 11.13. If the Treasurer finds or reasonably believes that any person who is, or may be, liable for taxes upon personal property, the taxable status of which was in the city on tax day, intends to depart or has departed from the city; or to remove or has removed there from personal property which is or may be, liable for taxation; or to conceal or conceals himself or his property; or does any other act tending to prejudice, or to render wholly or partly ineffectual the proceedings to collect such tax, he shall proceed to collect the same as a jeopardy assessment in the manner provided therefore by law.

Taxes Due and Notification Thereof.

Section 11.14. (a) City taxes shall be due for payment on the first day of August²⁰ of the year when levied and shall be payable as stated in the warrant of the Assessor annexed to said roll.

(b) The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the taxpayer of the city, at least six days prior to the first day of August²¹ in each year, of the time when said taxes will be due for collection, by publication, at least once, in one or more of the newspapers published or circulated in the city. He shall also send a tax statement by first class mail, addressed to the owners of the property upon which taxes are assessed, according to the name of such owners and their addresses as indicated on the tax roll. Said notice and tax statement shall be deemed sufficient to require the payment of all taxes on said tax roll. Failure on the part of the Treasurer to give said notice and send any tax statement shall not invalidate the taxes on said tax roll nor release any person or property assessed thereon from any penalty provided for the non-payment or late payment of city taxes, assessments, or charges appearing on the tax roll.

Tax Payment Schedule.

Section 11.15. The Council shall provide, by ordinance, a tax payment schedule. Such schedule shall state the amount of collection charges and interest to be added to taxes, charges, assessments, and reassessments on the city tax roll and when such charges and interest shall be added. Under such schedule, no city taxes on any roll shall be collected by the city after the last day of February following the date on which such taxes became due for payment, except as delinquent taxes under procedures established by law or under authority of Section 11.17 for the collection of such taxes.

Failure or Refusal to Pay Personal Property Taxes.

²⁰ Changed from August to July after Special Election on August 5, 1986 – Ordinance 110.

²¹ Changed from August to July after Special Election on August 5, 1986 – Ordinance 110.

Section 11.16. If any person shall neglect or refuse to pay any city tax on personal property assessed to him, the Treasurer shall collect the same by seizing any personal property of such person, wherever it may be found in the State of Michigan, to an amount sufficient to pay such tax, and charges and interest added thereto. No personal property shall be exempt from such seizure. He may sell the property seized, to an amount sufficient to pay such tax, together with all charges, fees, penalties, and interest added thereto, in accordance with statutory provisions. The Treasurer may also sue the person to whom a personal property tax is assessed, in accordance with the powers granted him by law.

Collection of Delinquent Taxes.

Section 11.17. All city taxes, assessments, and charges upon real property on the tax roll, together with collection charges and interest added thereto, remaining uncollected by the Treasurer on the first day of March following the date when the roll was received by him shall be subject to one of the following procedures:

(1) The real property against which such taxes, assessments, and charges are assessed shall be subject to disposition, sale, and redemption for the enforcement and collection of the lien against the same in the method and manner, which may be provided by ordinance. The Council may provide by ordinance the procedure for the sale and redemption of real property for such unpaid taxes, assessments, and charges, together with collection charges and interest added thereto, by judicial sale on petition filed in behalf of the city. Such procedure shall correspond substantially to the procedure provided by law for the sale by the State of tax delinquent real property and redemption there from, except that the acts performed by state and county officers shall be performed by appropriate city officers and that city tax sales shall be held not less than thirty nor more than ninety days prior to the dates of corresponding tax sales under the general law.

(2) If no ordinance is in effect pursuant to sub-section (1) of this section, such taxes, assessments, and charges, together with any collection charges and interest added thereto, shall be returned to the County Treasurer, to the extent and in the same manner and with like effect as provided by law for returns by township treasurers of township, school, and county taxes. The taxes, assessments, and charges, together with any collection charges and interest added thereto (which collection charges and interest shall be treated and collected in the same manner as taxes returned to the county treasurer are collected in accordance with law) shall be and remain a lien upon the property against which they are assessed until paid.

Protection of City Lien.

Section 11.18. The city shall have power to acquire, by purchase, any premises within the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the city for taxes, or special assessments, or both, on said premises and the lien for other charges, collection charges, and interest, and may hold, lease, or sell the same for purpose of securing there from the amount of such taxes, special assessments, charges, collection charges, and interest, together with any incidental expense incurred in connection with the exercise of this power. Any such procedure exercised by the city in the protection of its such liens shall be deemed to be for public purpose.

State, County, and School Taxes.

Section 11.19. For the purpose of assessing and collecting the taxes for the state, county, and school purposes, the city shall be considered the same as a township, and all provisions of State Law relative to the collection of 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 State Law.

Disposition of Real Property Held by the City.

Section 11.20. When the city has acquired any interest in property to protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract shall have the right to purchase the city's interest therein upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, fees, penalties, interest, and costs, paid by the city to perfect its title in such property. After the lapse of ninety days after the date that the city acquired title to any such property, the Council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the Council by the assessor and qualified appraisers appointed by the Council.

State, County, and School Taxes.

Section 11.21. For the purpose of assessing and collecting State, county, and school taxes, the city shall be considered the same as a township, and all provisions of law relative to the collection of, and accounting for such taxes and the penalties and interest thereon shall apply.

CHAPTER 12

SPECIAL ASSESSMENTS²²

General Power Relative to Special Assessments.

Section 12.1. The council shall have the power to make public improvements within the city. As to public improvements which are of such a nature as to benefit especially any property or properties within a district, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon such property, in proportion to the benefits derived or to be derived.

Detailed Procedure to be Fixed by Ordinance.

Section 12.2. (a) The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of public improvement projects; the preparation of plans and cost estimates; the creation of special assessment districts; notices and hearing, making of special assessment rolls; the correction of error in such rolls, the confirming of special assessment roll; the number of installments in which special assessments may be paid; the collection of special assessments; the making of additional assessments where the original special assessment roll proves insufficient to pay the cost of the improvement or the cost of the repayment of the principal of and

²² See Ordinance 108.

interest on money borrowed to pay for such improvement; refunds of excessive assessments; Provided, That, when such excess is less than five percent of the total amount of the assessment roll, the excess may be placed in the general fund, and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall include provisions for the following:

- (1) The procedure for filing petitions for public improvement;
- (2) A survey and report by the City Manager concerning the need for, desirable extent of, and probable cost of such proposed public improvement;
- (3) A public hearing by the Council on the necessity of the making of such public improvement, with a publication of notice of such hearing: Provided, That no such public hearing shall be required when a petition for a public improvement is signed by all of the owners of property to be assessed therefore;
- (4) A resolution of the Council determining to proceed or not to proceed with the proposed public improvement;
- (5) A public hearing by the Council on the special assessment roll for the project with a publication of notice of such hearing;
- (6) A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefore, or the first installment thereof if installment payments be allowed, shall be due and payable, the number of annual installments, if allowed, in which the special assessment may be paid, and the rate of interest to be charged upon such deferred installments;
- (7) That no additional assessment for any public improvement shall be made, unless such additional assessment be reviewed at a meeting of the Council, for which meeting notices shall be published as provided in the case of review of the original special assessment roll;
- (8) That, in any case when the main purpose of a sidewalk is to provide travel convenience to and from a school, factory or other institution, public or private, and not for the benefit of the property in a district, except incidentally, the city shall pay not less than one-half of the cost of such sidewalk.
- (9) If under item (4) above, the determination is to proceed, determining the probable life of the improvement, finally fixing the special assessment district therefor, and ordering the Assessor to prepare a special assessment roll therefore: Provided, That, if prior to the adoption of the resolution to proceed with the making of the public improvement, written objections thereto have been filed by the owners of property in the district, which, according to the City Manager's report will be required to bear more than fifty percent of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted while such objections remain, except by the affirmative vote of five members of the Council;
- (10) Publication of notices required by this section shall be given in a newspaper published in the city not less than seven days prior to the hearing to which it applies. Notice of all hearings in special assessment proceedings shall also be given by first class mail to the persons in the manner provided in Act 162, P.A., 1962.
- (11) In the event that funds are on hand or a revolving fund exists to defray the expense of any public improvement prior to the completion thereof, the special assessment roll therefore may be made within sixty days after the improvement is completed and shall be based upon the actual cost thereof.

(b) When the city may, by law, participate in intergovernmental improvements, the cost of which may be defrayed in whole or in part by special assessments, the procedure therefore shall be

as provided by the law permitting the same. If such procedure is not so provided, the procedure established by and under authority of this chapter shall govern.

Reconsideration of Petitions.

Section 12.3. In the event that the Council shall fail to make any public improvement petitioned for under the provisions of the special assessment ordinance during the calendar year during which any petition is filed, such petition shall be reconsidered by the Council prior to the first day of March of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

Condemnation Costs.

Section 12.4. The cost of condemning or otherwise acquiring property needed for any public improvement, shall constitute a part of the cost of the improvement, but in no case shall the amount of such cost which is included in any special assessment for any public improvement cause the assessment to exceed the amount of the benefit received by any property assessed therefore through the making of the improvement.

Limitation on Suits and Actions.

Section 12.5. No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or additional special assessment, (1) unless, within thirty days after the confirmation of the special assessment roll, written notice be filed with the Clerk of intention to file such suit or action, stating the grounds on which it is claimed such assessment is illegal, and (2) unless such suit or action shall be commenced within sixty days after the confirmation of the roll.

Lien for and Collection of Special Assessments.

Section 12.6. (a) Upon the confirmation of each special assessment roll, the special assessments thereon shall, until paid, constitute a personal obligation to the city of the owner of the property against which it is assessed and shall be and continue to be a lien upon the property assessed for the amount of such assessments and all interest and collection charges which may accrue thereon. Such lien shall be of the same character and effect as that which is created by the charter for city taxes. Such special assessments or the installments thereof, as the case may be, shall be charged against the owners of the property assessed, according to the records of the assessor's office at the time the special assessment or installment thereof, as the case may be, is due for payment. All special assessments, or installments thereof, made in any calendar year which remain unpaid on the first day of March of the succeeding calendar year, together with the collection charges and interest which have accrued thereto, shall be placed upon the delinquent tax roll of the city as required in Chapter 11 of this charter and shall be collected, or the collection thereof enforced, in the same manner as are delinquent taxes on the city. For this purpose, the word "assessments" used in Chapter 11 shall include special assessments authorized by this chapter.

(b) In addition to the procedures established in sub-section (a) hereof for the collection of special assessments levied against property, the city may recover them in a suit in any court of competent jurisdiction. In any such suit, the confirmed special assessment roll upon which the

special assessment concerned appears shall be prima facie evidence of the existence of the special assessment, of the regularity of the proceedings in making the special assessment, and of the right of the city to recover judgment therefore.

Hazards and Nuisances.

