
ARTICLE I POWERS OF THE CITY

Section 1.01. Powers of the City.

The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency or the United States or any of its agencies.

Section 1.04. City regarded as a Township.

For the purpose of assessing and levying taxes in the city, for the purpose of equalizing such assessments by the board of review, and for equalizing the same as to state and county taxes by the Board of County Commissioners and for collecting taxes and returning property for the non-payment thereof, the whole city shall be regarded as a township, and the city clerk/treasurer shall perform the same duties and shall have the same powers as township treasurer as far as it may be necessary to faithfully perform his or her duties as such treasurer. The council shall establish a board of review whose composition, powers and procedures shall be in substantial conformity with the provisions of Section 211.28 through 211.33 of the Michigan Compiled Laws.

ARTICLE II CITY COUNCIL

Section 2.01. General Powers and Duties.

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.02. Composition, Eligibility, Election and Terms.

(a) **Composition.** There shall be a city council composed of the mayor and eight (8) members. Two councilmembers shall be nominated and elected by the voters in each of four (4) council districts. The mayor shall be elected in accordance with the provisions of section 2.03.

(b) Eligibility. Only registered voters of the city shall be eligible to hold the office of councilmember or mayor. Candidates for city council must reside in the ward they seek to represent at the time nominating petitions are filed and thereafter. An elected councilmember who ceases to reside in the ward he or she was elected to serve shall forfeit the office as specified in Section 2.06(b)(1) of this Charter.

(c) Election and Terms. The regular election of councilmembers shall be held on the first Tuesday after the first Monday of November in each odd numbered year, in the manner provided by law. At the first election under this charter eight (8) councilmembers shall be elected; candidates receiving the highest vote totals in each ward shall serve a four (4) year term and the candidates receiving the second highest vote totals shall serve a two (2) year term. Thereafter, all councilmembers shall serve for terms of four (4) years. The terms of councilmembers shall begin the 1st day of January after their election.

Section 2.03. Mayor

A mayor shall be elected for a term of four (4) years at the first election under this charter and every four (4) years thereafter at the regular election. The mayor shall be for all intents and purposes a voting member of the city council and shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of citizen advisory boards and commissions, present an annual state of the city message and perform other duties specified by the council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law and shall be the chief executive officer of the city, but shall have no administrative duties. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term. The Mayor shall be considered a councilmember elect in determining the number of votes required for certain actions under subsequent provisions of this charter.

Section 2.04. Compensation; Expenses.

The city council may determine the annual salary of the mayor and councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of councilmembers elected at the next regular election. The mayor and councilmembers shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties of office provided that such expenses are approved by a majority of council.

Section 2.05. Prohibitions.

(a) Holding Other Office. Except where authorized by law, no councilmember shall hold any other elected public office during the term for which the member was elected to the council. No councilmember shall hold any other city office or city employment during the terms for which the member was elected to the council. No former councilmember shall hold any compensated appointive office or employment with the city until one (1) year after the expiration of the term for which the member was elected to the council. Nothing in this section shall be construed to prohibit the council from selecting any current or former councilmember to represent the city on the governing board of any regional or other intergovernmental agency.

(b) **Appointments and Removals.** Neither the city council nor any of its members shall in any manner control, other than by confirmation provided for in this charter, or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

(c) **Interference with Administration.** Except for the purpose of inquiries and investigations under section 2.08, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. Neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) **Council May Not Sell Parks.** No park, cemetery, or any part thereof shall be sold unless approved by a majority of the electors voting thereon.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) **Vacancies.** The office of a councilmember shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) **Forfeiture of Office.** A councilmember shall forfeit that office if the councilmember

- (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law,
- (2) violates any express prohibition of this charter,
- (3) is convicted of a crime involving moral turpitude, or
- (4) fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) **Filling of Vacancies.** A vacancy in the city council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy, but the council, by a majority vote of all its remaining members, shall appoint an eligible person pursuant to 2.02(b) to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in section 2.10, if at any time the membership of the council is reduced to less than five (5), the remaining members may by majority action appoint additional members to raise the membership to nine (9).

