

CHARTER OF THE CITY OF AUBURN

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PREAMBLE

We, the electors of the City of Auburn, Bay County, Michigan, under authority of the Constitution and Laws of the State of Michigan, and agreeable to the will of the electors has expressed in a special election held within said City on the 11th day of June, 1973, in order to promote, maintain and provide for the interest and welfare of all inhabitants, do ordain, adopt and establish the following as a Charter of said City:

ARTICLE - NAME

The municipal corporation heretofore created and now existing as a City of the fifth class under the provisions of Act 279, Public Acts of 1909 as amended, (commonly referred to as the Home Rule Act), known as the "City of Auburn," shall be and continue a municipal corporation under the name of "City of Auburn" in perpetuity.

ARTICLE II - BOUNDARIES

The City of Auburn shall include all the territory as described as follows, to wit:

All of that portion of Williams Township, Bay County, Michigan, being Township Fourteen (14) North of Range Three (3) East, described as follows: - The South three quarters (3/4) of Section twenty-three (23); the East one hundred sixty-five and no hundredth (165.00') feet of the North one-quarter (1/4) of Section twenty-three (23); the South one hundred ninety-two and fifty hundredths (192.50") feet of the North five hundred ninety-six and fifty hundredths (596.50') feet of the West sixty-nine and no hundredth (69.00') feet of the East two hundred thirty-four and no hundredths (234.00') feet of the North one-quarter (1/4)of Section twenty-three (23); the West one-half (1/2,) of the Northwest one-quarter (1/4) of Section Twenty-four (24); the Northwest one-quarter (1/4) of the Southwest one-quarter (1/4) of Section Twenty-four (24); the South one-half (1/2) of the Southwest one-Quarter (1/4) of Section Twenty-four (24) lying North of the U. S. 10 Highway Right of Way; the West Two Hundred and Ten (210) feet of the North Four Hundred Forty-six (446) feet of the Northeast one quarter (1/4) of the Southwest one-quarter (1/4) of Section Twenty-four (24); the East Seventy-five (75) feet of the West Two Hundred and Ninety-five (295) feet of the North Two Hundred and ten (210) feet of the Northeast one-quarter (1/4) of the Southwest one-quarter (1/4) of Section Twenty-four (24) and all described more particularly as follows:

Commencing at the Section corner common to Section Twenty-three (23), twenty-four (24), twenty-five (25), and twenty-six (26), in Township Fourteen (14) North, of Range three (3) East; thence Northerly on the line common to Sections Twenty-three (23) and Twenty-four (24) N. 01°-03' -40" E. Seven Hundred and nineteen and Forty-two one-hundredths (719.42') feet; thence South 35°-15' -42" E. Three hundred and fifty-six and eighty one hundredth (356.80') feet along the Northerly Right of Way line of US-10 Highway; thence

S. 71°-35'-05" E. Five-Hundred thirty-five and eighty-eight hundredth (535.88') feet; thence S. 89°-28'-20" E. continuing along the US-10 Right of Way line to the North and South one-quarter (1/4) line of Section Twenty-four (24); thence Northerly along the one-quarter (1/4) line to the Northeast corner of the Southeast one-quarter (1/4) of the Southwest one-quarter (1/4) of Section twenty-four (24); thence Westerly on the South one-eighth (1/8) line to the Northwest corner of the Southeast one-quarter (1/4) of the Southwest one-quarter(1/4) of Section Twenty-four (24); thence Northerly on the West one-eighth (1/8) line to a point Four Hundred and forty-six (446') feet South of the East and West one-quarter (1/4) line; thence East parallel to the East and West one-quarter (1/4) line Two hundred and twenty (220') feet; thence Northerly parallel to the West one-eighth (1/8) line Two hundred and thirty-six (236') feet; thence Easterly parallel to the East and West one-quarter (1/4) line seventy-five (75') feet thence Northerly parallel to the West one-eighth (1/8) line Two Hundred and ten (210') feet to the East and West one-quarter (1/4) line; thence Westerly along the East and West one-quarter (1/4) line Two Hundred and ninety-five (295')feet to the Southeast corner of the West one-half (1/2) of the Northwest one-quarter (1/4) of Section Twenty-four (24); thence Northerly along the West one-eighth (1/8) line to the North line of Section Twenty-four (24) thence; Westerly along the North line of Section twenty-four (24) to the Section corner common to Sections thirteen (13), fourteen(14), twenty-three (23) and twenty-four (24); thence Westerly along the line common to Sections fourteen(14)and twenty-three(23)in said Township fourteen (14) North, of Range Three (3) East a distance of one hundred sixty-five, and no hundredth (165.00')feet; thence Southerly exactly parallel to the East line of said Section twenty-three (23) a distance of four hundred four and no hundredths (404.00') feet; thence Westerly exactly parallel to the North line of said Section twenty-three (23) a distance of sixty-nine and no hundredth (69.00') feet; thence Southerly exactly parallel to the East line of said Section Twenty-three (23) a distance of one hundred ninety-two and fifty hundredth feet (192.50'); thence Easterly exactly parallel to the North line of said Section Twenty-three (23) a distance of sixty-nine and no hundredth (69.00') feet; thence Southerly exactly parallel to the East line of said Section Twenty-three (23) to a point on the North one-eighth (1/8) line; thence Westerly on said North one-eighth (1/8) line to the West line of said Section twenty-three (23); thence Southerly on said West line of said Section to the Southwest corner of said Section twenty-three (23); thence Easterly on the South line of said Section to the Southeast corner of same which is also the point of beginning.

ARTICLE III GENERAL GRANT OF MUNICIPAL POWERS

Section 1 Powers of the City

Unless otherwise provided or limited in this charter, the City of Auburn and its officers shall be vested with any and all powers, privileges, and immunities, expressed or implied which cities and their officers are, or hereafter may be, permitted to exercise or to provide for their charters under the Constitution and laws of the State of Michigan, and of the

United States of America, including all the powers, privileges and immunities which cities are permitted to exercise or may provide in their charter by Act No. 279 of the Public Acts of 1909, as amended, as fully and completely as though those powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of any particular powers, privileges or immunities in this charter be held to be exclusive.

The City and its officers shall have the power: to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants; and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitution and general laws of the state and the provisions of this charter.

Section 2 Further Definition of Powers

In addition to the powers possessed by the City under the Constitution and statutes of the State of Michigan, and those set forth throughout this charter the City shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide for the following, subject to the Constitution and Statutes of the State of Michigan, but this list shall not be exclusive:

(a) The acquisition by purchase, gift, condemnation, lease, construction, or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the City of Auburn and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the City, either proprietary or otherwise;

(b) The maintenance, development, operation, leasing and disposal of City property subject to any restrictions placed thereon by statute or this charter;

(c) Refunding money advanced or paid on special assessments for water main extensions; for borrowing money for such refunding, and for issuing bonds therefor, at an interest rate not to exceed statutory limits;

(d) The purchase or condemnation of the franchises and of the property used in the operation of companies or individuals engaged in the cemetery, hospital, electric light, gas, heat, water and power business;

(e) The use, regulation, improvement and control of the surface of its streets, alleys, public ways and other public places and of the space above and beneath them;

(f) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

(g) A plan of streets and alleys within and for a distance of not more than four miles beyond the municipal limits;

(h) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and

collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation, or otherwise, the land necessary therefor;

(i) Establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;

(j) Regulating of trades, occupations and amusements within the City, not inconsistent with state and federal laws, and for the prohibition of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;

(k) Licensing, regulating, restricting and limiting the number of locations of advertising signs or displays and billboards within the City;

(l) Preventing injury or annoyance to the inhabitants of the City from anything which is dangerous, offensive or unhealthful, and to prevent and abate nuisances and punish those occasioning them or neglecting or refusing to abate, discontinue, or remove the same;

(m) Prescribing the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses, and requiring the furnishing of a bond to the City for the faithful observance of the conditions under which licenses are granted and otherwise conditioning such licenses as the commissioners may prescribe;

(n) Regulating all airports located within its boundaries, and for the purpose of promoting and preserving the public peace, safety, and welfare, controlling and regulating of the use of the air above the City by aircraft of all types;

(o) Prohibiting or regulating the use, occupancy, sanitation and parking of house trailers within the City, and the right of the City to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

(p) Requiring an owner of real property within the City to construct sidewalks abutting upon such property, and if owner fails to comply with such requirements, to construct such sidewalks and assess the cost thereof against the property abutting upon said sidewalks;

(q) Requiring an owner of real property within the City to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the City within a reasonable time after the Commission notifies said owner that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against the property;

(r) The requiring as a condition of approving plats of land or premises hereafter laid out, divided, subdivided or plated into lots, streets, alleys and/or parks, that any and/or all streets and alleys shown on said plat be graded, drained, graveled and/or paved or otherwise improved, that all ditches, drains, storm drains and culverts needed therefor be constructed, that cement sidewalks be constructed, that public sanitary sewers and water facilities, including fire hydrants, be installed within said plat, all in accordance with City specification.