Section 12.7. When any lot, or premises, building, or structure within the city, because of age or dilapidation, the accumulation of refuse or debris, the uncontrolled growing of noxious weeds or because of any other condition or happening becomes, in the opinion of the Council, a public nuisance, or hazard which is dangerous to the health, safety, or welfare of the inhabitants of the city or of those residing or habitually going near such lot or premises, or such building, or structure, the Council may, after investigation, give notice to the owner or owners of the land upon which such nuisance or hazard exists or to the owner or occupant of the land or the building or structure itself, by posting notice upon the premises, by personal service, or by registered or certified mail addressed to the address set forth in the current assessment roll of the city, or the records of the assessor, specifying the nature of the nuisance or hazard and requiring such owner or occupant to alter, repair, tear down, abate, or remove the nuisance or hazard within a time to be specified by the Council which shall be commensurate with the nature of the nuisance or hazard. If at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such nuisance or hazard to be abated by the proper department or agency of the city which is qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises, or description of real property upon which such nuisance or hazard is located, by special assessment.

Boulevard Lighting.

Section 12.8. The Council may provide a system of boulevard lighting for the city or any part or parts thereof, and may assess the cost thereof on any street for which such lighting is provided against the lands abutting thereon if the property owners of a majority of the frontage on such streets, or part thereof so to be improved, shall petition therefore.

All Real Property Liable for Special Assessments.

Section 12.9. All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefiting such property, unless specifically exempted from special assessments by law.

Special Assessment Accounts.

Section 12.10. Moneys raised by special assessment for any public improvement shall be credited to a special assessment account, and shall be used to pay the special assessment portion of the cost of the improvement for which the assessment was levied and of expense incidental thereto, including the repayment of the principal of and interest on money borrowed therefore, and to refund excessive assessments, if refunds be authorized.

Certain Postponements of Payments.

Section 12.11. The Council may provide that any person who, in the opinion of the assessor and Council, by reason of poverty is unable to contribute toward the cost of the making of a public

improvement, by special assessment, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by him and benefited by any public improvement, which lien will mature and be effective from and after the execution of such instrument, shall be recorded with the Register of Deeds of St. Clair County, and shall not be discharged or released until the terms thereof are met in full. The Council shall establish the procedure for making this section effective.

CHAPTER 13

BORROWING POWER

Municipal Borrowing Power.

Section 13.1. (a) Subject to the applicable provisions of law, the city may borrow money for any purpose within the scope of its powers or which may be permitted by law, and may issue bonds or other evidences of indebtedness thereof. Such bonds or other evidence of indebtedness shall include, but not be limited to the following types;

- (1) General obligation bonds for the payment of which the full faith and credit of the city is pledged;
- (2) Special assessment bonds which are issued in anticipation of the payment of special assessments for the purpose of defraying the cost of any one or more public improvements, which bonds shall be both an obligation of the special assessment district and a general obligation of the city;
- (3) Revenue bonds, as authorized by law;
- (4) Tax anticipation notes, which may be issued in anticipation of the collection of taxes for the current or next succeeding fiscal years of the city, or any other year permitted by law, in the manner and subject to any limitations provided by law;
- (5) Mortgage bonds, as authorized by law, for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by law to finance in this manner;
- (6) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund, or any other fund of the State, which the city may be permitted by law to pledge for the payment of the principal and interests thereof, which bonds, if the law so permits, may also be a general obligation of the city;
- (7) Water main extension bonds, in any amount not to exceed one per cent of the assessed valuation of all real and personal property in the city, for the payment of which the full faith and credit of the city are pledged, for the refunding from time to time of moneys advanced or paid on special assessments imposed for water main extensions as buildings are connected to such extensions, which bonds shall be payable in not more than thirty years, with interest thereon at a rate which shall not exceed six percent per annum;
- (8) Calamity bonds, issued in case of fire, flood, or other calamity for the relief of the inhabitants of the city and for the preservation of municipal property, in a sum not to exceed three-eighths of one per cent of the assessed value of the real and personal property in the city, which shall become due in not more than five years.

(b) Whenever any portion of public improvements shall be assessed by or charged to the city at-large and the balance of such cost assessed against the property benefited, the Council may provide for the payment of the city's portion of such cost in installments. In such case, bonds may be issued in anticipation of the payment of the amount assessed against the city at-large, the same as they may be issued in anticipation of the payment of the amount assessed against the benefited

property. In such case, the Council shall appropriate in each fiscal year an amount which is sufficient to pay the principal of and interest on such bonds which are required to be paid during that year. Such bonds may be included as a part of a total issue of bonds for the public improvement to which they apply and need not be separated from bonds issued in anticipation of the payment of special assessments assessed against the benefited property.

(c) Bonds may be issued in anticipation of the collection of special assessments levied with respect to two or more public improvements, but no special assessment district shall be required to pay the obligation of any other special assessment district and the ordinance or resolution authorizing such bond issue shall so provide.

(d) All collections on special assessment rolls or on any combination of such rolls shall be set apart in a separate fund and shall be used for the purpose for which levied, and for the payment of the principal of and interest on bonds issued in anticipation of such special assessments. If there is any deficiency in any special assessment fund to meet the payment of the principal or interest to be paid there from, moneys shall be advanced from the general funds of the city to meet such deficiency, and shall be re-placed in the general funds when the special assessment fund shall be sufficient therefore.

(e) Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and the proceeds thereof shall not be used for any other purpose, except that, whenever the proceeds of any bond issue, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the confirming vote of not less than five members, authorize the use of such unexpended and unencumbered funds:

- (1) For the retirement of such bond issue, or
- (2) If such bond issue has been fully retired, then for the retirement of other bonds or obligations of the city provided for by this section: Provided, That in the case of special assessment bonds, such funds shall be refunded to the owners of property against which special assessments therefore were made, or placed in the general fund of the city in accordance with the provisions of Section 12.2 of this charter, and
- (3) For such other purposes as may be permitted by law; subject to the proviso in paragraph (2) above; or
- (4) If such funds cannot be so used, then in any manner approved by the vote of not less than five members of the Council.

(f) No bond or other evidences of indebtedness, regardless of type or purpose, shall bear interest at a rate exceeding that fixed by law.

(g) All bonds and other evidences of indebtedness shall be signed by the Mayor and countersigned by the Clerk, under the seal of the city. Interest coupons may be executed with the facsimile signatures of the Treasurer. A complete and detailed record of all bonds and other evidence of indebtedness shall be kept by the Treasurer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled" or otherwise defaced by the Treasurer to indicate payment. After all of the bonds of any issue have been paid, they may be destroyed by cremation, with a proper certificate of such destruction filed in the office of the Clerk.

Limitations Upon Borrowing Power.

Section 13.2. (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten per cent of the assessed value of all the real and personal property in the city: Provided, That, in computing such net bonded indebtedness, there shall be excluded money borrowed under the provisions of Section 13.1 (a) clause (2), (3), and (4) of this chapter, and any other bonds which are not, by law, subject to the debt limitation of the city. The resources of any debt retirement or sinking fund pledged for the retirement of any outstanding bonds which are

subject to the debt limitation herein established, shall also be deducted from the amount of the bonded indebtedness.

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

CHAPTER 14

PURCHASING – CONTRACTS – LEASES

Purchase and Sale of Property.

Section 14.1. (a) The City Manager shall be responsible for the purchase and sale of all city property. Comparative prices shall be obtained for the purchase or sale, in the amount not in excess of fifteen hundred dollars²³, of all materials, supplies, and public improvements except (1) in the employment of professional services and (2) when the City Manager (or the Council as hereinafter provided) shall determine that no advantage to the city would result.

(b) In all sales or purchases in excess of fifteen hundred dollars,²⁴ (1) the sale or purchase shall be approved by the Council, (2) sealed bids shall be obtained, unless the Council, by unanimous resolution of those present at the meeting, based upon the written recommendations of the City Manager, determines that no advantage to the city would result from competitive bidding, and (3) there be compliance with the requirements of Section 14.2. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

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

(d) The city may not purchase, sell, or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council. In the case of the sale of real property, such sale shall not be authorized at the same meeting of the Council at which the resolution therefore is introduced.

(e) The purchase and sale of all city property shall be subject to the provisions of Section 4.18 of this charter.

(f) Purchase shall be made from the lowest competent bidder meeting specifications unless the Council shall determine that the public interest will be better served by accepting a higher bid. Sales shall be made to the bidder who bid is most advantageous to the city. The city shall reserve right to accept or reject any or all bids.

(g) Detailed purchasing, sale, and contract procedures shall be established by ordinance.

²³ The amount of fifteen hundred dollars was changed to three thousand dollars by Charter Amendment in September 1980.

²⁴ The amount of fifteen hundred dollars was changed to three thousand dollars by Charter Amendment in September 1980.

Contracts.

Section 14.2. (a) All contracts and leases to which the city is a party when this charter becomes effective shall remain in full force and effect.

(b) The authority to contract on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law: Provided, That purchases and sales may be made by the City Manager, subject to the provisions of Section 14.1.

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

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

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

(f) No contract shall be amended after the same has been made, except upon the authority of the Council: Provided, That the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 14.1.

(g) No compensation shall be paid to any contractor, except in accordance with the terms of the contract and no extra compensation shall be paid to any contractor after the service has been rendered or the contract entered into.

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

(i) An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the Accountant.

Restriction on Powers to Lease Property.

Section 14.3. (a) Any agreement or contract for the renting or leasing of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case or ordinances passed by the Council. Any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

(b) The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the Council but approval of such transfer shall not be subject to referendum.

(c) Rentals and leases and renewals thereof shall be for a fair consideration as determined by the Council.

CHAPTER 15

MUNICIPAL UTILITIES

General Powers Respecting Utilities.

Section 15.1 The city shall possess and hereby reserve to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver, water, light, heat, power, gas, and other public utility services without its corporate limits to an amount not to exceed the limitations set by law or in accordance with law.

Management of Municipal Utilities.

Section 15.2. Each municipally owned or operated utility shall be administered as a regular department of the city government, under the management and supervision of the City Manager.

Rates.

Section 15.3. The Council shall fix, from time to time, such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free services be permitted. Higher rates may be charged for service outside the corporate limits of the city.

Utility Rates and Charges – Collection.

Section 15.4. (a) The Council shall provide, by ordinance, for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

(1) That the city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance;

(2) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges;

(3) That suit may be instituted by the city in any competent tribunal for the collection of such rates or charges;

(b) With respect to the collection of rates charged for utility services the city shall have all the powers granted to cities by Act 178 of the Public Acts of 1939, and by Act 94, or the Public Acts of 1933.

Disposal of Utility Plants and Property.

Section 15.5. 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.

Utility Finances.

Section 15.6. (a) The rates and charges for any municipal public utility for the furnishing of water, light, heat, power, or gas shall be so fixed as to at least meet all the costs of such utility, including depreciation.

(b) 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 and that required under authority of law. Charges for all services furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to fairly show the financial position of each utility and the results of its operation, which report shall be made available for public inspection at the office of the Clerk.

CHAPTER 16

FRANCHISES

Franchises Remain in Effect.

Section 16.1. All franchises to which the city 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 Franchises.

Section 16.2. (a) Franchises, and all renewals and extensions thereof and amendments thereto, shall be granted by ordinance only, or under authority of an ordinance pertaining thereto. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

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

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

Conditions of Public Utility Franchises.