Section 2.07. Judge of Qualifications.

The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The council shall have the power to set additional standards of conduct for its members beyond those specified in the charter and may provide for such penalties as it deems appropriate including forfeiture of office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence.

A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand. Notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.08. Investigations.

The city council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days or both.

Section 2.09. Independent Audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, but the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Section 2.10. Procedure.

(a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of three (3) or more members and, whenever practicable, upon no less than eighteen hours notice to each member. Except as allowed by state law, all meetings shall be public in accordance with the Michigan Open Meetings Act.

(b) Rules and Journal. The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record and shall be recorded in the English language.

(c) Voting. Five (5) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in section 2.06, shall be valid or binding unless adopted by the affirmative vote of five (5) or more members of the council.

(d) Two-Thirds Vote Required on Certain Action. No office shall be created or abolished nor any tax or assessment be imposed, street, alley, or public grounds be vacated, real estate or any interest therein purchased, leased, sold, or disposed of, or private property be taken for public use, unless two-thirds (2/3) of all the councilmembers elect concur. No vote of the council shall be reconsidered or rescinded at a special or regular meeting, unless there be present as many council members as were present when such vote was taken. No money shall be appropriated except by ordinance or resolution of the council. No resolution or ordinance shall be passed or adopted except by the vote of a majority of all the councilmembers elected to office, except as otherwise provided in this charter.

(e) **Method of Voting.** Unless a two-thirds (2/3) vote is required in paragraph (d) immediately above or a member present demands the vote be taken by a roll call vote, the vote of the council on all questions shall be without roll call.

Section 2.11. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Regulate land use and development; and
- (7) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 2.12. Ordinances in General.

(a) **Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Menominee hereby ordains...." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

(b) **Procedures.** An ordinance may be introduced by any council member or committee. Upon introduction of any ordinance, the city clerk shall set a public hearing and publish notice thereof and a summary of the proposed ordinance at least seven (7) days in advance of the public hearing. The Clerk shall provide copies of the proposed ordinance to council members and the City Manager and make copies available in the clerk's office for public review. The public hearing may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption, the clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price.

(c) **Effective Date.** Unless otherwise provided in the text of the ordinances, every adopted ordinance shall become effective upon publication and the expiration of twenty (20) days after adoption or at any later date specified therein.

(d) **"Publish" Defined.** As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the city: (1) The ordinance or a brief summary thereof and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 2.13. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in section 5.07(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption and publication or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to section 5.07(b) shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.14. Codes of Technical Regulations

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to section 2.15(a).

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 2.15 Authentication and Recording; Codification; Printing.

(a) **Authentication and Recording.** The city clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

(b) Codification. Within three (3) years after adoption of this charter and at least every ten (10) years thereafter, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or loose-leaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state of Michigan and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Menominee Ordinance Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) Printing of Ordinances and Resolutions. The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first Menominee Ordinance Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of Michigan or the codes of technical regulations and other rules and regulations included in the code.

ARTICLE III CITY MANAGER

Section 3.01. Appointment; Qualifications; Compensation.

The city council by a majority vote of its total membership shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative qualifications. The manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council.

Section 3.02. Removal.

The city manager may be suspended by a resolution approved by the majority of the total membership of the city council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen (15) days in which to reply thereto in writing and upon request, shall be afforded a public hearing, which shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After the public hearing, if one be requested, and after full consideration, the city council by a majority vote of its total membership may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

Section 3.03. Acting City Manager.

By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns.

Section 3.04. Powers and Duties of the City Manager.

The city manager shall be the chief administrative officer of the city responsible to the Council for the administration of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint, hire, and, when necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion, but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city;
- (10) Provide staff support services for the mayor and councilmembers; and
- (11) Perform such other duties as are specified in this charter or may be required by the city council.