The Commission may accept a bond conditioned upon the installation of such of the foregoing improvements as it requires within such time as it determines;

(s) Regulating and prohibiting the use of firearms, fireworks, combustible or explosive substances or materials within the City, and to regulate and prohibit the making of fires in the streets or other open spaces in the City;

(t) Regulating the height and construction and location of all fences now or hereafter to be built within the City;

(u) Regulating traffic and the parking of automobiles and other vehicles, regulating the speed of vehicles upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings, and to provide for impounding all vehicles parked in violation of such regulations;

(v) Licensing and regulating junk yards and places for the dismantling wrecking and disposing of the junk and/or refuse material of automobiles; prescribing rules, regulations and conditions for the operation of the same; providing penalties for the operation of the same without a license and for the violation of any rule, regulation or condition;

(w) Providing, maintaining and regulating one or more pounds and to authorize the impounding of all vehicles, beasts and fowls found in the streets or otherwise at large, contrary to any ordinance of the City, prescribing the fees for impounding, and the amount or rate of expense for keeping, and the charges to be paid by the owner or keeper of the vehicles, beasts, or fowls, for the payment of such fees, expenses and charges, and for penalties incurred, and impose penalties for rescuing any beasts or fowl impounded;

(x) Acquiring, owning erecting, maintaining, managing and controlling real estate, buildings, institutions, and works within the corporate limits of the City and to enforce beyond the corporate limits of the City and over such lands, buildings, institutions and property all ordinances and police regulations that may be necessary for the care, protection, control, and management thereof in the same manner and to the same extent as if it were located within the City;

(y) Licensing hawkers, peddlers and pawnbrokers, and hawking and peddling to regulate, license or prohibit the sale or peddling of goods, wares, merchandise, refreshments or any kind of property or thing by persons going about from place to place in the City for that purpose, or from any stand, cart, vehicle or other device, in or upon the streets, highways, alleys, sidewalks, open places or spaces, public grounds or buildings in the City;

(z) The use, control and regulation of streams, waters and watercourses within its boundaries, subject to any limitations imposed by statute;

(z.1) To regulate, limit or prohibit the private keeping, storing and/or accumulation of ashes, rubbish, garbage, junk and parts of old automobiles or other refuse material upon the streets or alleys of the City or on unenclosed private property, and to provide for declaring the same to be a public nuisance;

(z.2) To regulate, limit or prohibit the construction, erection, alteration, equipment, repair, moving, removal, use and demolition of buildings and structures and their appurtenances and service equipment; and create and enforce fire zones or districts in the City for the diminishing and control of the hazards of fire in such zones or districts;

(z.3) Collecting and disposing of garbage and rubbish and licensing and regulating or prohibiting the same when done by others than the City;

(z.4) The establishing and vacating of streets, alleys, public ways and other places and of the spaces above and beneath them;

(z.5) The control over all trees, shrubs and plants in the public streets, highways, parks or other public places in the City, all dead and diseased trees on private property and trees on private property overhanging the street, sidewalk or public places including the removal thereof, and assessing the cost thereof as a special assessment.

Section 3 Fire Protection

To provide for fire protection for all property within the City, public or private;

(a) By establishing and providing a fire department together with all its needs and requirements; or

(b) By contracting with other corporations, firms or persons, municipal, public or private for the furnishing of adequate fire protection.

Section 4 Outside Fire Protection

In the exercise of the powers contained herein, the Commission shall have the right to contract with persons, firms, corporations, or governing bodies to furnish fire protection to property outside the corporate limits of the City for a fair consideration, if the Commission shall find that the financial interests of the City are advanced by obtaining payments therefor; and/or that the prosperity of the municipality and inhabitants are advanced through preventing a conflagration which might spread within the limits or through protection from fire, industrial or commercial properties which employ residents of the City.

Section 5 Intergovernment Contracts

The City may join with any other Municipal Corporation or with any number or combinations thereof, by contracts or otherwise, as may be permitted by law, for the ownership, operation or performance, jointly or by any 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.

Section 6 Acquisition and Sale of Real Estate

The City shall have power to purchase, appropriate and own such real estate as may be necessary for public grounds, parks, boulevards, markets, public buildings, public works and other purposes necessary or convenient for the public good and for the execution of the powers conferred in this charter or by the statutes of this state; and such buildings and grounds or any part thereof may be sold at public sale or leased as occasion may require; provided, however, no property of the value in excess of \$1.00 per capita according to the last preceding United States census nor any park nor any real estate used in carrying on a public utility or any part thereof shall be sold unless such sale be first approved by a majority of the electors voting thereon at any general or special election.

ARTICLE IV - ELECTIONS AND APPOINTMENTS

Section 1 Eligibility for Office In the City

No person shall be eligible for an elective office of the City unless he shall be a qualified elector of the City and shall have been a resident of the City for at least six (6) months immediately prior to the date of his election. No person shall be eligible for an appointive office of the City unless he shall be a qualified elector of the City and shall have been a resident of the City for at least (6) months immediately prior to the date of his appointment, provided however the City Commission may appoint a non-resident if it determines that there is no qualified elector and resident of Auburn available with the qualifications to fulfill the particular office.

Section 2 Vacancies in Office

(a) A City office shall become vacant upon the occurrence of any of the following events: (1) Expiration of the term of office; (2) Death of the incumbent; (3) Resignation; (4) Removal from office (5) Ceasing to possess the qualifications or eligibility required by this Charter for election or appointment to office, subject to subsection (b) of this section; (6) Conviction of an infamous crime, or of an offense involving a violation of an oath of office; (7) A decision of a competent tribunal declaring the officer's election or appointment void; (8) In the case of Commissioners and Mayor, absence from four (4) consecutive regular meetings of the Commission unless such absences be excused by the Commission at the time they occur or at or prior to the fourth such absence, or absences from twenty-five (25) per cent of such meetings in any fiscal year, unless such absences shall be excused by the Commission and the reason therefor entered in the proceedings of the Commission at the time of each absence; (9) Absence from the City or failure to perform the duties of his office for sixty (60) days, unless such absence from the City or failure to perform the duties of office shall be excused by the Commission prior to the expiration of such sixty (60) day period; or (10) Any other event which, by law, creates a vacancy.

(b) No person who is in default to the City shall continue thereafter to hold any City office, unless he shall eliminate the same within thirty days after notice thereof is filed with the Clerk and a copy thereof is served on him. However, when an officer contests an alleged default by recognized means of legal procedure, brought prior to or within thirty days after notice is served on him, such thirty day period shall not commence, until a determination has been made by the court or tribunal in which the existence of the default is contested.

Section 3 Resignations

Resignations of all City officers shall be made in writing and filed with the Clerk and shall be acted upon by the Commission at its next regular or special meeting following receipt thereof by the Clerk.

Section 4 Filling Vacancies

If a vacancy occurs in any elective office, the Commission shall within thirty (30) days after the vacancy occurs appoint a qualified elector to fill such vacancy for the unexpired term. However, if any such vacancy is not filled by appointment within the said thirty days or if three (3) or more vacancies in the position of commissioner exist simultaneously the City Clerk shall call a special election to fill such vacancy or vacancies that exist for the unexpired term. No vacancy in an elective office shall be filled whether by appointment or special election as above provided, if the term of office vacated expires within thirty (30) days after the vacancy occurs.

Section 5 Oath of Office and Bond

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

Section 6 Qualifications of Electors

The inhabitants of the City having the qualifications of electors in the State of Michigan, and no others, shall be electors of the City.