Section 16.3. 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 Council to insert in such franchise any provision within the power of the city to impose or require:

- (1) To repeal the same for misuse, non-use, or failure to comply with the provisions thereof;
- (2) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (4) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) To use, control, and regulate the use of its streets, alleys, bridges, and other public places and the spaces above and beneath them;
- (6) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public;
- (7) To require that drawings showing the location of all utility facilities located in the streets, alley, or public places of the city, or the space above or beneath them, be filed in the office of the City Engineer.

Regulation of Rates.

Section 16.4. All public utility franchises shall make provision therein for fixing rates, fares, and charges and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, goodwill, or prospective profits.

Use of Public Places by Utilities.

Section 16.5. 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 street, alleys, and other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefore. In the absence of agreement, and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore, and the arbitration award shall be final.

CHAPTER 17

SUPERVISORS²⁵

Number of Supervisors.

Section 17.1. The city shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by law. Until otherwise provided or permitted by law, such number shall be four.

Selection of Supervisors.

²⁵ The County no longer operates under a County Board of Supervisors and this Chapter is now obsolete.

Section 17.2. The representatives on the Board of Supervisors shall be appointed by the Council to serve at the pleasure of the Council. They shall be qualified electors of the city, and shall have been residents of the city for at least two years immediately prior to their appointment. The Council may appoint city officers, including Councilmen, or city employees as Supervisors, as well as qualified electors of the city. In case any representative of the city on the Board of Supervisors shall be unable to attend any meeting of the board for any reason, the Mayor may, in writing, appoint a qualified person to discharge the duties of such office during his inability to attend.

Duties of Supervisors.

Section 17.3. Except as otherwise provided in this charter, the representatives of the city on the Board of Supervisors shall perform the statutory duties of Supervisors. In the performance of his duties each Supervisor shall represent the city, its inhabitants, and its government to the best of his ability.

Compensation of Supervisors.

Section 17.4. Representatives of the city on the Board of Supervisors shall be entitled to retain any compensation and expense allowances paid to them by the county as members of the Board of Supervisors, but shall receive no compensation from the city for their services as Supervisors.

CHAPTER 18

GENERAL CITY EMPLOYEE RETIREMENT SYSTEM²⁶

Name and Establishment.

Section 18.1. The City of Marysville Employees Retirement System established in the year, 1945, and made effective on July 1, of that year for the purpose of providing retirement allowances for the Officers and employees of the City of Marysville, and certain benefits for their dependents, is hereby continued as in this chapter provided.

Definitions.

Section 18.2. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Board of Trustees" or "Board" means the Board of Trustees provided for in this chapter;
- (2) "Retirement system" or "system" means the City of Marysville employees retirement system established under this chapter;
- (3) "Employee" shall include officers of the city;
- (4) "Member" means any person who is included in the membership of the retirement system;
- (5) "Retirant" means any member who retires with a retirement allowance payable by the retirement system;
- (6) "Beneficiary" means any person, except a retirant, who is in receipt of, or who has entitlement to, a retirement allowance or other benefit payable by the retirement system;

²⁶ The General City Retirement System is presently governed by ordinance, Title I, Chapter 9 of the City of Marysville Code of Ordinances.

- (7) "Prior service" means personal service rendered to the city or its predecessor village prior to July 1, 1945, by an employee of the city: Provided, That a member's prior service shall not include service rendered prior to the date he last entered city employment prior to July 1, 1945;
- (8) "Membership service" means personal service rendered to the city after June 30, 1945 by a member of the retirement system;
- (9) "Credited service" means the sum of the prior service and membership service standing to the credit of a member;
- (10) "Regular interest" means such rate or rates of interest per annum, compounded annually, as the Board shall from time to time adopt;
- (11) "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to his individual account in the annuity savings fund, together with regular interest as credited;
- (12) "Compensation" means a member's salary or wages paid by the city for personal services rendered by him to the city: Provided, That, in case a member's remuneration includes lodging and meals, the Council shall fix the value of the lodging and meals;
- (13) "Final average salary" means the average of the highest annual compensations paid a member during any period of five consecutive years of credited service contained in his ten years of credited service immediately preceding the date of his employment with the city last terminates: Provided, That, if he has less than five years of credited service, his final average salary shall be the average of his annual rates of compensation for his total period of credited service;
- (14) "Final compensation" means a member's annual rate of compensation as of the date his employment with the city last terminates;
- (15) "Annuity" means an annual amount to be paid in equal monthly installments, derived from the accumulated contributions of a member, payable throughout the future life of a person, or for a temporary period, as provided in this chapter;
- (16) "Pension" means an annual amount to be paid in equal monthly installments, derived from money provided by the city, payable throughout the future life of a person, or for a temporary period, as provided in this chapter;
- (17) "Retirement allowance" means the sum of the annuity and the pension;
- (18) "Annuity reserve" means the present value of all payments to be made on account of any annuity, and shall be computed upon the basis of such mortality tables, and regular interest, as the Board shall, from time to time adopt;
- (19) "Pension reserve" means the present value of all payments to be made on account of any pension and shall be computed upon the basis of such mortality and other tables of experience and regular interest, as the Board shall from time to time adopt;
- (20) "Retirement" means a member's withdrawal from the employ of the city with a retirement allowance payable by the retirement system;
- (21) The definitions and rules of construction set forth in Section 2.1 of this charter shall apply to words and phrases used in this chapter.

Board of Trustees.

Section 18.3. There is hereby created a Board of Trustees in whom is vested the general administration, management, and responsibility for the proper operation of the retirement system and for construing and making effective the provisions of this chapter. The Board shall consist of five trustees, as follows:

- (1) The Mayor, to serve by virtue of his office;
- (2) A councilman to be selected by the Council, to serve at the pleasure of the Council;

- (3) The City Manager, to serve by virtue of his office;
- (4) Two members of the retirement system to be elected by the members of the system under such rules and regulations as the Board shall from time to time adopt: Provided, That no more than one such trustee shall be from any one city department.

Trustees' Terms of Office; Oath of Office.

Section 18.4. The term of office of trustees, provided for in Section 18.3 (4) hereof, shall be four years; one such term to expire each two years. Each trustee shall take an oath of office to be administered by the Clerk.

Board Vacancy.

Section 18.5. In the event a trustee provided for in Section 18.3 (3) and (4) hereof fails to attend three consecutive meetings of the Board of Trustees, unless in each case excused for cause by the remaining trustees attending such meetings, or in the event a trustee leaves the employ of the city, he shall be considered to have resigned from the board and the board shall, by resolution, declare his office of trustee vacated as of the time of adoption of such resolution. If a vacancy occurs in the office of trustee the vacancy shall be filled, within ninety days after the date of the vacancy, for the unexpired portion of the term, in the same manner as the office was previously filled.

Meetings of the Board.

Section 18.6. The Board shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. Four trustees shall constitute a quorum at any meeting of the Board. Each trustee shall be entitled to one vote on each question before the Board and at least four concurring votes shall be necessary for a decision by the trustees. The Board shall keep a record of its proceedings and shall adopt its own rules of procedure. All meetings of the Board shall be public. The trustees shall serve without additional compensation for their services as trustees.

Chairman of Board – Officers.

Section 18.7. (a) The Board shall elect from its own number a Chairman and Vice-chairman.

(b) The Clerk shall be secretary of the Board and he shall serve as the administrative officer of the retirement system.

(c) The Treasurer shall be treasurer of the retirement system and the custodian of its funds. All payments from funds of the system shall be made by the Treasurer subject to Section 10.9 of this charter upon evidence of a specific or continuing resolution adopted by the Board authorizing such payment or payments. No authority of the Council shall be required for making such payments.

(d) The City Attorney shall be the legal advisor to the Board.

(e) The Board shall appoint an actuary who shall be technical advisor to the Board on matters regarding the operation of the retirement system and who shall perform such other duties as are required of him under the provision of this chapter.

(f) The Board shall appoint as medical director a physician who is not eligible to participate in the retirement system as a member, retirant, or beneficiary. He shall be directly responsible to and shall hold office at the pleasure of the Board. He shall arrange for and pass upon all medical examinations required under this chapter, he shall investigate all essential statements and certificates of a medical nature furnished by or on behalf of a member, retirant, or beneficiary in

connection with an application for disability retirement or death in line of duty benefits. He shall report to the Board his conclusions on medical matters referred to him by the Board.

Records of Retirement System – Annual Report.

Section 18.8. The Clerk shall keep or cause to be kept such data as shall be necessary for an actuarial valuation of the retirement system. The Board shall render a report to the Council, on or before the first day of November of each year, showing the fiscal transactions of the system for the year ended the preceding June 30, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of its assets and liabilities.

Mortality Tables.

Section 18.9. The Board shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the operation of the retirement system on an actuarial basis.

Membership in Retirement System.

Section 18.10. (a) The membership of the retirement system shall include all officers and employees of the city, and all persons who become officers or employees of the city, except as provided in subsection (b) of this section.

(b) The membership of the retirement system shall not include (1) any person who is employed in a position normally requiring less than 600 hours of work per annum; nor (2) any person whose services are compensated for wholly on a fee basis; nor (3) the medical director nor the actuary; nor (4) elective officers of the city who do not devote full time in the employ of the city; nor (5) policemen and firemen who are members of another retirement system provided for in this charter.

(c) In any case of doubt as to who is a member of the retirement system, the Council shall decide the question.

Membership Termination.

Section 18.11. Should any member no longer be employed by the city, except to become a retirant or his death, he shall thereupon cease to be a member and his credited service at that time shall be forfeited by him. If he is re-employed by the city he shall again become a member. Should his re-employment occur within a period of four years from and after the date his city employment last terminated his credited service last forfeited by him shall be restored to his credit; Provided, That he returns to the annuity savings fund the amount, if any, he withdrew there from, together with regular interest form the date of withdrawal to the date of repayment. Upon a member's retirement or death, he shall thereupon cease to be a member.

Service Creditable.

Section 18.12. The Board shall determine by appropriate rules and regulations the amount of service to be credited a member in any calendar year, but in no case shall less than ten days of service rendered in any calendar month be credited as a month of service, nor shall less than ten months of service rendered in any calendar year be credited as a year of service; nor shall more than one year of service be credited any member for all service rendered by him in any calendar year.

War Service Credit.

Section 18.13. If an employee, who while employed by the city, entered or enters any armed service of the United State Government during any period of compulsory military service, he shall be given service credit for such period, not to exceed an aggregate of five years; Provided, That (1) he returned or returns to city employment within ninety days from and after the date of termination of such armed service required of him beyond his control, and (2) he returns to the annuity savings fund the amount, if any, he withdrew there from at the time he entered or while in such armed service, together with regular interest from the date of withdrawal to the date of repayment, and (3) he has not been given credit for such service as a member of another retirement system established in this charter. In any case of doubt as to the period to be so credited any member, the Board of Trustees shall have final power to determine such period. During his period of such armed service, and until his return to city employment his contributions to the annuity savings fund shall be suspended and any balance standing to this credit therein shall be accumulated at regular interest.

Member's Service Account.

Section 18.14. According to such rules and regulations as the Board may adopt, each member's service account shall be credited with the number of years and months of prior service and membership service to which he may be entitled.

Voluntary Retirement.