ARTICLE IV

DEPARTMENTS, OFFICES AND AGENCIES

Section 4.01. General Provisions.

(a) **Creation of Departments.** The city council may establish city departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) **Direction by City Manager.** All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of city council, the city manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

(c) **Confirmation by the Council.** All department heads shall be appointed by the city manager subject to the approval of a two-thirds (2/3) majority of the councilmembers elect.

Section 4.02. Legal Officer.

There may be a legal officer of the city appointed by the city manager subject to confirmation by a two-thirds (2/3) majority of the councilmembers elect. The legal officer shall serve as chief legal adviser to the council, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance.

Section 4.03. City Clerk/Treasurer.

A city clerk/treasurer, whose duties shall be prescribed by city council and/or state law, shall be appointed by city manager subject to confirmation of two-thirds (2/3) of councilmembers elect.

The city clerk/treasurer shall have the custody, care, control and possession of all moneys, bonds, mortgages, notes, leases and evidence of value belonging to the city.

Section 4.04. City Assessor.

A city assessor, whose duties shall be prescribed by the city council and/or state law, shall be appointed by city manager subject to confirmation of two-thirds (2/3) of the councilmembers elect.

Section 4.05. Planning.

Consistent with all applicable federal and state laws with respect to land use, development and environmental protection, the city council shall:

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (3) Adopt development regulations, to be specified by ordinance, to implement the plan.

Section 4.06. City officers.

The city council shall provide for the qualifications, duties and compensation of the city officers except as otherwise provided in this charter.

ARTICLE V FINANCIAL PROCEDURES

Section 5.01. City Taxes, Payment and Collection of.

Payment and collection of the city taxes in and for said city shall be made at a time separate and distinct from the payment of state, county and school taxes and as hereinafter prescribed.

Section 5.01a. Limitation on Amount raised by General Tax.

Except as otherwise provided by law or this charter, the aggregate amount which the council may raise by general tax upon the taxable real and personal property in the city, for the purpose of defraying the general expenses and liabilities of the corporation, exclusive of taxes for school and schoolhouse purposes, shall not exceed in one year, one and one-half percent (1½%).

Section 5.02. Fiscal Year

The fiscal year of the city of Menominee shall commence on the first day of July in each year unless otherwise provided by ordinance or state statute.

Section 5.02a. System of Accounts.

The city council shall provide for a system of accounts that conform to a uniform system of accounts as required by state law.

Section 5.03. Annual Appropriation Bill.

Not later than the first Monday of March of each year, every department and board of the city shall submit to the city manager an itemized estimate of its expected income and expenditures during the next fiscal year, for the department or activities under its control. The city manager shall prepare and submit to the council, not later than sixty (60) days prior to the beginning of the next fiscal year, a recommended budget within the tax limit and other revenue sources of the city, covering the next fiscal year. Such recommended budget shall include therein at least the following information:

- (1) Detailed estimates with supporting explanation of proposed expenditures of each department, board, utility and agency of the city and all such estimates shall show the actual appropriation and expenditures for corresponding items for the last preceding fiscal year 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 estimated for and actually received from each of the same or similar sources for the last preceding fiscal year, in full, and estimated revenues for the balance for the current fiscal year;
- (4) A state of the estimated accumulated cash and unencumbered balances or deficits 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 available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures, and any deficiency for the current year.
- (6) The Annual Appropriation Bill shall be passed not later than thirty (30) days prior to the beginning of the next fiscal year.
- (7) Property tax and budget publications and hearings shall comply with state statutes.

Section 5.04. Amendments after Adoption.

(a) Supplemental Appropriations. If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

(b) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(c) Transfer of Appropriations. At any time during the fiscal year the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the council in writing in a timely manner.

(d) Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.05. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 5.06. Administration of the Budget.

The city council shall provide, by ordinance, the procedures for administering the budget.

Section 5.07. Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the city for any amount so paid. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

Section 5.08. Capital Program.

(a) **Submission to City Council.** The city manager shall prepare and submit to the city council a three (3) year capital program no later than the final date for submission of the budget.