Section 7 Election Procedure

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

Section 8 Regular City Elections

A non-partisan regular City election shall be held on the first Tuesday following the first Monday in November in each odd numbered year.

(a) City Primary Elections: A non-partisan City primary election shall be held on the same day of the regular fall state primary election in every odd numbered year, except as hereinafter provided.

(b) Candidates Nominated: Candidates in number equal to twice the number of persons to be elected to each City office, who receive the highest number of votes at such primary election shall be declared the nominees for election to the respective offices for which they are candidates.

(c) When No Primary Election Necessary: If, upon the expiration of the time for filing nomination petitions, the number of candidates on said petitions do not exceed twice the number of candidates to be elected to such office, then no primary election shall be held in respect to such office and the Clerk shall publish notice of this fact.

Section 9 Special Elections

Special City elections shall be held when called by resolution of the commission at least sixty (60) days in advance of such election, or when required by this Charter or the general laws of the state. Any resolutions calling a special election shall set forth the purpose of such election.

Section 10 Election Commission

An election Commission is hereby created, consisting of the Clerk, Assessor, and one other non-elected City Officer to be appointed by the City Commission at least ninety (90) days prior to each regular City election. The term for the non-elected City Officer shall be for two (2) years. The Clerk shall be the chairman. The Commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Commission.

In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed. Said election commission shall before each election, appoint a board of inspectors of election, which board shall consist of not less than three qualified electors of the City. When a City election is held on the same day as a national, state or county election or primary, the same election officials shall act in both the City and the national, state, or county election or primary.

Section 11 Notice of Elections

Notice of the time and place of holding any City election and of the officers to be nominated or elected and the question to be voted upon shall be given by the Clerk in the same manner and at the same time as provided in the state election law for the giving of notice by township or city clerks or as the Election Commission may prescribe.

Section 12 Voting Hours

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

Section 13 Nominating Petitions

Persons desiring to qualify as candidates for any elective office under this charter shall file a petition therefore with the Clerk signed by not less than twenty (20) nor more than forty (40) registered electors of the City not later than the date and time for the filing of nomination Petitions for State and County offices. The form of the Petition shall be substantially as that designated by the Secretary of State for the nomination of non-

partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk. Before the clerk shall furnish a form of nominating petition to any person he shall enter thereon with typewriter or in ink the name of the candidate and the name of the office for which he is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Clerk for filing. Nothing herein contained shall be construed to prohibit any candidate from having his own nomination petitions printed, but they must comply substantially with the form designated by the Secretary of State for the nomination of non-partisan judicial officers and be approved by the Clerk. The Clerk shall enter thereon with typewriter or ink the name of the candidate and the name of the office for which he is to be a candidate. In the event that the number of nomination petitions filed for candidates for any elective offices does not equal or exceed twice the number of such offices to be filled at any election, the Commission may nominate, by resolution, such additional qualified citizens as may be necessary to make the number of such offices to be filled. Such resolution shall, in each case be passed not later than thirty (30) days prior to the date of the regular City election. Those citizens so nominated shall forthwith file their written acceptances as nominees with the Clerk. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one (1) week before, and not more than three (3) weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such names shall not be counted upon any petitions for that office.

Section 14 (a) Approval of Petitions

The Clerk shall accept only nomination 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 officers by this charter. Nothing herein contained shall be construed to prohibit any candidate from having his own nomination petitions printed, but they must comply substantially with the form designated by the Secretary of State for the nomination of non-partisan judicial officers. When a petition is filed by person other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements. Within five days after the last date for filing petitions the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for those respective elective City offices by this charter and shall write his determinations whereof on the face of the petition and shall notify in writing the candidate whose name appears thereon of his determination.

Section 14 (b) Candidate Withdrawals

Any candidate may withdraw his name by giving the Clerk written notice within thereof five (5) days after the last date for filing petitions.

Section 15 Public Inspection of Petitions

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

Section 16 Form of Ballots

The form of the ballots used in any City election shall conform as nearly as may be to that prescribed by the general laws of the state, except that no party designation or emblem shall appear upon any City ballot. The names of qualified nominees for each office shall be listed in a single column and shall be rotated on the ballots as prescribed by state statute.

Section 17 Delivery of Registration Books and Supplies

The Clerk shall be responsible for the custody and safe keeping of all registration books and supplies. On election day, he shall deliver them to the respective Board of Inspectors of Election, taking their receipt therefor.

Section 18 Absentee Ballots

The electors of the City shall be entitled to vote by absentee ballots at any city election under the circumstances and in the manner provided by law.

Section 19 Tie Vote

If, at any City election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, the tie shall be settled as provided by state law.

Section 20 Recount

A recount of the votes cast at any City election for any office or upon any proposition may be had in accordance with the general election laws of the state. Unless otherwise provided by statute the petition for a recount of the votes cast at any City election shall be filed with the Clerk within six (6) days after the board of canvassers has made its official report of the result of the election at which such votes were cast, and any counter petition shall be filed within forty-eight (48) hours thereafter.

Section 21 Recall

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

Section 22 Change in Term of Office or Compensation

Except by procedures provided in this charter, the terms of the elective officials of the City shall not be shortened. The terms of elective officers of the City may not be extended beyond the period for which any such officer was elected except that an elective officer of

the City shall, after his term has expired, continue to hold office until his successor is elected or appointed and has qualified. The Commission shall not grant or authorize extra compensation to any City officer, agent or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any elective City officer be increased or decreased after his election during any fixed term of office for which he was elected.

ARTICLE V - GOVERNMENTAL ORGANIZATION

Section 1 City Governing Body

The legislative and policy forming powers of the City shall be vested in a Commission of six (6) members and a Mayor.

Section 2 Terms of Office

Commencing with the 1981 regular City election there shall be elected from the City at large a Mayor for a two year term and six Commissioners for a four year term on a staggered basis; at that said election, three Commissioners shall be elected for a four year term and three Commissioners shall be elected for a two year term; that commencing at the 1983 regular City election and every regular City election thereafter, there shall be three Commissioners elected for a four year term. The terms of office of the Mayor and each Commissioner shall commence on and date from the Monday next following the date of the regular City election at which they are elected.

Section 3 Qualifications of Commissioners

Members of the Commission shall meet the eligibility requirements contained in Article 4, Section 1, and the commission shall be sole judge of the election and qualifications of its own members,

Section 4 Compensation of Commissioners

The compensation of Mayor and Commissioners shall be determined by ordinances; provided, however, that no change in such compensation shall be effective during the term of office for which any member of the Commission making the change was elected. All votes on this question shall be by roll call. Until otherwise provided by ordinance, such compensation shall be as follows: Each Commissioner and the Mayor shall receive Ten Dollars (\$10.00) for each regular and special meeting which he attends but the compensation shall not exceed Three Hundred Dollars (\$300.00) in any fiscal year. The Mayor shall receive a salary in the amount of One Hundred Dollars (\$100.00) exclusive of the meetings. Further, said Commissioners and Mayor shall upon authorization of the Commission be allowed reasonable expenses, when actually incurred on behalf of the City.

Section 5 Functional Duties of the Mayor

(a) The Mayor shall be the executive head of the City. He shall have a vote in the proceedings of the Commission. He shall be the presiding officer of the Commission.

(b) The Mayor shall be a conservator of the peace, and may exercise within the City the powers conferred upon peace officers to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City, and to suppress riots and disorderly conduct.

(c) The Mayor shall authenticate by his signature such instrument as the Commission, this Charter, or the laws of the State of Michigan or the United States shall require.

Section 6 Administrative Services

(1) There shall be, within the administrative services of the City, a Clerk, Treasurer, Assessor, Chief of Police, Fire Chief, Superintendent of Public Works, and Attorney. The Commission may establish additional administrative offices and departments, and when permitted by law, may combine, separate or abolish any administrative offices or departments in any manner it deems necessary or advisable for the proper and efficient operation of the City.

(2) The City may, by initiatory ordinance, approved by a majority vote of the electors of the City, create the office of City Manager or Administrator. In the event such office is created, the Commission may specify the duties, responsibilities, and authority of such offices and may provide that any administrative officer or department of the City, except the Attorney, shall be placed under the administrative direction of such Administrator.