Section 18.15. Any member who has ten or more years of credited service and has attained age sixty years may retire upon his written application to the Board setting from at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement, he shall be entitled to a retirement allowance provided for in Section 18.17 hereof.

Normal Retirement.

Section 18.16. Any member, except an elected officer of the city, who has attained or attains age sixty-five years shall be separated from the employ of the city the first day of the calendar month next following the month in which he attains age sixty-five years. If, upon his separation from employ of the city, he has ten or more years of credited service he shall be entitled to a retirement allowance provided for in Section 18.17 hereof.

Straight Life Retirement Allowance.

Section 18.17. (a) Upon his retirement, as provided in this chapter, a member shall receive a straight life retirement allowance and he shall have the right to elect an option provided for in Section 18.28 hereof. His straight life retirement allowance shall consist of the following benefits:

- (1) An annuity which shall be the actuarial equivalent of his accumulated contributions standing to his credit in the annuity savings fund at the time of his retirement; and
- (2) A basic pension of \$100 per annum; and
- (3) A membership service pension of one percent of his final average salary multiplied by the number of years, and fraction of a year, of his membership service credit; and
- (4) A prior service pension of 2/135ths of his final average salary, multiplied by the number of years, and fraction of a year, of his prior service credit.

(b) In no case shall a member's straight life retirement allowance provided for in subsections (1), (2), (3) and (4) of this section be less than 1.25 per cent of his final average salary, multiplied by the number of years, and fraction of a year, of his credited service.

Terminal Payment – Death of Retirant.

Section 18.18. In the event a retirant dies before he has received in straight life retirement allowance payments an aggregate amount equal to his accumulated contributions standing to his credit in the annuity savings fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life retirement allowance payments received by him shall be paid from the pension reserve fund to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the said retirant, such difference, if any, shall be paid to his legal representative. No benefits shall be paid under this section on account of the death of a retirant who elected option 1,2, or 3 provided in Section 18.20 hereof.

Deferred Retirement Allowance.

Section 18.19. Should any member who either (1) has twenty-five or more years of credited service, or (2) has attained age fifty-five years and has ten or more years of credited service, separate from the employ of the city, for any reason except his immediate retirement or death, he shall be entitled to a retirement allowance provided for in Section 18.20 hereof as the section was in force at the time of his separation from city employment: Provided, That he does not withdraw his accumulated contributions from the annuity savings fund. His said retirement allowance shall begin the first day of the calendar month next following the month in which he files his application for same with the Board on or after his attainment of age sixty years.

Retirement Allowance Options.

Section 18.20. (a) Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his retirement allowance as a straight life retirement allowance payable throughout his life in accordance with the provisions of Section 18.17 hereof, or he may elect to receive the actuarial equivalent, at that time, of his straight life retirement allowance in a reduced retirement allowance payable throughout his life, and nominate a beneficiary, in accordance with the provisions of one of options 1, 2, or 3 as hereinafter set forth.

(b) Option 1 – Cash refund annuity. If a retirant dies before he has received in annuity portions of his reduced retirement allowance an aggregate amount equal to his accumulated contributions at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such person surviving the retirant, such difference shall be paid to his legal representative.

(c) Option 2 – Survivor Retirement Allowance. Upon the death of a retirant, his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his retirement.

(d) Option 3 – Modified Survivor Retirement Allowance. Upon the death of a retirant, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his retirement.

Ordinary Death Benefits.

Section 13.21. (a) Any member who continues in the employ of the city on or after the date he either (1) has acquired twenty years of credited service, or (2) attains age fifty-five years and has ten or more years of credited service, whichever date occurs first, may at any time prior to the effective date of his retirement, but not thereafter, elect Option 2 provided in Section 18.20 hereof, and nominate a beneficiary whom the Board finds to be dependent upon the said member for at least fifty per cent of his support due to lack of financial means. Prior to the effective date of his retirement a member may revoke his said election of Option 2 and nomination of beneficiary and he may again elect Option 2 and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an Option 2 election in force his beneficiary, if living, shall immediately receive a retirement allowance computed in the same manner in all respects as if the said member had retired the day preceding the date of his death, notwithstanding that he might not have attained age sixty years. Prior to the effective date of his retirement a member may cancel his election of Option 2 and nomination of beneficiary and he may elect to receive his retirement allowance as a straight life retirement allowance or according to another option provided for in Section 18.20 hereof. If, at the time of his retirement, he has an Option 2 election in force under this subsection his said election of Option 2 and nomination of beneficiary shall thereafter continue in force. No benefits shall be paid under this subsection on account of death of a member if any benefits are paid under Section 25 hereof on account of his death.

(b) Any member who continues in the employ of the city on or after the date he either (1) has acquired twenty years of credited service, or (2) attains age fifty-five years and has ten or more years of credited service, whichever date occurs first, and in either case does not have an Option 2 election in force as provided in subsection (a) of this section and (1) dies while in the employ of the city, and (2) leaves a widow, or in the case of a female member leaves a widower whom the Board finds to be totally and permanently disabled and to have been dependent upon the said female member for at least fifty per cent of his support due to lack of financial means, the said widow or widower shall immediately receive a retirement allowance computed in the same manner in all respects as if the said member has (1) retired the day preceding the date of his death, notwithstanding that he might not have attained the age sixty years, (2) elected Option 2 provided for in Section 18.20 hereof, and (3) nominated his said widow or widower as beneficiary. No benefits shall be paid under this subsection on account of the death of a member if any benefits are paid under Section 18.27 hereof on account of his death.

Disability Incurred.

Section 18.22 (a) Upon the application of a member, or his department head, a member who (1) is in the employ of the city, (2) has ten or more years of credited service, and (3) has become or becomes physically or mentally totally and permanently incapacitated for duty in the employ of the city by reason of a personal injury or disease, may be retired by the Board: Provided, That, after a medical examination of the said member made by or under the direction of the Medical Director, the Medical Director certified to the Board (1) that the said member is physically or mentally totally incapacitated for duty in the employ of the city, (2) that such incapacity will probably be permanent, and (3) that the said member should be retired. Upon his retirement the member shall receive a disability retirement allowance provided for in Section 18.23 hereof.

(b) The ten year service requirement contained in sub-section (a) of this section shall not apply to a member whom the Board finds (1) to be totally and permanently incapacitated for duty in the employ of the city as the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the city, and (2) that he is in

receipt of workmen's compensation on account of his total and permanently incapacity as a result of his city employment.

Disability Retirement Allowance.

Section 18.23. Upon his retirement on account of disability, as provided in Section 18.22 hereof, a member shall receive a disability retirement allowance computed according to Section 18.17 hereof: Provided, That, if he retired prior to his attainment of age sixty years and the Board finds he is in receipt of workmen's compensation on account of his physical or mental incapacity resulting solely and exclusively out of and in the course of his city employment, his straight life disability retirement allowance shall not be less than twenty per cent of his final average salary. Upon his retirement he shall have the right to elect an option provided for in Section 18.20 hereof. His disability retirement allowance shall be subject to Section 18.26 hereof.

Workmen's Compensation Service Credit.

Section 18.24. If a disability retirant is in receipt of workmen's compensation on account of his physical or mental incapacity resulting from the city employment, upon termination of the statutory period for payment of the workmen's compensation he shall be given service credit for such period and his disability retirement allowance shall be recomputed to include such additional service credit.

Re-examination of Disability Retirants.

Section 18.25. (a) Once each year during the first five years following the retirement of a member on account of disability and at least once in each three year period thereafter, the Board may, and upon the retirant's application shall, require the retirant, if he has not attained age sixty years, to undergo a medical examination to be made by or under the direction of the medical director. Should a disability retirant, who has not attained age sixty years, refuse to submit to such medical examination in any such period his disability retirement allowance may be discontinued by the Board, until his withdrawal of such refusal. Should such refusal continue for one year all his rights in and to a disability retirement allowance may be revoked by the Board. If upon such medical examination of a disability retirant the medical director reports to the Board that the said retirant is physically able and capable of resuming employment with the city he shall be returned to the employ of the city and his disability retirement allowance shall terminate: Provided, That the report of the medical director is concurred in by the Board.

(b) A disability retirant who returns to the employ of the city, as provided in subsection (a) of this section shall again become a member of the retirement system. His credited service, in force at the time of his retirement, shall be restored to his credit. He shall be given membership service credit for the period he was receiving a disability retirement allowance, if during such period, he was in receipt of workmen's compensation on account of his disability arising out of and in the course of his actual performance of duty in the employ of the city; otherwise he shall not receive service credit for such period.

(c) In the event a disability retirant who has not attained age sixty years becomes engages in a gainful occupation, business, or employment, paying him more than the difference between his final compensation and the pension portion of his disability retirement allowance his disability pension shall be reduced to an amount which, together with the amount so earned by him, shall equal his final compensation.

Death in Line of Duty.

Section 18.26. (a) In the event a member dies, as a result of a personal injury or disease arising out of and in the course of his employment by the city, and such death, injury, or disease resulting in death, be found by the Board to have occurred as the natural and proximate result of his performance of duty in the service of the city, the applicable benefits provided for in paragraphs (b), (c), (d), (e), and (f) of this section shall be paid subject to the provisions of paragraph (g) of this section and to Section 18.27 of this chapter.

(b) Accumulated Contributions. The Accumulated contributions standing to the said deceased member's credit in the annuity savings fund shall be paid in accordance with the provisions of Section 18.28 of this chapter.

(c) Widow's Pension. A pension of one-third of the final compensation of the said deceased member shall be paid to his widow to continue during her widowhood.

(d) Children's Pensions While Widow is living. If, in addition to a widow, a child or children under age eighteen years also survive the said deceased member, each such child shall receive a pension of an equal share of one-fourth of the final compensation of the said deceased member. Upon the marriage, death, or attainment of age eighteen years of any such child, his pension shall terminate and there shall be a redistribution by the Board to the remaining eligible children under age eighteen years.

(e) Children's Pension if Widow Dies or Remarries. In the event there be no widow, or if the widow dies or remarries before the youngest surviving child of said deceased member shall have attained age eighteen years, then his child or children under age eighteen years shall each receive a pension of one-fourth of the final compensation of the said deceased member: Provided, That, if there be more than two surviving children under age eighteen years, each such child shall receive a pension of an equal share of one-half of the final compensation of the said deceased member. Upon the marriage, death, or attainment of age eighteen years of any such child, his pension shall terminate and there shall be a redistribution by the Board to the remaining eligible children under eighteen years.

(f) Dependent Parent's Pension. In the event there be neither a widow nor children under age eighteen years eligible to receive pension, as provided for in this section, the dependent father and dependent mother, if any, of the said deceased member shall receive a pension of one-sixth of the said deceased member's final compensation: Provided, That the Board, after investigation, shall find such parent to have been actually dependent upon the said deceased member through absence of earning power due to physical or mental disability, and: Provided, further, That in no event shall the pension paid to any such parent exceed six hundred dollars per annum.

(g) Limitations. The total of the pensions provided for in paragraphs (c), (d), and (e) of this section, payable to a widow, or children, or to a widow and children, of any deceased member shall not exceed eighteen hundred dollars per annum.

Offset of Workmen's Compensation Benefits.