(b) **Contents.** The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the three (3) fiscal years next ensuing with appropriate supporting information as to the necessity for each;
- (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (4) Method of financing upon which each capital expenditure is to be reliant; and
- (5) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.09. City Council Action on Capital Program.

(a) **Notice and Hearing.** The city council shall publish in one or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

(b) **Adoption.** The city council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 1st day of the March of each year.

Section 5.10. Public Records.

Copies of the budget, capital program and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable places in the city. All records of the city shall be made available to the general public in compliance with the Freedom of Information Act.

Section 5.11. Tax Warrant For City Tax Roll.

A tax warrant for the collection of the taxes as shown by the city tax roll above provided for shall be issued in form and manner now provided for issuing the general tax warrant in said city, but the same shall issue and be placed in the hands of the city treasurer, or other officers authorized by law to collect taxes, and under the same regulations and restrictions as now regarding the furnishing of bonds, on or before the twenty-fifth day of July of each year, and which said warrant shall require the collection of such taxes on or before the first day of September following. The same collection charges shall be imposed in the collection of such taxes as is now provided by law therefor, and all delinquent taxes shall be returned and proceedings for the collection thereof had, and in the same manner as is now provided by law therefor.

Section 5.12. Return of Delinquent Taxes - Collection Period - Penalties.

The city council may, by ordinance, make provision for any and all detail necessary and proper to carry into effect the intents and purposes of this title, provide for the proper return and collection of delinquent taxes, extend the period for the collection of such taxes, provide for the imposition of penalties and collection charges, in accordance with those now imposed by the general law of the state, on account of delayed payment and may fix the date or dates for the imposition of such charges and penalties.

ARTICLE VI ELECTIONS

Section 6.01. City Elections.

- (a) **Regular Elections.** The regular city election shall be held at the time established by state law.
- (b) **Registered Voter Defined.** All citizens legally registered under the constitution and laws of the state of Michigan to vote in the city shall be registered voters of the city within the meaning of this charter.
- (c) **Special Elections.** Special elections may be called by resolution of the City Council. Said resolution shall set forth the time, purpose and place of such special election, provided that the Council shall not have power to call more than two (2) special elections within one (1) year.
- (d) **Municipal Non-Partisan Primary Elections.** A municipal non-partisan primary election for the nomination of candidates for offices to be filled at a regular municipal election shall be held at the same time as is provided by the general election laws for the nomination of other non-partisan officers.

(e) **Nominating Petitions.** Every candidate for any municipal elective office shall file a nominating petition which shall be according to and conformable to the provisions of the general election laws of the state regulating the filing of nominating petitions for other non-partisan candidates. Such petition shall be signed by electors equal in number to not less than three percent (3%) nor more than five percent (5%) of those who voted for the candidate receiving the highest number of votes for such office at the last preceding city regular election. No elector shall sign such nominating petition for more candidates for each office than there are persons to be elected to such office.

(f) **Publications of Names for Whom Petitions are Filed.** Within seven (7) days following the expiration of the time for filing such petitions for candidates, the city clerk shall cause to be published for two (2) successive days in all the daily newspapers published and circulating in the city, the names of all candidates that are to appear on the primary ballot. He shall also at the same time publish a notice of said primary election giving the time and voting places for such election.

(g) **City Clerk to Prepare Primary Election Ballots.** The City Clerk shall prepare and have printed for each ward, and shall cause to be delivered to the polling place in that ward, a number of said ballots equal to at least twice the number of votes cast in such ward at the last general municipal election for the office of Mayor.

(h) **When Primary Election Eliminated.** If upon the expiration of the time for filing nominating petitions for any elective city office, such petitions have been filed for not more than twice the number of candidates for such office to be elected at the following regular city election, then no primary election shall be held with respect to such office; and the city clerk shall thereupon cause to be published once in all the daily newspapers published and circulating in the city, notice of elimination of such primary election.