(3) The City Administrator and Attorney shall be appointed by the Commission for an indefinite period, and shall be responsible to and serve at the pleasure of the Commission. Their compensation shall be fixed by the Commission. If a vacancy occurs in these two offices, it shall be filled by the Commission within sixty (60) days thereafter.

(4) The City Administrator shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience. He shall hold office at the pleasure of the majority of the Commission, but he shall not be removed from office during a period of sixty (60) days following any regular City election, except by the affirmative vote of five (5) members of the Commission. Removal of the City Administrator may be made by the Commission in its sole discretion, provided, however, that ten (10) days notice to the Administrator be given, and any action by the Commission shall be at a scheduled meeting. The Administrator may be present and heard at such meeting.

(5) The Commission may appoint or designate an Acting City Administrator during the period of a vacancy in the office or during the absence of the City Administrator from the City. Such Acting City Administrator shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Administrator.

(6) All administrative officers and departmental directors of the City, except the City Administrator, and Attorney, shall be appointed by the City Administrator for an indefinite period, subject to confirmation by Commission. Such officers and departmental directors shall be responsible to the City Administrator, and may be discharged by him, subject to the approval of the Commission.

(7) The compensation of officers, department heads and employees, except as otherwise provided in this Charter, shall be recommended by the City Administrator and approved by City Commission in accordance with budget appropriations and any pay plan adopted by the Commission.

(8) All administrative officers, departmental directors and employees shall perform such duties as are authorized and required by state law, this Charter, municipal ordinances, resolutions, rules and regulations and the directives of the City Administrator.

(9) All personnel employed by the City who are not elected officers of the City, administrative officers or departmental heads by or under the authority of this Charter shall be deemed to be employees of the City. The City Administrator shall have the power to hire, suspend or discharge said personnel.

(10) The City Administrator shall be the chief administrative officer of the City government. His duties and functions shall be:

(a) To be responsible to the Commission for the efficient administration of the departments of the city government, except the Attorney.

(b) To see that all laws and ordinances are enforced.

(c) To appoint, with the consent of the Commission, the heads of the several City departments whose appointment is not otherwise specified in this Charter, and to direct and supervise such department heads.

(d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements.

(e) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed.

(f) To recommend an annual budget to the Commission and to administer the budget as finally adopted under policies formulated by the Commission, and to keep the

Commission fully advised at all times as to the financial condition and future needs of the City.

(g) To exercise and perform all administrative functions of the City that are not imposed by this Charter or ordinance upon some other official.

(h) To be responsible for the maintenance of a system of accounts of the City which shall conform to any uniform system required by law and by the Commission and to generally accepted principles and procedures of governmental accounting.

(i) To act as purchasing agent for the City and in such capacity purchase all supplies and equipment and dispose of the same in accordance with procedures established by this Charter and by ordinance adopted from time to time by the Commission.

(j) To attend all Commission meetings, with the right to participate in all discussion but not to vote.

(k) To perform such other duties as may be prescribed by this Charter or required of him by ordinance or by direction of the Commission

Section 7 Selection of Mayor Pro Tem

The Commission shall at the first regular meeting of the Commission following each regular biennial City election appoint one of the Commission members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor, when on account of absence from the City, disability or otherwise, the Mayor is temporarily unable to perform the duties of his office, and in case of vacancy in the office of Mayor, or until such vacancy is filled by the Commission. The Mayor Pro Tem shall preside over meetings of the Commission at the call of the Mayor. In the event of vacancy in the office of Mayor, the Commission shall as soon as possible appoint one of its elected members or any other qualified elector to fill such vacancy and the Commission shall then, within a reasonable time, appoint a Mayor Pro Tem.

Section 8 Duties of the Administrative Officers

The Clerk shall be the chief accountant of the City and shall maintain a system of accounts which shall conform to such uniform system as may be required by state law. The Clerk shall also be the Clerk of the Commission and shall attend all meetings of the Commission and shall keep a permanent journal in the English language of its proceedings. In the event of the Clerk's absence from any regular or special meeting of the Commission, the Mayor shall appoint a recording secretary for that meeting from among those persons present at said meeting.

The City Treasurer shall have such powers and duties and prerogative with regard to the collection and custody of state, county, school district, and City taxes and monies as are

conferred by law upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.

The City Assessor shall have all power vested in, and shall be charged with all the duties imposed upon assessing officers by general laws of the State. He shall prepare all regular and special assessment rolls in the manner prescribed by this Charter, by ordinance and by the general laws of the State.

Section 9 City Officers and Employee Benefits

The Commission shall provide, by ordinance for a merit system of personnel management for employees in the service of the City. The Commission may provide for the pensioning of its employees, and a standard plan of group life, hospital, health, or accident insurance.

Section 10 System of Accounts

The City through its chief accountant shall maintain a system of accounts which shall conform to such uniform system as may be required by state law.

The chief accountant shall annually prepare for the Commission a financial statement showing in such detail and in such form as the Commission may direct all assets and liabilities and all income and disbursements of the City and its related activities.

The Commission through its chief accountant may require a system of accounts by each officer and each administrative division as shall be necessary to properly control the finances of the City. The chief accountant shall audit these accounts at his discretion, but not less than annually at the close of the City's fiscal year.

Section 11 Police Officers

The City Commission may establish a Police Department. 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. All police officers of the City of Auburn shall have like powers and authority in matters of civil and criminal nature in relation to the service of process, civil, and criminal as are conferred by law on peace officers in Townships. Such police officers shall have power also to serve all processes issued for breaches of ordinances of the City. The cost of the bond of any police officer shall be paid by the City.

Section 12 Surety Bonds

In order to protect the city and the public, the Commission may require appropriate surety bonds of officers and employees. 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.

Section 13 City Library

The City Library may be a department of the City government under the direction of a Library Board comprised of five (5) members who shall be appointed by the Mayor, subject to confirmation by the City Commission. The terms of the members of the Library Board shall be for six (6) years, commencing on January 1st and may be so arranged that the term of one member shall expire in each year. The Library Board shall possess such powers' as are conferred upon such boards by state law.

ARTICLE VI - FUNCTIONS OF THE COMMISSION

Section 1 Providing for Public Health and Safety

Through the departments and agencies of the City government, the Commission shall provide for the public peace and health and for the safety of persons and property.

Section 2 Meetings of the Commission

(a) The Commission shall provide by resolution for the time and place of its regular meetings and shall hold at least two (2) regular meetings each month.

(b) Special meetings shall be called by the Clerk on the written request of the Mayor, or any two (2) members of the Commission on at least twenty four (24) hours written notice to each member of the Commission, served personally or left at his usual place of residence; but any special meeting at which all members of the Commission are present or have waived notice thereof in writing shall be a legal meeting.

(c) No business shall be transacted at any special meeting of the Commission unless the same has been stated in the notice of such meeting. However, if all the members of the Commission are present at any special meeting of the Commission and consent thereto, then any business which might lawfully come before a regular meeting of the Commission may be transacted at such special meeting.

(d) All regular and special meetings of the Commission shall be open to the public and the rules of order of the Commission shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four (4) members of the Commission shall be a quorum for the transaction of business at all meetings of the Commission, but in the absence of a quorum, two (2) members may adjourn any regular or special meeting to a later date.

(f) The Commission shall conduct its meetings according to accepted parliamentary procedure and shall keep a journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "yes" and "no" votes and entered upon the record except

that where the vote is unanimous, it shall only be necessary to so state. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Commission at all reasonable times.

(g) Absence for more than four (4) consecutive meetings of the Commission shall vacate the office occupied by the absentee, provided that this may be waived by a majority vote of the Commission upon good cause shown.

The Chief of Police shall serve as Sergeant at Arms.

(h) No Commissioner shall vote on any question in which he has a financial interest other than the common public interest or any question concerning his own conduct, but on all other questions each member who is present shall vote unless excused by unanimous consent of the remaining members present.

(i) The proceedings of the Commission or a summary thereof shall be published at least once within fifteen (15) days following each meeting. Any such summary of such proceedings shall be prepared by the Clerk and approved by the Mayor and shall show the substance of each separate proceedings of the Commission.

Section 3 Prior Ordinances and Regulations

All by-laws, ordinances, resolutions, motions, rules and regulations of the City which are not inconsistent with this charter and which are in force and effect on the effective date of this charter shall continue in full force and effect as by-laws, ordinances, resolutions, motions, rules and regulations of the City until repealed or amended. If any such ordinance, resolution, motion, rule, or regulation provides for the appointment of any officers or any members of any board of 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 Mayor with the approval of the Commission.