Section 18.27. (a) Any workman's compensation benefits which may be paid to the dependents of a member on account of his death shall be offset against and payable in lieu of any pensions payable as provided for in Section 18.26, paragraphs (c), (d), (e), (f) and (g) of this chapter, on account of the death of said member. In case the present value of the total benefits payable under workmen's compensation be less than the pension reserve for the pensions payable under the said Section 18.26, the present value of said workmen's compensation benefits shall be deducted from the said pension reserve for pensions payable under the said Section 18.26 and such

pensions as may be provided by the pension reserve so reduced shall be payable under the provisions of this chapter.

(b) Subrogation Rights. In the event any person becomes entitled to pension benefits as the result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the said person against such third party to the extent of benefits, which the city pays or becomes liable to pay.

Refund of Accumulated Contributions.

Section 18.28. (a) If a member leaves the employ of the city before he has satisfied the age and service requirements for retirement provided for in Section 18.15 hereof he shall be paid his accumulated contributions standing to his credit in the annuity savings fund upon his written application for same filed with the Board.

(b) Except as provided in Section 18.21 hereof, upon the death of a member his accumulated contributions standing to his credit in the annuity savings fund at the time of his death shall be paid to such person or persons, as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person or persons surviving the said member his said accumulated contributions shall be paid to his legal representative.

(c) The return of a member's accumulated contributions may be made in installments in accordance with such rules and regulations as the board may adopt from time to time.

Annuity Savings Fund.

Section 18.29. (a) The annuity savings fund is hereby created. It shall be the fund in which shall be accumulated at regular interest the contributions deducted from the compensation of members to provide for their annuities and from which accumulated contributions shall be paid and transferred as provided in this chapter.

(b) The contributions of a member of the retirement system shall be three per cent of his compensations.

(c) The officer or officers responsible for making up the payroll shall cause the contributions provided for in paragraph (b) of this section to be deducted from the compensation of each member on each and every payroll, for each and every payroll period, so long as he remains in the employ of the city. The member's contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be changed thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein any payment of his full compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by said person during the period covered by such payment, except as to benefits provided by this chapter. The officer or officers responsible for making up the payroll shall certify to the Treasurer, on each and every payroll, the amount of contribution to be deducted from the compensation of each member, and each of said accounts shall be deducted by the Treasurer, and when deducted shall be credited to the individual annuity savings fund account of the member from whose compensation said deduction was made.

(d) In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the annuity savings fund, by a single contribution or by an increased rate of contribution as approved by the Board, all amounts he may have previously withdrawn from, and not returned to, the annuity savings fund, together with regular interest from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he repays to the annuity savings fund all amounts due the said fund from him.

(e) Upon his retirement, a member's accumulated contributions shall be transferred from the annuity savings fund to the retirement reserve fund. At the expiration of a period of five years from and after the date an individual ceases to be a member, any balance of accumulated contributions standing to his credit in the annuity savings fund, unclaimed by such member, his beneficiary, or his legal representative, shall be transferred to the pension reserve fund.

Retirement Reserve Fund.

Section 18.30. The retirement reserve fund is hereby established. It shall be the fund from which shall be paid all annuities and pensions payable as provided in this chapter. Should a disability retirant return to city employment his annuity reserve, at that time, shall be transferred to the annuity savings fund and shall be credited to his individual account therein; and his pension reserve, at that time, shall be transferred to the pension reserve fund.

Pension Reserve Fund.

Section 18.31. (a) The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated reserves for the payment of all pensions and other benefits payable from the contributions made by the city, or any instrumentality of the city. Upon the basis of such mortality and other tables of experience, and regular interest, as the Board shall from time to time adopt, the actuary shall annually compute the pension reserve for (1) pensions being paid retirants and beneficiaries, and (2) covering service rendered and to be rendered by members. The said pension reserves shall be financed by annual appropriations to be made by the Council, determined according to paragraphs (b), (c) and (d) of this section, and subject to paragraph (e) of this section.

(b) The appropriation for member's current service shall be a per cent of their annual compensation which, if paid annually by the city during their future service, will produce an amount sufficient to provide the reserves, at the time of their retirement, for the portions of the pensions to be paid based upon their future service.

(c) The appropriation for member's accrued service shall be a per cent of their annual compensations which will produce an amount which, if paid annually by the city over a period of years, to be determined by the Council, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they might be entitled.

(d) The appropriation for pensions being paid retirants and beneficiaries shall be a per cent of the annual compensations of members which will produce an amount which if paid annually by the city over a period of years, to be determined by the Council, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(e) The Board shall report to the Council in each fiscal year the amount of city contributions, as determined in accordance with the above paragraphs, to be made to the retirement system during the ensuing fiscal year. The Council shall appropriate the required contributions each year, and the city shall pay such amounts to the retirement system in the ensuing fiscal year.

(f) Upon the retirement of a member, or upon his death, if a pension becomes payable on account of his death, the pension reserve for the pension or pensions to be payable on his account shall be transferred to the retirement reserve fund.

Expense Fund.

Section 18.32. The expense fund shall be the fund to which shall be credited all money provided by the city and any instrumentality of the city, to pay the administration expense of the retirement system, and from which shall be paid all expenses necessary in connection with the administration of the retirement system. The Board shall annually certify to the Council the amount of appropriation necessary to administer the retirement system during the ensuing fiscal year, and the city shall appropriate such amounts to the credit of the expense fund.

Management of Funds.

Section 18.33. (a) The Board of Trustees shall be the trustees of the funds of the retirement system and shall have full power to invest and reinvest such funds subject to the terms, conditions, limitations, and restrictions imposed by the State of Michigan upon domestic life insurance companies in the making and disposing of their investments.

(b) The Board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds of the retirement system have been invested, as well as the proceeds of such investments and any moneys belonging to the system. There shall be kept on deposit available cash not to exceed ten per cent of the assets of the system.

(c) All funds of the retirement system shall be held for the sole purpose of meeting disbursements for pensions, annuities, and other payments authorized by this chapter, and shall be used for no other purpose. The assets of the system shall not be segregated in annuity savings fund, retirement reserve fund, or the pension reserve fund, or any other fund of the system, but such funds shall be maintained as accounting record.

Allowance of Regular Interest.

Section 18.34. The Board shall allow and credit regular interest annually, on the mean balances in the annuity savings fund, retirement reserve fund, and pension reserve fund: Provided, however, That interest on contributions from members credited to their individual accounts in the annuity savings fund within any fiscal year shall begin on the first day of the fiscal year next following and shall be credited at the end of the fiscal year. The amounts of interest so allowed and credited shall be paid from interest and other earnings on investments of the system. Any additional amount necessary to allow and credit regular interest shall be paid from the pension reserve fund. All interest and other earnings on investments of the system, not required for the allowance of regular interest, shall be credited to the pension reserve fund, or may be used to provide reserve for contingencies, as the board shall from time to time determine.

Assignments Prohibited.

Section 18.35. The right of a person to an annuity, a pension, a retirement allowance, to the return of accumulated contributions, the annuity, the pension, or the retirement allowance itself, any optional benefit, any other right accrued or accruing to any member, retirant, or beneficiary under the provisions of this chapter, and the moneys belonging to the retirement system shall not be subject to execution, garnishment, attachment, the operation of insolvency or bankruptcy law, or any other process of law whatsoever, and shall be unassignable, except as is specifically provided in this chapter: Provided, That, should a member be covered by a group insurance or pre-payment plan participated in by the city, and should he be permitted to and elect to continue such coverage as a retirant, he may authorize the Board of Trustees to have deducted from his retirement allowance or pension the payments required of him to continue coverage under such group insurance or pre-payment plan: Provided, further, That the city shall have the right of set-off for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

Contractual Basis of Benefits.

Section 18.36. The accrued financial benefits of the retirement system shall be a contractual obligation of the city and shall not be diminished or impaired by the city. The terms of this chapter shall constitute the only basis upon which each such contractual obligation shall arise and accrue, and no benefits shall arise or accrue to any member or retirant except those specifically provided in this chapter and in accordance with the terms thereof.

Errors.

Section 18.37. Should any change or error in the records result in any member, retirant, or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the Board shall correct such error and, as far as possible, shall adjust the payments in such a manner that the actuarial equivalent of the benefits to which such member, retirant, or beneficiary was correctly entitled shall be paid.

CHAPTER 19

RETIREMENT SYSTEM FOR CITY POLICEMEN AND FIREMEN²⁷

Name and Establishment.

Section 19.1. The policemen and firemen retirement system established in 1961 and effective on July 1, of that year for the purpose of providing pensions for policemen and firemen in the employ of the City of Marysville who retire on account of superannuation or total and permanent disability, and to provide survivor pensions to certain dependents of policemen and firemen, is hereby continued as in this chapter provided.

Definitions.

Section 19.2. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Retirement system" or "system" means the City of Marysville Policemen and Firemen Retirement System created and established in this chapter;
- (2) "Board of Trustees" or "Board" means the Board of Trustees provided in this chapter;
- (3) "Policeman" means any full time employee in the police department of the city holding the rank of patrolman, including probationary patrolman, or higher rank, but shall not include (1) any civilian employee in the said police department, nor (2) any person who is temporarily employed as a policeman for an emergency, nor (3) any person who is privately employed as a policeman;
- (4) "Fireman" means any full time employee in the fire department of the city holding the rank of pipeman or fire-fighter, including probationary pipeman or fire-fighter, or higher rank, but shall not include (1) any civilian employee in the said fire department, nor (2) any person who is temporarily employed as a fireman for an emergency, nor (3) any person who is privately employed as a fireman;
- (5) "Member" means any policeman or fireman who is included in the membership of the retirement system;

²⁷ The Retirement System for City Policemen and Firemen is presently governed by Ordinance, Title I, Chapter 10, of the City of Marysville Code of Ordinances.

- (6) “Retirant” means any member who retires with a pension payable from funds of the retirement system;
- (7) “Beneficiary” means any person, except a retirant, who is in receipt of, or is entitled to receive, a pension or other benefit payable from funds of the retirement system;
- (8) “Credited service” means service rendered by a policeman or fireman in the employ of the city and credited to him to the extent provided in this chapter;
- (9) “Regular interest” means such rate or rates of interest per annum, compounded annually, as the Board of Trustees shall, from time to time, adopt;
- (10) “Compensation” means a member’s salary paid him by the city for personal services rendered by him as a policeman or fireman in the employ of the city;
- (11) “Final average salary” means the average of the highest annual compensation received by a member during any period of five consecutive years of credited service contained in his ten years of credited service immediately preceding the date his employment with the city last terminated. If he has less than five years of credited service, his final average salary shall be the average of his annual rate of compensation for his total years of credited service;
- (12) “Accumulated contributions” means the sum of all amounts deducted from the compensations of a member and credited to his individual account in the pension savings fund, together with regular interest thereon;
- (13) “Pension” means an annual amount paid in equal monthly installments payable from funds of the retirement system, throughout the life of a person or for a temporary period, as provided in this chapter;
- (14) “Pension reserve” means the present value of all payments to be made on account of any pension, which shall be computed upon the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall, from time to time, adopt;
- (15) “Retirement” means a member’s withdrawal from the employ of the city with a pension payable from the funds of the retirement system;
- (16) The definitions and rules of construction set forth in Section 2.1 of this charter shall apply to words and phrases used in this chapter.