(i) **Ballots.** The ballots for all municipal elections called for the purpose of nominating or electing any municipal officer and for questions or propositions to be voted upon shall be prepared by the city clerk, in the same general form as the ballot provided for by the General Election Law for other non-partisan elections, so far as is applicable, and such ballot shall be printed without any part mark, emblem, vignette or designation whatever.

(j) **Election Procedure.** All primary and regular general city elections for the nomination and election of officers of the city shall be non-partisan. The general election laws of the state shall apply to and control, as near as may be, all procedures relating to notices of, to registrations for, and the conduct of all city elections, except as such general laws relate to political parties or partisan procedures, and except as otherwise provided by this charter.

(k) **Election Commission.** An election commission consisting of the city clerk, city assessor, and city attorney is hereby created. The commission shall have charge of all activities and duties required of it by law relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to follow.

Section 6.02. Council Districts

(a) **Number of Districts.** There shall be four (4) city council wards each of which shall have equal representation in the city council. The boundaries of the wards shall be the boundaries established by the council from time to time.

(b) For the time being, the City shall be divided into four (4) wards conforming to the existing wards in the City.

(c) The clerk shall maintain and keep available in his office for public inspection an official description and map of the current boundaries of the City and wards.

(d) The council shall have power to implement and enforce this title by appropriate legislation by ordinance subject to the requirements of state law.

ARTICLE VII GENERAL PROVISIONS

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) **Conflicts of Interest.** The conflicts of interest rules shall be established by the council and shall conform to the requirements of Section eight (8) of 1968 Public Act 317.

(b) **Board of Ethics.** The city council may, by ordinance, establish an independent board of ethics to administer and enforce the conflict of interest ordinance.

ARTICLE VIII TRANSITION/SEPARABILITY PROVISION

Section 8.01. Officers and Employees.

(a) **Rights and Privileges Preserved.** Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) **Continuance of Office or Employment.** Except as specifically provided by this charter, if at the time this charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.

Section 8.02. Departments, Offices and Agencies.

(a) **Transfer of Powers.** If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or, if the charter makes no provision, designated by the city council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the city council in accordance with this charter.

Section 8.03 Pending Matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

Section 8.04. State Municipal Laws.

All ordinances, resolutions, orders and regulations existing at the effective date of the newly adopted charter shall remain in full force and effect upon adoption of the new charter unless they conflict with effective operation of the new charter.

Section 8.05. Schedule.

(a) First Election. At the time of its adoption, this charter shall be in effect to the extent necessary in order that the first election of members of the city council may be conducted in accordance with the provisions of this charter. The first general election shall be held on the first Tuesday of November 1995. If needed, primary elections shall be held on the first Tuesday following the first Monday of August 1995.

(b) Time of Taking full Effect. The charter shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected city council provided in section 8.05(c).

(c) First Council Meeting. On the first Monday of January following the first election of city councilmembers under this charter, the newly elected members of the council shall meet at 7:00 p.m. at City Hall:

- (1) For the purpose of electing the deputy mayor, appointing or considering the appointment of a city manager or acting city manager, and choosing, if it so desires, one of its members to act as temporary clerk pending appointment of a city clerk pursuant to §2.08; and
- (2) For the purpose of adopting ordinances and resolutions necessary to effect the transition of government under this charter and to maintain effective city government during that transition.

(d) Temporary Ordinances. In adopting ordinances as provided in section 9.05(c), the city council shall follow the procedures prescribed in Article II, except that at its first meeting or any meeting held within 60 days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labelled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall

become effective upon adoption and publication or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance.

Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.

(e) **Initial Expenses.** The initial expenses of the city council, including the expense of recruiting a city manager, shall be paid by the city on vouchers signed by the council chairman.

(f) **Initial Salary of Mayor and Councilmembers.** The mayor shall receive an annual salary in the amount of One thousand two-hundred fifty dollars (\$1,250.00) and each other councilmember in the amount of One thousand dollars (\$1,000.00), until such amount is changed by the council in accordance with the provisions of this charter.