Section 4 Ordinances - Enactment Amendment and Repeal

All legislation of the City of Auburn shall be by ordinance or resolution. The word "Resolution" as used in this charter shall be the official action of the Commission in the form of a motion and such action shall be limited to matters required or permitted to be done by resolution by this charter or by state or federal law and to matters pertaining to the internal affairs or concerns of the City government. All other acts of the Commission, and all acts carrying a penalty for the violation thereof shall be by ordinance. Ordinances may be enacted, amended or repealed by the affirmative vote of not less than five (5) Commissioners. Ordinances shall be repealed only by adoption of an ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Commission shall be "The City of Auburn Ordains:". Except in the case of ordinances which are declared to be emergency ordinances no ordinance shall be finally passed by the Commission at the

same meeting at which it is introduced. No ordinances shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length, and all ordinances when enacted shall be immediately 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 record by their official signatures thereon.

Section 5 Penalties for Violations of Ordinances

The Commission may provide in any ordinance for the punishment of those who violate its provisions, The punishment for the violation of any City ordinance shall not exceed a fine of Five Hundred Dollars (\$500.00) or imprisonment for ninety (90) days or both in the discretion of the court.

Section 6 Publication of Ordinances

Each ordinance passed by the Commission shall be published at least once within fifteen (15) days after the adoption of the ordinance by the Commission, in a paper circulated in the City. All ordinances of the City shall become effective ten (10) days after the publication thereof, unless a date upon which an ordinance shall become effective which is subsequent to the date of the publication thereof is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as part of the published proceedings of the Commission shall constitute publication of such ordinance as required herein. An ordinance which is declared therein to be immediately necessary for the preservation of the public peace, health or safety may be given effect before publication as otherwise required by this charter, if preliminary publication is accomplished by posting copies thereof in conspicuous locations in ten (10) public places in the City; 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; however, such ordinances shall also be published in the manner required for other ordinances within fifteen (15) days after its adoption.

Section 7 Technical Codes

The Commission may adopt any law, code, rules or regulations which have been promulgated and adopted by any duly authorized agency of the State of Michigan pertaining to fire, fire hazards, fire prevention, or fire waste, and fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code or elevator machinery code or codes pertaining to flammable liquids and gases as well as to hazardous chemicals, which have been promulgated by the State of Michigan, or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes, by reference thereto in an adopting ordinance and without publishing any such code in full. Any such code shall be clearly identified in the ordinance and its

purpose shall be published with the adopting ordinance and printed copies thereof shall be kept in the office of the City Clerk, available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the City Clerk.

Section 8 Initiative and Referendum

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Commission may be had by a petition, as herein after provided.

(a) An initiatory or referendary petition shall be signed by not less than fifteen (15) per cent of the registered electors of the City who have signed said petition within six (6) months before date of filing the petition with the Clerk. Before being circulated for signatures, all such petitions may be approved as to form by the Clerk. No such petition need be on one paper but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall 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 thereto 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 ten (10) days, canvass the signature thereof to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the City, or to be improper as to form, or compliance with the provisions of this section, the Clerk shall notify forthwith the persons filing such petition, and ten (10) days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Commission at its next regular meeting.

(b) Upon receiving an initiatory or referendary petition from the Clerk, the Commission shall, within thirty (30) days, either:

1. If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the City.
2. If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

(c) Should the Commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any purpose. If no election is to be held in the City for any other purpose within one hundred and fifty (150) days from the time the petition is presented to the commission and the Commission does not adopt the ordinance, or repeal the ordinance as the case may be, then the Commission shall call a special election within sixty (60) days from such time for the submission of the

proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.

(d) The certification by the Clerk of the sufficiency of a referendary petition filed within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Commission or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Commission for a period of two (2) years after the date of the election at which it was adopted.

Section 9 Franchises, Contracts, and Leases Remain in Effect

All franchises, contracts and leases 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.

Section 10 Granting of Public Utility Franchises

Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty (30) years. No franchise ordinance which is not subject to revocation at the will of the City shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three fifths (3/5) of the electors voting thereon. No such franchise ordinance shall be approved by the Commission for referral to the electors before thirty (30) days after proof of publication thereof has been filed with the Commission, nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered by the Commission unless the expenses of holding such election, as determined by the Commission, shall have first been paid to the Treasurer by the grantee. A franchise ordinance which is subject to a revocation at the will of the City may be enacted by the Commission without referral to the voters, but shall not be enacted nor become operative unless it shall have been complete in the form in which it is finally enacted and remain on file with the Clerk for public inspection for at least four (4) weeks before the final enactment thereof.

Section 11 Conditions of Public Utility Franchises

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:

(a) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;

(b) To require reasonable and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(c) To establish reasonable and practicable standards for service and quality of products and prevent unjust discrimination in service or rates;

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(e) To impose such other reasonable regulations as may be conducive to the health, safety and accommodation of the public;

(f) To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. The above enumeration shall not be exclusive or impair the right of the Commission to insert in such franchise any provision within the power of the City to impose or require;

(g) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the City, as shall arise, from its use thereof, and to protect and save the City harmless from all damages arising from said use;

(h) Require the public utility to file with the City such drawings and maps of the location and nature of its facilities as the Commission may request.

Section 12 Sale or Assignment of Franchises

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Commission gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise nor shall restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this charter.

Section 13 Restrictions on the Commission

The Commission shall not have the power to make any contract with or give any official position to one who is in default to the City. Further, the Commission shall not have the power to sell any park, cemetery or any part thereof, or to engage in any business enterprise requiring an investment of money in excess of ten (10) cents per capita, unless these actions are approved by a majority of the electors voting thereon at a regular or special election.

Unless by the affirmative vote of five (5) Commissioners, no office shall be created or abolished, no tax or assessment shall be imposed, no street, alley, or public ground shall be vacated, no real estate or any interest therein shall be sold or disposed of, no action shall be

taken to condemn private property for public use, no money shall be appropriated, nor shall any vote of the Commission be reconsidered or rescinded.

Section 14 Investigations

The Commission or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office or officer of the City and make investigation as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure on the part of any officer of the City to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute misconduct in office. Anyone convicted of misconduct in office will be subject to removal from office. If such failure shall be on the part of an employee of the City, the same shall constitute a misdemeanor, and upon conviction thereof such employee may be punished by imprisonment in the County Jail for not more than ninety (90) days, or by a fine of not more than one hundred dollars (\$100.00) or by both such fine and imprisonment.

Section 15 Severability of Ordinances

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

ARTICLE VII - GENERAL FINANCE AND TAXATION

Section 1 Fiscal Year

The fiscal year of the City and all of its agencies shall begin at the beginning of the first day of July each year and end at the end of the thirtieth day of June.

Section 2 Budget Procedures

The Mayor of the City shall be the Budget Officer. Each board, commission, officer and department head shall submit his recommended budget with supporting explanation for the next fiscal year to the Budget Officer on or before April 15th of each year. The Budget Officer shall prepare and submit to the Commission, on or before the first regular meeting in May of each year a budget document covering the next fiscal year tabulating the recommendations of the several department heads and officials, and shall include therein at least the following information:

(a) Detailed estimates, with supporting explanations of all proposed expenditures for each department and office of the City, together with the expenditures for corresponding items

for the last preceding fiscal year in full and for the current year to April 1st and estimated expenditures for the balance of the current fiscal year;

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

(c) Detailed estimates of all anticipated revenues of the City from sources other than taxes, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding fiscal year in full and for the current fiscal year to April 1st and estimated revenues for the balance of the current fiscal year;

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

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

(f) Such other supporting schedules as the Commission may request;

(g) The City Commission shall hold a public hearing on the budget pursuant to law.

Section 3 Adoption of Budget Tax Limit

Not later than the 1st regular City Commission meeting in June, the Commission shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution make an appropriation for the money needed for municipal purposes during the ensuing fiscal year of the City and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not exceed two percent (2%) of the assessed valuation as equalized, of all real and personal property subject to taxation in the City.