Board of Trustees.

Section 19.3. There is hereby created a Board of Trustees in whom is vested the general administration, management, and responsibility for the proper operation of the retirement system and for construing and making effective the provisions of this chapter. The Board shall consist of five trustees, as follows:

- (1) The Mayor, to serve by virtue of his office,
- (2) One Councilman, to be selected by the Council, who shall serve at the pleasure of the Council,
- (3) A citizen, who is not a member, retirant, or beneficiary of the retirement system, to be appointed by the Mayor by and with the consent of the Council,
- (4) A policeman member to be elected by the policemen members, and a fireman member to be elected by the firemen members. The said elections shall be held under such rules and regulations as the Board of Trustees shall, from time to time, adopt.

Trustees’ Term of Office; Oath of Office.

Section 19.4. The regular term of office for the trustees provided for in Section 19.3 (3) and (4) hereof shall be four years. Each trustee shall, within ten days after becoming a trustee, take an oath of office to be administered by the Clerk.

Vacancy on Board.

Section 19.5. If a trustee provided for in Section 19.3 (2) or (4) hereof fails to attend three consecutive regularly scheduled meetings of the Board of Trustees, unless in each case excused for cause by the remaining trustees attending such meeting, or if he shall leave the employ of the city, he shall be considered to have resigned from the Board and the Board shall, by resolution, declare his office of trustee to be vacated as of the time of adoption of such resolution. If a vacancy occurs in the office of trustee, the vacancy shall be filled within ninety days from and after the date of the vacancy, for the unexpired term, in the same manner as the office was previously filled.

Meetings of Board.

Section 19.6. The Board of Trustees shall hold meetings regularly, at least once in each quarter of each year, and shall designate the time and place thereof. Three trustees shall constitute a quorum at any meeting of the Board. Each trustee shall be entitled to one vote on each question before the Board and at least three concurring votes shall be necessary for a decision by the Board. The Board shall keep a record of its proceedings and shall adopt its own rules of procedure. All meetings of the Board shall be public. The trustees shall serve without compensation for their services as trustees.

Chairman; Officers.

Section 19.7. The Board of Trustees shall elect from its number a Chairman and a Vice-Chairman.

(a) The Clerk shall serve as secretary of the retirement system.

(b) The Treasurer shall be treasurer of the retirement system and shall be the custodian of its funds. All payments from the funds of the retirement system shall be made by the Treasurer subject to Section 10.9 of this charter upon a specific or continuing resolution adopted by the Board of Trustees authorizing such payment or payments. No authority of the Council shall be required for making such payments.

(c) The City Attorney shall be legal advisor to the Board of Trustees.

(d) The Board of Trustees shall appoint an actuary who shall be technical advisor to the Board and who shall perform such duties as are required of him under this chapter.

Records; Annual Report.

Section 19.8. The Clerk shall keep or cause to be kept such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system. The Board of Trustees shall annually render a report to the Council, showing the fiscal transactions of the retirement system for the preceding fiscal year, and the last balance sheet showing the financial condition of the retirement system by means of an actuarial valuation of its assets and liabilities.

Experience Tables; Regular Interest; Adoption of.

Section 19.9. The Board of Trustees shall, from time to time, adopt such mortality and other tables or experience, and regular interest, as are required for the operation of the retirement system on an actuarial basis.

Membership.

Section 19.10. (a) Except as provided in subsection (b) of this section, all policemen and firemen who are in the employ of the city, and all persons who hereafter become policemen or firemen in the employ of the city, shall be members of the retirement system established under this chapter;

(b) In any case of doubt as to who is a member of the retirement system, the Council shall decide the question.

Membership Terminates.

Section 19.11. Except as otherwise provided in this chapter, should any member no longer be employed by the city as a policeman or fireman, for any reason except his retirement or death, he shall thereupon cease to be a member and his credited service at that time shall be forfeited by him. In the event he is re-employed by the city as a policeman or fireman he shall again become a member of the retirement system. Should his said re-employment occur within a period of four years from and after the date his city employment last terminated, his credited service last forfeited by him shall be restored to his credit: Provided; That he first returns to the pension savings fund the amount if any, he withdrew there from, together with regular interest from the date of withdrawal to the date of repayment. Upon his retirement or death he shall thereupon cease to be a member.

Service Credit.

Section 19.12. The Board of Trustees shall determine by appropriate rules and regulations the amount of service to be credited any member. In no case shall less than ten days of service rendered in any calendar month be credited as a month of service, nor shall less than ten months of service rendered in any calendar year be credited as a year of service, nor shall more than one year of service be credited any member for all service rendered by him in any one calendar year.

Military Service Credit.

Section 19.13. If a policeman or fireman who while employed by the city entered or enters any armed service of the United States Government during any period of compulsory military service, he shall be given service credit for such period, not to exceed an aggregate of five years: Provided, That (1) he returned or returns to city employment within ninety days from and after the date of termination of such armed service required of him beyond his control, and (2) he returns to the pension savings fund the amount, if any, he withdrew there from at the time he entered or while in such armed service, together with regular interest thereon from the date of withdrawal to the date of repayment. In any case of doubt, as to the period to be so credited any member, the Board of trustees shall have final power to determine such period. During his period of such armed service, and until his return to city employment, a member's contributions to the pension savings fund shall be suspended and any balance remaining therein standing to his credit shall be accumulated at regular interest.

Voluntary Retirement.

Section 19.14. Any member who has attained or attains age fifty-five and has ten or more years of credited service, may retire upon his written application filed with the Board of Trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement he shall receive a pension provided for in Section 19.16 hereof.

Normal Retirement.

Section 19.15. (a) Subject to the provisions of paragraph (b) of this section, a member shall be retired the first day of the calendar month, next following the month in which he attains age sixty years. Upon his retirement he shall receive a pension provided for in Section 19.16 hereof.

(b) A member may be continued in city employment as a policeman or fireman beyond his attainment of age sixty years for periods of time not to extend beyond his attainment of age sixty-five years: Provided, That his said continuance in city employment is (1) requested by him in writing, and (2) approved by the City Manager by and with the consent of the Council. Upon his separation from city employment he shall receive a pension provided for in Section 19.16 hereof.

Age and Service Pension.

Section 19.16. Upon his retirement, as provided in this chapter, a member shall receive a straight life pension equal to the sum of two per cent of his final average salary multiplied by the number of years, and fraction of a year, of his credited service not to exceed twenty-five years, plus one per cent of his final average salary multiplied by the number of years, and fraction of a year, his credited service is in excess of twenty-five years. Upon his retirement he shall have the right to elect an option provided for in Section 19.19 hereof. Any pensions payable under this section shall be subject to Section 19.24 hereof.

Terminal Payments.

Section 19.17. If a retirant dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions, standing to his credit in the pension savings fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life pension payment received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If there be no such designated person or persons surviving the said retirant, such differences shall be paid to his legal representative. No benefits shall be paid under this section on account of the death of a retirant who elected either Option "A" or "B" provided for in Section 19.19 hereof.

Deferred Pension.

Section 19.18. Should any member who has twenty-five years or more of credited service separate from the employ of the city prior to his attainment of fifty-five years, for any reason except his retirement or death, he shall be entitled to a pension computed according to Section 19.16 hereof, as it was in force at the time he left city employment: Provided, That he does not withdraw his accumulated contributions standing to his credit in the pension savings fund. His said pension shall begin the first day of the calendar month next following the month in which his application therefore is filed with the Board of Trustees on or after his attainment of age sixty years.

Pension Options.

Section 19.19. (a) Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life, or he may elect to receive the actuarial equivalent, at that time, of his straight life pension in a reduced pension

payable throughout his life, and nominate a beneficiary, in accordance with the provisions of Option "A" or "B" as hereinafter set forth;

(b) Option A. Joint and Survivor Pension: Under Option A, upon the death of a retirant his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees prior to the effective date of his retirement;

(c) Option B. Modified Joint and Survivor Pension: Under Option B, upon the death of a retirant one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees prior to the effective date of his retirement.

Ordinary Death Pensions.

Section 19.20. (a) Any member who continues in the employ of the city as a policeman or fireman on or after the date he acquires ten years of credited service, may at any time prior to the effective date of his retirement elect Option A provided for in Section 19.19 hereof, and nominate a beneficiary whom the Board of Trustees finds to be dependent upon the said member for at least fifty per cent of his support due to the lack of financial means. Prior to the effective date of his retirement a member may revoke his said election of Option A and nomination of beneficiary, and he may again election the said Option A and nominate a beneficiary as provided in this sub-section. Upon the death of a member who has an Option A election in force, his beneficiary, if living, shall immediately receive a pension computed in the same manner in all respects as if said member had retired the day preceding the date of his death, notwithstanding that he might not have attained age fifty-five years. Prior to the effective date of his retirement, a member may elect to receive, in lieu of his straight life pension, a straight life pension, or an Option A or an Option B pension provided for in Section 19.19 hereof. If, at the effective date of his retirement, a member has an Option A election in force under this sub-section his said election of Option A and nomination of beneficiary shall thereafter continue in force. No pensions shall be paid under this subsection on account of the death of a member if any pensions are paid under Section 19.26 hereof on account of his death. Any pension payable under his sub-section shall be subject to Section 19.24 hereof.

(b) Any member who continues in the employ of the city as a policeman or fireman on or after the date he acquires ten years of credited service and does not have an Option A election in force as provided in sub-section (a) of this section, and (1) dies while in the employ of the city, and (2) leaves a widow, or in the case of a female member leaves a widower whom the Board of Trustees finds to be to totally and permanently disabled and to have been dependent upon the said female member for at least fifty per cent of his support, said widow or widower, shall immediately receive a pension, computed in the same manner in all respects as if the said member had (1) retired the day preceding the date of his death, notwithstanding that he might not have attained age fifty-five years, (2) elected Option A provided for in Section 19.19 hereof, and (3) nominated his said widow or widower, as the case may be, as beneficiary. No pension shall be paid under this sub-section on account of the death of a member if any pension is paid under Section 19.26 hereof on account of his death. Any pension payable under this sub-section shall be subject to Section 19.24 hereof.

Duty Disability Incurred.

Section 19.21. Upon the application of a member, or the City Manager on behalf of a member, a member who (1) is in the employ of the city, and (2) has become or becomes physically or mentally totally and permanently incapacitated, by reason of a personal injury or disease incurred as the natural and proximate result of cause arising out of and in the course of his employment by the city, may be retired by the Board of Trustees: Provided, That, after a medical examination of

the said member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be named by the Board, one by the member claiming benefits, and the third by the first two physicians so named, the said medical committee, by majority opinion, in writing, certifies to the Board (1) that the said member is physically or mentally totally incapacitated for duty as a policeman or fireman, (2) that such incapacity will probably be permanent, and (3) that the said member should be retired. Upon his retirement he shall receive a pension provided for in Section 19.23 (a) hereof.

Non-duty Disability Incurred.