Section 8.06. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the other application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE IX INITIATIVE AND REFERENDUM

Section 9.01. General Authority.

(a) **Initiative.** The registered voters of the city shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance the said voters shall have the power to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) **Referendum.** The registered voters of the city shall have power to require reconsideration by the Council of any adopted ordinance. If the Council fails to repeal an ordinance so reconsidered, the said voters shall have the power to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Section 9.02. Commencement of Proceeding; Petitioners' Committee; Affidavit.

Any five (5) registered voters may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate

petition blanks to the petitioners' committee.

Section 9.03. Petitions.

(a) Number of Signatures. Initiative and Referendum petitions must be signed by registered voters of the city equal in number to at least fifteen per cent (15%) of the total number of registered voters registered to vote at the last regular election.

(b) Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for Filing Referendum Petitions. Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance sought to be reconsidered.

Section 9.04. Procedure after Filing.

(a) Certificate of Clerk; Amendment. Within twenty (20) days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 9.03, and within five (5) days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the clerk shall promptly present his or her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 9.05. Referendum Petitions; suspension of Effect of Ordinance.

When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Council repeals the ordinance, or
- (4) Thirty (30) days have elapsed after a vote of the city on the ordinance.

Section 9.06. Action on Petitions.

(a) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(b) Submission to Voters. The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final Council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 9.07. Results of Election.

(a) Initiative. If a majority of the register voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE X CHARTER AMENDMENT

Section 10.01. Amendment of Charter.

Procedures for amending this charter shall be as provided in Section Twenty-one (21) through Twenty-five (25) of the Home Rule Cities Act.

ARTICLE XI UTILITIES

Section 11.01. General Powers Respecting Duties.

Subject to statutory provisions, the city shall also have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supplying light, heat, power, gas, sewage collection and treatment, and garbage facilities and facilities for the storage and parking of vehicles within its corporate limits. And the city may make a contract, upon such terms including terms of present or deferred payment, and upon such conditions and in such manner as the municipality may deem proper, to purchase, operate and maintain any existing public utility property for supplying water, heat, light, power or transportation to the city and the inhabitants thereof. No such contract shall bind the municipality unless the proposition therefor shall receive the affirmative vote of three-fifths (3/5) of the electors voting thereon at a regular or special election.

Section 11.02. When Council May Establish Works for Utilities.

Whenever the council of said city shall, by resolution, declare that it is expedient for said city to acquire by purchase or to construct as the case may be, works for the purpose of supplying said city and the inhabitants thereof, or either, with gas, electric or other utilities, then the council shall have power to take such action as shall be deemed expedient to accomplish such purpose.

Section 11.03. When Question to be Submitted to Electors.

In case the council shall declare that it is expedient for the city to acquire by purchase or construct, as the case may be, works for the purpose of supplying the city and its inhabitants thereof, or either, with electric or other utilities, then the council shall direct and cause to be made and recorded in their proceedings an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the council as provided in this charter and shall be determined by a majority of the electors voting at such election by ballot upon the question.

Section 11.04. City May Borrow Money-Council May Issue Bonds, Etc.- Proviso.

It shall be lawful for the city to borrow any sum of money not exceeding ten per cent (10%) of the assessed value of the property in said city as shown by the last preceding assessment roll, to be used exclusively for the purpose of purchasing or constructing and maintaining such utilities as provided in the preceding sections of this title. The council shall have power to fix the time and place of payment of the principal and interest of the debt contracted under the provisions of this title and to issue bonds of the city therefor, but the rate of such interest shall not exceed the maximum rate provided for by law.

Such bonds shall not be sold for less than their par value. Provided, that the total amount expended for the purchase or construction of such utilities shall not exceed the amount of the estimate of the expense thereof provided for in section 11.03.

Section 11.05. Council May Raise Money for Repairs, Etc. - Amount.