Section 4 Budget Control

Except for purposes which are to be financed by the issuance of bonds, special assessment, or other methods not requiring a budget appropriation, no money shall be drawn from the treasury of the City without an appropriation therefor, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payment which will be due under such obligation in the current fiscal year.

The Commission may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund or agency to another. In case of emergency arising from a pressing need other than a regular or recurring requirement and necessary to protect the

public health, welfare, or safety, the Commission may make additional appropriations to cover unanticipated expenditures required of the City because of such emergency.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the officer responsible for maintenance of the City accounting system shall submit to the Commission 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 Commission 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.

Section 5 Purchasing Agent

The Commission may designate one of the administrative officers of the City as Purchasing Agent, and he shall be responsible for the purchase of City personal property within budget limitations and the sale of all city property except real estate. In all sales or purchases in excess of \$500.00 the sale or purchase shall be approved by the Commission, and formal sealed bids shall be obtained unless the Commission by formal unanimous resolution of those present at the meeting determine that no advantage to the City would result from competitive bidding. The Commission may authorize the making of public improvements or the performance of any other City work by a City agency without competitive bidding. The Commission may establish detailed purchasing, sale and contract procedure by ordinance or resolution.

Section 6 Depository

The Commission shall designate the depository or depositories for City funds, and shall provide for the regular deposit of all City monies. The Commission may provide for such security for City deposits as is authorized or permitted by the general laws of the state, except that personal security bonds shall not be deemed proper security.

Section 7 Independent Audit

An independent audit shall be made of all accounts of the City government at the close of each fiscal year, and shall be completed within ninety (90) days thereafter. Special independent audits may be made at any time that the Commission may designate. Such audit shall be made by certified public accountants. All such audits shall be reported to the Commission. The results of such audit shall be made public in such manner as the Commission may determine, but as a minimum, it shall be available for inspection at the office of the Clerk.

Section 8 Power to Tax

The City shall have the power to assess taxes and levy and collect rents, tolls and excises.

Section 9 Subjects of Taxation

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 law, city taxes shall be levied, collected and returned in this manner provided by this charter.

Section 10 Exceptions

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

Section 11 Tax Day

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day. Values on the assessment roll shall be determined according to the facts existing on the tax day for the year for which such roll is made, and no change in the status or location of any such property after that day shall be considered by the Assessor or the Board of Review.

Section 12 Preparation of the Assessment Roll

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

On or before the first Monday in March the Assessor shall give by first class mail a notice of any increase of at least ten (10%) per cent over the previous year in the assessed value of any property, where such increase does not involve additional construction, to the owner as shown by such assessment roll. The failure to give any notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Section 13 Personal Property - Jeopardy Assessment

If the treasurer finds or reasonably believes that any person, who is, or may be, liable for taxes upon personal property, the taxable 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 therefrom 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 by law.

Section 14 Board of Review

(a) A Board of Review is hereby created composed of three members who have the following qualifications: he shall be a qualified elector of the City, and shall have been a resident of the City for at least six (6) months immediately prior to the date of his election or appointment.

(b) The members of the Board of Review shall be appointed by the Commission and may be removed for reasons of nonfeasance or misfeasance by the vote of five members of the Commission. The first members shall be appointed during the month of January, 1974 for terms expiring on January 31, 1975, 1976, 1977. Thereafter, one member shall be appointed in the month of January of each year, for a term of three years, commencing on the following February first.

The Commission shall, by ordinance, fix the compensation of members of the Board.

(c) 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 Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

Section 15 Meetings of the Board of Review

The Board of Review shall convene in its first session on the second Monday in March of each year at such time of day and place as shall be designated by the Commission and shall remain in session for at least eight hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board.

The failure to give notice or of the owner to receive it shall not invalidate assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the fourth Monday in March of each year at such time of day and place as shall be designated by the Commission and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. At the second session, the Board may not increase any assessments or add any property to the rolls, except in those cases in which the Board resolved at its first session to consider such increase or addition at its second session, and ordered proper notice.

Section 16 Notice of Meeting

Notice of the time and place of the sessions of the Board of Review shall be posted or published in a paper circulated in said City of Auburn by the Clerk at least ten days prior to each session of the Board.

Section 17 Duties and Functions of Board of Review

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of Boards of Review in townships, except as otherwise provided in this charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon or additions or corrections to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board, and to make all corrections to the roll as ordered by the Board.

Section 18 Endorsement of Roll

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

Within three days after the Commission has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Commission determines shall be raised by general ad valorem tax. He shall also certify all amounts of correct or delinquent special assessments and all other amounts which the Commission requires to be assessed, reassessed or charged upon any property or against any person.

Section 19 City Tax Roll

After the Board of Review has completed its review of the assessment roll the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" and upon receiving the certification of the several amounts to be raised as provided in Section 18 the Assessor shall spread upon said tax roll the several amounts determined by the Commission to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any taxroll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax rolls shall belong to the City.

Section 20 City Tax Roll Certified for Collection

After extending taxes aforesaid and not later than the fifteenth (15th) day of June in each year, the Assessor shall certify said tax roll, and the Mayor shall annex his warrant

thereto directing and requiring the Treasurer to collect prior to March First of the following year, from the several persons named on said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him for the purpose of collecting the taxes, assessments and charges on each roll, all the powers and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

Section 21 Tax Lien

On June 15 the taxes thus assessed shall become a debt to the City from the persons to whom they are assessed. On July 1 the amount assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed.

The liens shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Section 22 Tax Due - Notification Thereof

The Treasurer shall not be required to make personal demand for the payment of taxes, but, upon receipt of the City tax roll, he shall forthwith mail a tax statement to each person named in the tax roll, which mailed statement shall be a sufficient demand for the payment of all taxes assessed. Neither the failure on the part of the Treasurer to mail such statement, nor the failure of any person to receive the same, shall invalidate the taxes on the tax roll or release any person or property assessed from the liabilities provided in this charter in case of non-payment.

Section 23 Collection of City Taxes

The City Taxes shall be due on the first day of July in the fiscal year when levied. All summer City taxes paid on or before August 1st of the year in which assessed shall be collected by the City Treasurer without a collection fee. As to all City taxes paid to the Treasurer after August 1, he shall add a four per cent collection. Then $\frac{1}{2}$ per cent per month interest after taxes are delinquent.

Section 24 Tax Roll to the County Treasurer

All taxes, special assessments, charges and collection fees on the City tax roll which remain unpaid on the first day of March following the date when said roll was received by the Treasurer shall, on that date, become delinquent and shall be returned to the County Treasurer at the time and in the same manner and with like effect as returned by Township Treasurer of Township, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges which shall in such return be added to the amount assessed in said tax roll against each description. The taxes, assessments, charges and fees thus returned shall be collected in the same manner as Township taxes returned to the County Treasurer are collected under

statutory provisions and shall be and remain a lien upon the lands against which they are assessed until paid.

Section 25 Failure or Refusal to pay Personal Property Tax

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them by March 1, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax fees and charges for subsequent sale, whenever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property sue, in accordance with statute, the person or firm or corporation to whom it is assessed.

Section 26 Protection of City Lien

The City shall have the 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, lease or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose. The Commission may adopt any ordinances that may be necessary to make this section effective.

Section 27 State, County and School Taxes

For the purpose of assessing taxes in the City for 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 such taxes and fees to be paid therefor, the accounting therefor to the appropriate taxing units, and the returning of taxes to the county treasurer for non-payment thereof shall apply to the performance thereof by the City Treasurer, who shall perform the same duties and have the same powers as township treasurers under the state law.

Section 28 Municipal Borrowing Power

(a) Subject to the applicable provisions of the 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 evidence of indebtedness therefor.

(b) 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 and interest of bonds issued in anticipation of such special assessments. As to such of said bonds as are also a general obligation of the City, if there is any deficiency in any special assessment fund to meet the payment of the principal or interest to be paid therefrom, monies shall be advanced from the general funds of the City

to meet such deficiency, and shall be replaced in the general funds when the special assessment fund shall be sufficient therefor.

(c) 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 Commission may, by the concurring vote of not less than five (5) members, authorize the use of such unexpended and unencumbered funds in a manner not inconsistent with state law:

- (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 therefor were made, pro rata as provided in this charter according to payments made toward the total cost of the improvement for which the bonds were issued; or
- (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 used as above permitted, then in any manner approved by a vote of not less than five(5) members of the Commission.