Section 19.22. Upon the application of a member, or the City Manager on behalf of a member, a member who (1) is in the employ of the city, (2) has ten or more years of credited service, and (3) has become or becomes physically or mentally totally and permanently incapacitated, by reason of a personal injury or disease, incurred as a result of causes arising outside the course of his employment by the city, may be retired by the Board of Trustees: Provided, That, after a medical examination of the said member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be named by the Board, one by the member claiming benefits, and the third by the first two physicians so named, the said medical committee, by majority opinion in writing, certifies to the Board (1) that said member is physically or mentally totally incapacitated for duty as a policeman or firemen, (2) that such incapacity will probably be permanent, and (3) that the said member should be retired. Upon his retirement he shall receive a pension provided for in Section 19.23 (b) hereof.

Disability Pension.

Section 19.23. (a) Upon his retirement, as provided in Section 19.21 hereof, a member shall receive a pension computed according to the provisions of Section 19.16 hereof. His said pension payable to his attainment of age fifty-five years, if he retired prior thereto, shall not be less than fifty per cent of his final average salary. At his attainment of age fifty-five years, if he retired prior thereto, he shall be given service credit for the period he was receiving a pension provided for in this section and his pension payable from and after his attainment of age fifty-five years shall be recomputed to include such additional service credit. Any pension payable under this sub-section shall be subject to Sections 19.24 and 19.25 hereof.

(b) Upon his retirement, as provided in Section 19.22 hereof, a member shall receive a pension computed according to the provisions of Section 19.16 hereof. Any pension payable under this sub-section shall be subject to Sections 19.24 and 19.25 hereof.

Workmen's Compensation Offset.

Section 19.24. (a) Any amounts paid under the provisions of the workmen's compensation act of the State of Michigan to a retirant or beneficiary shall be offset against and payable in lieu of any pensions provided under the provisions of this chapter.

In the event the benefits under the workmen's compensation act are less than the pension payable under this chapter, then the pensions to be paid to a retirant or beneficiary under this chapter shall be the difference between the said workmen's compensation benefits and the said pensions herein provided. Upon termination of the statutory period for payment of workmen's compensation the pension shall be paid in full in accordance with the provisions of this chapter.

(b) Any person who becomes entitled to a pension as the result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the said person against such third party to the extent of benefits which the city pays or becomes liable to pay.

Examination of Disability Retirants.

Section 19.25. (a) At least once each year during the first five years following a member's retirement on account of disability and at least once in each three year period, thereafter, the Board of Trustees may, and upon the disability retirant's application shall, require a disability retirant, who has not attained age fifty-five year, to undergo a medical examination to be made by or under the direction of a physician to be designated by the Board. In the event a disability retirant, who has not attained age fifty-five years, refuses to submit to such medical examination in any such period his pension may be discontinued by the Board until his withdrawal of such refusal. Should such refusal continue for one year, all his rights in and to his pension may be revoked by the Board. If, upon such medical examination, the physician reports to the Board that said retirant is physically and mentally able and capable of resuming employment with the city as a policeman or fireman he shall be returned to employment with the city and his pension shall terminate: Provided, That the report of the said physician is concurred in by the Board.

(b) A disability retirant who has been or shall be returned to employment with the city, as provided in sub-section (a) above, shall, from the date of his return, again become a member of the retirement system. Any service standing to his credit at the time of his retirement shall be restored to full force and effect. He shall be given credit for the period he was receiving a disability pension if he retired under Section 19.21 hereof. He shall not be given service credit for the period he was receiving a disability pension if he retired under Section 19.22 hereof.

(c) In the event a disability retirant, who has not attained age fifty-five years, becomes engaged in a gainful occupation, business, or employment, paying more than the difference between the current salary for the rank held by him at the time of his retirement and his disability pension, his disability pension shall be reduced to the difference between the said current salary of the rank held by him and the amount so earned by him.

Death in the Line of Duty.

Section 19.26. (a) In the event a member dies as the result of a personal injury or disease arising out of and in the course of his employment by the city, and such death, injury, or disease resulting in death, be found by the Board of Trustees to have occurred as the natural and proximate result of his actual performance of duty as a policeman or fireman in the employ of the city, and the applicable benefits provided in paragraphs (b), (c), (d), (e), and (f) of this section shall be paid, subject to Section 19.24 hereof.

(b) The accumulated contributions standing to the said deceased member's credit in the pension savings fund shall be paid in accordance with the provisions of Section 19.27 hereof.

(c) A pension of one-third of the deceased member's last annual rate of compensation shall be paid to his widow to continue during her widowhood: Provided, That the said pension shall not exceed fifty per cent of the maximum annual rate of salary for a patrolman, or pipeman or firefighter, as the case may be, as fixed in the city budget for the fiscal year in which the member died.

(d) If, in addition to a widow, an unmarried child or children under age eighteen years also survive the deceased member, each such child shall receive a pension of an equal share of one-fourth of the deceased member's last annual rate of compensation. Upon the adoption, marriage, death, or attainment of age eighteen years of any such child, his pension shall terminate and his pension shall be shared by the said deceased member's remaining unmarried eligible children under age eighteen years. In no case shall the total of the pension payable, under paragraphs (c) and (d) of this section, on account of the death of a member, exceed fifty per cent of the maximum annual rate

of salary for a patrolman, or pipeman or firefighter, as the case may be, as fixed in the city budget for the fiscal year in which the member died.

(e) In the event the deceased member does not leave a widow, or if his widow dies, or remarries before his youngest surviving unmarried child attains age eighteen years, his unmarried child or children under age eighteen years shall each receive a pension of one-fourth the deceased member's last annual rate of compensation: Provided, That, if there be more than two such surviving unmarried children under age eighteen years, each such child shall receive a pension of an equal share of one-half of the said deceased member's last annual rate of compensation. Upon the adoption, marriage, death, or attainment of age eighteen years of any such child, his pension shall terminate and his pension shall be shared by the said deceased member's remaining unmarried eligible children, under age eighteen years. In no case shall the pension payable to any such child exceed one-fourth of the said member's last annual rate of compensation, in no case shall the total of the pensions payable under this paragraph on account of the death of a member exceed fifty per cent of the maximum annual rate of salary for a patrolman, or pipeman or firefighter, as the case may be, as fixed in the city budget for the fiscal year in which the member died.

(e) In the event there be neither a widow nor children under age eighteen years eligible to receive pensions provided for in this section, the dependent father and dependent mother, or either of them, of the deceased member shall each receive a pension of one-sixth of the said deceased member's last annual rate of compensation: Provided, That the Board of Trustees, after investigation, shall find such parent to have been actually dependent upon the said deceased member for financial support through absence of earning power. In no case shall the total of the pensions payable under this paragraph on account of the death of a member exceed fifty per cent of the maximum rate of salary for a patrolman, or pipeman or firefighter, as the case may be, as fixed in the city budget for the fiscal year in which the member died.

Refunds of Accumulated Contributions.

Section 19.27. (a) In the event a member ceases to be a policeman or fireman in the employ of the city before becoming eligible to a pension payable from funds of the retirement system he shall be paid, subject to the rules and regulations as the Board of Trustees shall from time to time adopt, his accumulated contributions standing to his credit in the pension savings fund.

(b) Should a member die before his retirement becomes effective his accumulated contributions standing to his credit in the pension savings fund at the time of his death shall be paid to such person or persons, as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If there be no such designated person or persons surviving the said member his said accumulated contributions shall be paid to his legal representative. No payment shall be made under this sub-section on account of the death of a member if any pension becomes payable under Section 19.20 hereof on account of his death.

(c) Any refund of a member's accumulated contributions provided for in this section may be made in installments in accordance with such rules and regulations as the Board of Trustees shall from time to time adopt.

Pension Savings Fund.

Section 19.28. (a) The pension savings fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which accumulated contributions shall be paid and transferred as provided in this chapter.

(b) The contributions of a member to the retirement system shall be five per cent of his compensations. The officer or officers responsible for making up the payroll shall cause the said

contributions to be deducted from the compensation of each member on each and every payroll, for each and every payroll period, so long as he remains a member in the employ of the city. The member's contributions provided for herein shall be made notwithstanding that the minimum compensation, provided by law for any member shall be thereby changed. Every member shall be deemed to consent and agree to the deductions, made and provided for herein and payment of his full compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by said member during the period covered by such payment, except, as to benefits provided by this chapter. The officer or officers responsible for making up the payroll shall certify to the Treasurer, on each and every payroll, the amount of contribution to be deducted from each member, and each said amount shall be deducted by the Treasurer, and when deducted shall be credited to the individual pension savings fund account of the member from whose compensation said deduction was made.

(c) In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the pension savings fund, by a single contribution or by an increased rate of contribution as approved by the Board of Trustees, all amounts he might have withdrawn there from, together with regular interest from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he repays to the pension savings fund all amounts due said fund by him.

(d) Upon his retirement, a member's accumulated contributions shall be transferred from the pension savings fund to the pension reserve fund. At the expiration of a period of five years from and after the date an individual ceases to be a member any balance standing to this credit in the pension savings fund, unclaimed by him, or his duly designated beneficiary, or his estate, shall be transferred to the pension reserve fund, except as is specifically otherwise provided in this chapter.

Pension Reserve Fund.

Section 19.29. (a) The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated reserves for the payment of all pensions and other benefits payable from contributions made by the city and from which shall be paid all pensions, and benefits in lieu of pensions, to retirants and beneficiaries, as provided in this chapter. Upon the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt, the actuary shall annually compute the pension reserve for (1) pensions being paid retirants and beneficiaries and (2) covering service rendered and to be rendered by members. The said pension reserves shall be financed by annual appropriations to be made by the Council, determined according to paragraphs (b), (c), and (d) of this section, and subject to paragraph (e) of this section.

(b) The appropriation for members' current service shall be a per cent of their annual compensations, which, if paid annually by the city during their future service, will produce an amount sufficient to provide the reserves, at the time of their retirements, for the portions of the pensions to be paid them based upon their future service.

(c) The appropriation for members' accrued service shall be a percentage of their annual compensations which will produce an amount which, if paid annually by the city over a period of years, to be determined by the Council, will amortize, at regular interest, the unfounded pension reserves for the accrued service portions of the pensions to which they might be entitled.

(d) The appropriation for pensions being paid retirants and beneficiaries shall be a percentage of the annual compensations of members which will produce an amount which, if paid annually by the city over a period of years, to be determined by the Council, will amortize at regular interest, the unfounded pension reserve for pensions being paid retirants and beneficiaries.

(e) The Board shall report to the Council in each fiscal year the amount of city contributions, as determined in accordance with the above paragraphs, to be made to the retirement system during

the ensuing fiscal year. The Council shall appropriate the required contributions each year, and the city shall pay such amounts to the retirement system in the ensuing fiscal year.

Expense Fund.

Section 19.30. The expense fund shall be the fund to which shall be credited all money provided by the city to pay the administrative expense of the retirement system and from which shall be paid all expenses necessary in connection with the administration of the system.

Investment of Funds.

Section 19.31. (a) The Board of Trustees shall be the trustees of the funds of the retirement system and shall have full power to invest and re-invest such funds, subject to all terms, conditions, limitations, and restrictions imposed by the State of Michigan upon domestic life insurance companies in the making and disposing of their investments. The Board shall have power to purchase notes, bonds, or other obligations of the City of Marysville at any legally conducted public or private sale.