After such utilities have been purchased or constructed as aforesaid in the city, the council may then raise and expend in making repairs or alterations or in extending such works, such sum as may be deemed advisable without submitting the question to the electors of the city; but the sum so to be raised in any one year shall be included and shall not increase the total amount which by the provisions of section 5.01a of this charter, the council is authorized to raise.

Section 11.06. To Fix Rates.

The council shall have power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city with utilities. The council shall establish a scale of rates to be charged and paid for such utilities, and from time to time may either modify, amend, increase or diminish such rates.

Section 11.07. When May Appropriate Private Property.

If it shall be necessary in the judgement of the council to appropriate private property either within or without the city for the construction and maintenance or for the due operation of the utilities, the right to occupy and hold the same and the ownership therein and thereto, may be acquired by the city in the manner and with like effect as provided by law for the taking of private property for public use.

Section 11.08. May Make Contract for Utilities.

The council may contract from year to year or for a period of time not exceeding ten years with any person or persons or with any duly authorized corporation for the supplying of said city or the inhabitants thereof or both with gas, electric or other utilities upon such terms and conditions as may be agreed; and may grant to such person or persons or corporation the right to the use of the streets, alleys, wharves and public grounds of the city as shall necessary to enable such person, persons or corporation to construct and operate proper works for the supplying of such utility upon such terms and conditions as shall be specified in such contract. No such contract shall bind the municipality unless the proposition therefor shall receive the affirmative vote of three-fifths (3/5) of the electors voting thereon at a regular or special election.

Section 11.09. To Provide for Control Care, Etc.

The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of such utilities works and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto and to carry into effect the provisions of this title and the power herein conferred in respect to the erection, purchase, management, and control of such utilities.

ARTICLE XII LIBRARY

Section 12.01. Council to Maintain Free Public Library.

There is hereby recognized and established, and the council of the City of Menominee shall have power to maintain a free public library for the use and benefit of the inhabitants of said city and the public library now being maintained by said city is hereby recognized as the free public library of said city and the same shall be designated as Spies Public Library. The council shall by ordinance adopt the procedure for governing, managing and maintaining the said library.

ARTICLE XIII SPECIAL ASSESSMENTS

Section 13.01 Special Assessments - Cost of Public Improvements.

Council Shall have the power:

- A. To assess and re-assess the cost or any portion thereof, of any public improvements to a special district;

- B. To assess the cost or any portion thereof of installing a boulevard lighting system of any nature upon the lands abutting thereupon.

- C. To make public improvements with the city, and 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 public improvement shall be defrayed by special assessment upon the property in districts especially benefited, in proportion to the benefits derived or to be derived, and shall so declare by resolution which shall state the estimate cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area values or other factors permitted by law, or a combination thereof.

Section 13.02. Definition of "cost".

"Cost" as used in this article, includes necessary condemnation cost and necessary expenses incurred for engineering, financial, legal, administrative and other services involved in the making and financing of the improvement and the levying and collecting of the special assessments therefor. Where any such service is rendered by city employees, the city may include the fair and reasonable cost of rendering the service. The inclusion of any cost specified in this paragraph as part of the cost of an improvement for which special assessments have heretofore been levied is validated.

Section 13.03. Special Assessment - Procedure to be Fixed by Ordinance.

The council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of special assessment districts, notice and hearings, making the governing of special assessment rolls, correction of errors in such rolls, the number of installments in which special assessments may be paid, collection of special assessments, refunds and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and cost incident thereto or in case of invalidity in whole or in part, and it shall also provide for the refund of excessive assessments, provided however, that if the excess is less than five percent (5%) of the total cost, it may be placed in a general fund of the city.

Section 13.04. Assessment Lien.

Upon the confirmation of each special assessment thereon shall become a debt to the city from the persons to whom they are assessed, and, until paid, shall be a lien upon the property assessed, for the amount of such assessment and all interest and charges thereon.

ARTICLE XIV
SAVINGS CLAUSE

Section 14.01. Savings Clause.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this charter unless it clearly appears that such other section or part of a section is wholly or unnecessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.