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

(e) 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 Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness shall be kept by the City Treasurer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled" or otherwise defaced, by the City Treasurer, to indicate payment.

Section 29 Limitations upon borrowing power

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the state equalized value of all the real and personal property in the City; Provided, that, in computing such net bonded indebtedness, there shall be excluded all money borrowed while, by law, does not constitute an indebtedness of the City within any constitutional or statutory debt limitation or which is permitted by law to be in excess thereof. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

(b) In case of fire, flood or other calamity the Commission may borrow for the relief of the inhabitants of the City and for the preservation of municipal property, a sum not to exceed three-eighths (3/8) of 1 percentum of the assessed value of all the real and personal property in the City, due in not more than Five (5) years, even if such loan would cause the indebtedness of the City to exceed the limit otherwise fixed in this charter,

(c) No bonds shall be sold to obtain funds for any purchase other than for which they were specifically authorized, and, if such bonds are not sold within three (3) years after authorization such authorization shall be null and void.

Section 30 Designated Depositories

The Commission shall designate depositories for City funds in accordance with law, and shall provide for the regular deposit of all City monies.

ARTICLE VIII PUBLIC IMPROVEMENTS, COMPACTS AND UTILITIES

Section 1 General powers relative to Special Assessments

The Commission shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited and shall so declare by resolution, provided that all special assessments levied shall be based upon or be in proportion to the benefits derived or to be derived. No resolutions determining necessity and special assessments shall be adopted until proper notices be given to owners of property to be assessed, and hearings thereon are held. Such resolutions shall state the estimated 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, and the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Section 2 Detailed procedure to be fixed by Ordinance

The Commission shall prescribe by general ordinance the complete special assessment procedure concerning: the initiation of projects, plans and specifications, estimates of costs, notice of hearings, making and confirming assessment rolls in advance of starting the improvement, and the correction of errors therein, collection of special assessments, and any other matters concerning the making of improvements by the special assessment methods, subject to the provisions of this charter.

Section 3 Objection to Improvements

If at or prior to final confirmation of any special assessment, more than fifty (50) per cent of the number of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements, more than fifty (50) per cent of the number of owners of frontage to be assessed for any such improvement, shall object in writing: to the proposed improvement it shall not be made by the proceedings authorized in this charter without an affirmative vote of five (5) of the members of the Commission, provided that this section shall not apply to sidewalk construction.

Section 4 Disposition of Excessive Special Assessments

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the City if such excess is five (5) percent or less of the assessment, but should the assessment prove larger than necessary by more than five (5) per cent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid assessments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

Section 5 Contested Assessments

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 (1) unless within thirty (30), days after the confirmation of the special assessment roll written notice is given to the Commission 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 (60) days after confirmation of the roll.

Section 6 Delinquent Special Assessments

Special assessments and all interest and charges thereon, from the date of confirmation of the roll shall be and remain a lien upon the property assessed of the same character and effects as the lien created by general law for the state and county taxes and by this charter for City taxes, until paid. From such date after confirmation as shall be fixed by the Commission, the same collection fees, penalties, and interest shall be paid on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this charter to be paid on delinquent City taxes.

Section 7 Additional Procedures

In any case where the provisions of this charter, either expressed or incorporated therein, may prove to be insufficient to carry into full effect the making of any special assessment, the Commission shall provide by ordinance any additional steps or procedures required to effect the improvement by special assessment.

Section 8 Deferred Payment in Special Assessments

The Commission may provide by ordinance for the deferred payment of special assessments.

Section 9 Power Reserved by City

The City shall possess and hereby reserves to itself all the powers granted to cities by the Constitution and general laws of the State of Michigan to acquire, construct, own,

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 water, lights, heat, gas, power, sewage treatment, and garbage disposal facilities and projects for the housing of its citizens, and inhabitants thereof; and also to sell and deliver water, light, heat, gas, and other public utility services without its corporate limits to those receiving such service at the time of the adoption of this Charter, to an amount not to exceed limitations set by the Constitution and laws of this state.

The City may also acquire, own, improve, maintain, construct and operate parks, boulevards, hospitals, trunk sewers and plants necessary for the disposal of sewage and garbage and all the other works which involve the public health and safety and also any land necessary for such improvement or for use in connection with any other public purpose.

Section 10 Power to furnish utilities without corporate limits

Public utilities and services may be furnished to properties without the corporate limits of the City to new and additional users thereof. Provisions for furnishing such utilities, costs of installation, rates therefor and service charges shall be provided for in an Ordinance adopted by the City Commission prior to the starting of installation thereof.

Section 11 Power to acquire Public Utilities

The City shall have no power to acquire any public utility unless the proposition to acquire such public utility shall have first received an affirmative vote of a majority of the qualified electors of the City voting thereon at any regular, special or municipal election; provided, however, that only those works, improvements and utilities designated for use for the supplying of heat, light, and power to the municipality and the inhabitants thereof, shall be deemed public utilities falling within the restriction of this section. The question of raising the money required for such purpose by borrowing and issuing the bonds of the City, may be submitted at the same time, either as an independent question or as part of the same question.

Section 12 Power to set water rates, etc.

The Commission shall have the power to set from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, electricity, heat, light, power, sewer service and with such other utility services as the City may provide.

Section 13 Management of Municipal Utilities

Municipally owned utilities shall be administered as a regular department of the City government and not by an independent board or commission.

Section 14 Utility charges collection

The Commission shall provide by ordinance or resolution for the collection of all public utility charges made by the City under Act 178 of the Public Acts of 1939, as amended.

When any person or persons, or any firm or corporation shall fail or refuse to pay to the City any sums on utility bills, the utility service or services upon which such delinquency exists, may be shut off or discontinued and suit may be instituted by the City for the collection of same in any Court of competent jurisdiction. The City shall have as security for the collection of such utility rates for services furnished any person or persons, or any firm or corporation a lien upon the real property for which such utility is supplied, which lien shall become effective immediately upon the supplying of such utility service and may be enforced in accordance with the provisions of said Act No.178, of the Public Acts of 1939, as amended.

Section 15 Disposal of Utility Plants and Property

Unless approved by a majority vote 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, easement, equipment, privilege or asset belonging to and appertaining to any municipally owned 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 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.

Section 16 Utility Accounts

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 account shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to or rendered by, other City departments or agencies shall be recorded. An annual report shall be available for inspection at the office of the Clerk.

Section 17 Contracts

The authority to contract on behalf of the City is vested in the Commission and shall be exercised in accordance with the provisions of the statutes and of this charter. The Commission shall establish procedures for the letting and making of contracts, but no contract except an agreement of employment or an agreement for the purchase or sale of goods, wares or merchandise in an amount of one thousand (\$1,000. 00) dollars or more shall be made unless the same shall have first been submitted to an attorney and his opinion obtained with respect to its legality and form and unless the head official of the department to be charged therefor, certifies that sufficient funds are available or that an appropriation has been made for the payment thereof. In the case of a contract obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover payments on the contract which will be due in future fiscal years, but this exception shall not apply to a contract for the construction of a public improvement. A copy of all contracts requiring such opinion and certification shall be filed in the office of the Clerk.

No contract shall be amended after the same has been made except upon the authority of the Commission.

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

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

Section 18 Business dealings with City

An officer or employee of the City who intends to have contractual dealings with the City, whereby he may derive any profits, other than as provided as remuneration for his official duties, shall file with the Clerk a statement, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the Clerk not less than ten (10) days before the date when action may be taken by the Commission or any other officer or agency of the City upon the matter involved. The statement shall be spread upon the proceedings of the Commission for the meetings at which it is received. Any contracts made in violation of this section shall be void.

ARTICLE IX STREETS AND PUBLIC GROUNDS

Section 1 Liability

The Commission shall have supervision and control of all public highways, bridges, streets, drives, alleys, parks, sidewalks, and public grounds within the City, and shall cause the same to be kept in repair, and free from nuisance.