(b) The Board of Trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the monies of the retirement system have been invested, as well as the proceeds of said investments and any monies belonging to the system. There shall be kept on deposit available cash not to exceed ten percent of the total assets of the system.

Asserts Not Segregated; Trust Funds.

Section 19.32. All monies and investments of the retirement system shall be paid for the sole purpose of meeting disbursements for pension, annuities, and other payments authorized by this chapter and shall be used for no other purpose. References to various pension funds of the system shall be for accounting purposes and shall not be interpreted to cover the actual segregation of the monies and investments of the system within the various pension funds of the system.

Allowance of Regular Interest.

Section 19.33. All interest and other income on monies and investments of the retirement system shall be credited to the pension reserve fund. At the end of each fiscal year regular interest shall be computed on each member's balance in the pension savings fund as of the beginning of the said fiscal year. After deducting for any refund or transfer made during the fiscal year.. The interest so computed for each member shall be credited to his individual account in the pension savings fund and shall be charged to the pension reserve fund.

Assignments Prohibited.

Section 19.34. The right of a person to a pension, to the return of accumulated contributions, any option benefit, any other right accrued or accruing to any member, retirant, or beneficiary under the provisions of this chapter, and the monies and investments of the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any process of law whatsoever, and shall be unassignable, except as is specifically provided in this chapter: Provided, That, if a member is covered by a group insurance or prepayment plan participated in by the city, and should be permitted to, and elect to, continue such coverage as a retirant, he may authorize the Board of Trustees to have deducted from his pension the payments

required of him to continue coverage under such group insurance or prepayment plan. Notwithstanding the provisions of this section, the city shall have the right of set-off for any claim of the city arising out of embezzlement by, or the fraud of, a member, retiree, or beneficiary.

Contractual Nature of Pension Plan.

Section 19.35. The accrued financial benefits of the retirement system shall be a contractual obligation of the city and shall not be diminished or impaired by the city. The terms of this chapter shall constitute the only basis upon which each such contractual obligation shall arise and accrue, and no benefits shall arise or accrue to any member or retiree except those specifically provided in this chapter, and in accordance with the terms thereof.

Errors.

Section 19.36. Should any change or error in the records of the retirement system result in any person receiving more or less than he would have been entitled to receive had the record been correct, the Board of Trustees shall correct such error, and as far as possible shall adjust the payments in such manner that the actuarial equivalent of the benefits to which such person was correctly entitled shall be paid.

BOUNDARY APPENDIX

(Required by Section 1.1 (b) of this charter)

The City of Marysville shall include all the territory contained within the boundaries described as follows:

Beginning at the extreme southeastern corner of the City of Port Huron (which is a point in the St. Clair River on the international boundary line formed by its intersection with the line between sections twenty-one and twenty-eight, township six north, range seventeen east, produced) and running westwardly along the southern boundary of said City of Port Huron to the eastern line of the highway called "Military Street"; thence northerly along the eastern line of said highway following the boundary of Port Huron to its intersection with the north line (produced) of the highway called "Ravenswood Avenue" or "The Wooden Track"; thence again westwardly along the southern line of the City of Port Huron, which is the northern line of said last named highway, to its intersection with the center line of the highway called "Thirty-Second Street"; thence southerly along said center line, which is also the line between sections twenty and twenty-one, township six north, range seventeen east, to its intersection with the line between section twenty and twenty-nine, which point of intersection is the corner common to sections twenty, twenty-one, twenty-eight and twenty-nine, town and range aforesaid; thence westwardly along the center line of Ravenswood Avenue, following the north line of sections twenty-nine and thirty, township six north, range seventeen east, to its intersection with the center line of the Range Road; thence southerly along the line between ranges sixteen and seventeen east of the meridian of Michigan to its intersection with the center line of Davis Road, which point is the western corner common to sections seven and eighteen of township five north, range seventeen east; thence eastwardly along the center line of Davis Road, following the line between said sections seven and eighteen and such line produced,

through Private Claim 406 to the international boundary line in the St. Clair River; thence northwardly along said boundary line to the place of beginning.

SCHEDULE

Purpose and Status of Schedule Chapter.

Section 1. The purpose of this schedule chapter is to inaugurate the government of the City of Marysville under this charter and provide the transition from the government of the city under the previous charter to that under this charter. It shall constitute a part of this charter only to the extent and for the time required to accomplish that end.

Election to Adopt Charter.

Section 2. (a) This charter shall be submitted to a vote of the qualified electors of the territory comprising the City of Marysville at a special election to be held in the city on Monday, February 15, 1965, between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. The canvass of the vote cast at said election shall be made by the city board of canvassers.

(b) If, at said election, a majority of the electors voting thereon shall vote in favor of the adoption of this charter, then the City Clerk shall perform all other acts required by law to carry this charter into effect.

Form of Ballot.

Section 3. The form of the question of submission of this charter shall be as follows:

Shall the proposed charter of the City of Marysville
Drafted by the Charter Commission which was elected
November 5, 1963 be adopted?

YES

NO

Effective Date of Charter.

Section 4. If the canvass of the votes upon the adoption of this charter shows it to have been adopted, it shall take effect and become law as the charter of the city for all purposes on Thursday, July 1, 1965, at 12:01 o'clock, a.m.

Elective Officers of the City.

Section 5. (a) Each person who held any elective office of the city on the effective date of this charter shall continue in the office to which he has been elected, or appointed if to fill a vacancy, for the term for which he was elected or appointed. They shall conduct their several offices subject to the provisions of this charter. The Mayor and four Commissioners serving under the former charter of the city shall be the Mayor and Councilmen, respectively, under this charter. Until the Monday following the regular city election held in November 1965, the Council shall be comprised of such five persons, notwithstanding the first sentence of Section 6.1 (a), and three members shall

constitute a quorum. The vote of three members or more of the Council, as so comprised, shall be required for any official action by the Council, except in those cases where a vote of more than five members is required of the seven member Council provided by this charter, in which case the vote of four or more members shall be required. Vacancies in any such office shall be filled as provided by Section 4.14 of this charter.

(b) A regular city election shall be held on the 2nd day of November 1965, at which election there shall be elected a Mayor, six Councilmen, and a Justice of the Peace. The three Councilmen elected who receive the greater number of votes, and the Justice of the Peace, shall serve for terms beginning on the Monday following their election and expiring as in this charter provided following the regular city election held in 1969.²⁸ The three Councilmen elected who receive the lesser number of votes and the Mayor shall serve for terms beginning on the Monday following their election and expiring as in this charter provided following the regular city election held in 1967. Thereafter, all such officers shall be elected as provided in Chapter 5 of this charter.

(c) Such election shall be held and conducted, and the proceedings and preparations therefore made, in all respects as is provided in Chapter 5 of this charter, except as to the date thereof. For the purposes of such election, the primary election therefore, if required to be held, shall be on the second Monday in September, 1965, and the last date and time for filing nominating petitions for candidates for city office shall be filed with the Clerk between the thirty-fifth day preceding and 12:00 o'clock, noon, on the fourth Saturday preceding the date of such primary election.

Council Meetings.

Section 6. Until otherwise provided, regular meetings of the Council shall be held in the established Council chamber in the city hall on the second and fourth Thursdays in each month, commencing at 7:00 o'clock p.m.

Administrative Officers.

Section 7. (a) Notwithstanding any other requirements or limitations contained in this charter, the persons who held any appointive or administrative offices of the city on the effective date of this charter shall continue in such offices for the balance of the terms to which each was, respectively, appointed and as though appointed under the provisions of this charter, and shall perform their several duties, and, in all respects, be subject to the provisions thereof. The Clerk, the Treasurer, and the Assessor shall continue in the offices held by them after the expiration of the terms of office to which they were, respectively, elected and shall hold such offices, subject to this charter, as though they had been appointed to such offices under this charter.

City Supervisors.

Section 8. The supervisors representing the city and its inhabitants under the previous charter shall be and remain such Supervisors for the balance of the terms for which they were severally elected or appointed and until their successors assume such office in accordance with the provisions of this charter.

Compensation of Incumbent Officers.

Section 9. Beginning on the effective date of this charter, the compensation of the Mayor, each Councilman, and the Justice of the Peace shall be that fixed or provided by this charter. The

²⁸ The Office of Justice of the Peace no longer exists pursuant to provisions of state law (See Chapter 8).

compensation of all other incumbent officers shall be and remain as fixed on the effective date of this charter, until otherwise fixed or set by the proper authority under the provisions of this charter.

New Boards and Commissions.

Section 10. The terms of the first members on any new board or commission created by this charter shall be such that, thereafter, the term of one member thereof shall expire in each year, or as otherwise provided by law.

Council Action.

Section 11. In all cases involving the transition of the city government from that under the previous charter to that under this charter, which are not covered by this Schedule, the Council shall supply necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefore.

New State Constitution.

Section 12. It is recognized, that, at the time of the drafting and adoption of this charter, the Legislature had not completed the necessary supplementation of the new State Constitution. In so far as any such supplementation may be inconsistent with the provisions of this charter, such provisions shall be subject to and governed by general laws enacted in compliance with the Constitution and no amendment of this charter shall be required to make the same effective. In all future printings of this charter, footnotes shall be made, under the directions of the City Attorney, showing the applicable law governing in situations within the contemplation of this section.

Vested Rights and Liabilities.

Section 13. After the effective date of this charter, the city and all its agencies shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of the previous charter. No right or liability, contract, lease, or franchise, either in favor of or against the city, existing at the time this charter became effective, and no suit or prosecution of any character shall be affected in any manner 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 taxes, debts, and liabilities due to the city from any person, and all fines and penalties, imposed and existing at the time of such change, shall be collected by the city. All trusts established for any municipal purpose shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

Prior Pension Plan.

Section 14. Each person who was a member of and a retirant under the pension plan of the city adopted as an amendment to the previous charter of the city by the electors of the city on April 1, 1940, shall continue as a retirant under such pension plan, and each person appointed a member of the police or fire departments prior to January 1, 1951, shall remain a member of such pension plan and be entitled to the benefits thereof and shall be subject to the provisions thereof as though such pension plan were included in and made a part of this charter.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Marysville held on the 9th day of November, 1964, at the usual meeting place of the Commission, the following members of the Charter Commission were present: Commissioners – Bier, Agostino, Braden, Carrier, Roberts, Stiver, Teeple, Wheeler

At such meeting the following resolution was offered by Commissioner Stiver and Seconded by Commissioner Roberts –

Resolved, That the Charter Commission of the City of Marysville does hereby adopt the foregoing instrument as the proposed charter of the City of Marysville for submission to the electors of the city, and the Clerk of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act No. 279 of the Public Acts of 1909, as amended, for his approval.

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

Ayes: - Eight

Nays: - None

Absent: - One

Eleanor V. Schlinkert Clerk of the Charter
Commission of the City of Marysville, MI

Attested by the following Commissioners:

Harold E. Stiver

Franklin J. Wheeler

Frank H. Carrier

Arthur C. Roberts

Russell J. Braden

George J. Agostino

Robert W. Teeple

Chairman pro-tem

William J. Bier

Chairman

The meeting adjourned subject to the call of the Chairman.