The City shall not be liable in damages sustained by any person to his person or property by reason of any defective street, bridge, alley, sidewalk, crosswalk, or public highway situated in the City, or by reason of any obstruction, ice, snow or other encumbrance upon any street, bridge, alley, park, sidewalk, crosswalk or public highway situated in the City unless such person shall serve, or cause to be served, within sixty (60) days after the event causing such injury shall have occurred, a notice in writing upon the City Clerk, which notice shall set forth substantially the time when and place where such event took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold the City liable for such damages as may have been sustained by him. Such notice shall also give the names and addresses of the witnesses known at the time of such notice by the claimant. Such notice shall be in writing and under oath.

No person shall bring any action for such injuries against the City for any such damages until such claim shall have been filed with the City Clerk and until the Commission shall have been given opportunity to act thereon, either by allowing or refusing to allow such claim.

It shall be a sufficient bar and answer in any Court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of

injury and verified proof of claims as in this section required were not presented and filed within the time and in the manner as herein provided.

Section 2 Responsibility

The City shall not be responsible for the care, improvement or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before its incorporation as a City, nor for the improvement and repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the Commission by an ordinance or resolution especially passed for that purpose.

Section 3 Authority to make Public Improvements

The Commission shall have authority to lay out, open, widen, extend, alter, straighten, close, vacate or abolish any highway, street, alley, drive, park or public grounds within the City whenever they deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be acquired by purchase, gift, condemnation, lease or otherwise. The expense of such improvement may be paid by special assessments upon the property adjacent to and benefitted by such improvements, or in the discretion of the Commission, a portion of such costs and expenses may be paid by special assessment, and the balance from the general street fund.

Section 4 Disposition of Public Property

When the Commission shall deem it advisable to vacate, discontinue or abolish any street, alley, or other public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time not less than four (4) weeks thereafter, when they will meet and hear objections thereto. Notice of such meeting with a copy of said resolution shall be published once at least four (4) weeks before the time appointed for such meeting, in one of the newspapers published and circulated in the City. Objections to such proposed action of the Commission may be filed with the City Clerk in writing, and if any such shall be filed, the street, alley, or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of five (5) members of the Commission.

Section 5 Adding, Vacating or Name Changing of Streets.

Whenever the Commission shall by resolution or other enactment open any new street, highway, or alley, or vacate any street, highway, or alley or any portion of the same or extend, widen, or change the name of any existing, street, highway, or alley, it shall be the duty of the City Clerk within thirty (30) days after the adoption of such resolution or other enactment to forward to the Auditor General of the State of Michigan and record with the Register of Deeds, a certified copy of the same, together with his certificate, giving the name or names of plat, subdivision or addition affected by such resolution or any other

enactment, and such resolution or other enactment shall have no force or effect until so recorded.

Section 6 Easements

Whenever the Commission shall determine that it is necessary for the health, welfare, comfort and safety of the people of the City to discontinue an existing street or alley as platted, it may by resolution, ordinance or other enactment vacating such street or alley, reserve therein an easement for public utility purposes within the right-of-way of any street or alley so vacated.

ARTICLE X MISCELLANEOUS

Section 1 Records to be Public

All papers, books or other records of the City shall be public, unless otherwise provided by law; shall be kept in City offices, except when required by official reasons or for purposes of safekeeping to be elsewhere; and shall be available for inspection and copying at all reasonable times at said place of keeping.

Section 2 City Records

All books, records, compilations, etc., in and pertaining to any City office, elective or appointive, shall be and remain the property of the City.

Each officer of the City, elective or appointive, shall at the close of his tenure of office surrender all such books, records, compilations, etc., to his successor in office or to the Clerk of the City.

Section 3 Effect of Illegality of any part of Charter

Should any portion of this charter be declared void, illegal, and unconstitutional, such findings shall not invalidate the remainder of this charter.

Section 4 Amendments

This charter may be amended at any time in the manner provided in Act Number 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Section 5 City Liability

When applicable under statute, the City shall not be liable for damages sustained by any person to his person or property by reason of the negligence of the City, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk, within sixty (60) days after the event causing such injury or damages shall have occurred, a notice in writing, which notice shall set forth substantially the time and place of such event, as the same has become

known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the City liable for such damage as may have been sustained by him.

The City shall not be liable for any damages to person or property arising out of such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action, against the City for any such damages until such claim shall have been filed with the Clerk and until the Commission shall have been given the opportunity to act thereon either by allowing or refusing to allow the claim.

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

Section 6 Process against the City

A process against the City shall run against the City in the corporate name thereof and may be served by leaving a certificate copy with the Mayor, Clerk or Attorney.

Section 7 Official Performance

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 otherwise provided by this charter or required by law.

Section 8 Trusts

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

Section 9 Definition of Publication: Mailing of Notices

All proceedings of the Commission, all ordinances and all official notices of the City required by this charter or by State Law to be published shall be caused by the Clerk to be printed in a newspaper as defined by State law, published within the City, if one is available, but if one is not available, then in a newspaper of general circulation in the City.

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

Section 10 Sundays and Holidays

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

Section 11 Articles and Section Headlines

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

Section 12 Definitions

Except as otherwise specifically provided or indicated by the context,

(1) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein;

(2) The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter;

(3) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals;

(4) The words "printed" and "printing" shall include reproduction by printing, engraving, stencil duplicating, lithographing or any similar method.

(5) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting;

(6) The word "City" shall mean the municipal corporation of Auburn as it existed prior to the effective date of this charter including the period from and after its incorporation as a Fifth Class City and until such effective date;

(7) The word "office" shall include the members of the Commission and the administrative officers;

(8) All references to statutes shall be considered to be references to such statutes as amended;

(9) The word "default" shall be defined to include being delinquent in taxes among its meanings;

(10) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied;

(11) The words "law" or "general laws of the State" shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words "law" or "general laws of the State" is to be applied, and applicable common laws

(12) All references to section numbers shall refer to section numbers of this charter.

ARTICLE XI SCHEDULE

Section 1 Election to Adopt Revised Charter

This revised charter shall be submitted to a vote of qualified electors of the City of Auburn at the special city election to be held November 6, 1973. Notice of such election shall be given in the same manner and for the same length of time as is provided in the existing charter for such special city elections, and the vote shall be counted and canvassed and the returns made and the result determined as provided by the existing charter for counting canvassing and returning of votes, and the determining of the result thereof.

Section 2 Form of Ballot

The form of ballot on submission of the revised charter shall be as follows:

"Shall the proposed revised charter, drafted by the Charter Revision Commission, elected on June 14, 1971, and approved by the Governor be adopted?"

YES

NO

Section 3 First Election Under This Charter

Following the adoption of this revised charter, the first election of officers under said revised charter shall be at the regular City election as provided for in Article IV of this revised charter. Said election to be held in the Fall of 1975.

Section 4 Hold Over Officers

All officers whether elected or appointed, holding office under the previous charter shall continue in office and in the performance of their duties prescribed by this revised charter until the termination of the term for which they were elected or appointed, their successors shall be chosen and qualify, or the office be abolished in accordance with the provisions of this revised charter.

Section 5 Publication of Charter

Prior to the submission of this revised charter to the electors of the City of Auburn; said revised charter shall be published once in the Bay City Democrat, a newspaper circulated in the City of Auburn, at least two (2) weeks and not more than four (4) weeks preceding the Nov. 6, 1973 election, together with notice of such election.

Section 6 Filing of and Effective Date of this Revised Charter

If this revised charter is adopted, the City Clerk shall within thirty (30) days thereafter and before Dec. 6, 1973, certify the adoption of this charter upon his journal and six (6) printed copies thereof shall be certified by the City Clerk, and two (2) such certified copies, together with the vote for and against, duly certified by the City Clerk shall be filed

with the Secretary of State and a like number with the County Clerk of the County in which said City is located, and the City Clerk respectively, and shall thereupon become law.

Resolution of Adoption

At a meeting of the Charter Commission of the City of Auburn held on February 14, 1973, the following resolution was presented by Commissioner Philip N. Wendell who moved its adoption. Said motion was supported by Commissioner William A. Reder.

Resolved, that the Charter Commission of the City of Auburn does hereby adopt the foregoing proposed City Charter, 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 the statute, for his approval. The vote on the adoption of said resolution was as follows:

Ayes: 7

Nays: 0

Absent: Behmlander, Berlin.

Maxine W. Clarey Chairman, Charter Commission of the City of Auburn

Lester C. Behmlander

Wilma L. Berlin

Carl F. Cisky

Derrill E. Coger

Barbara L. Reiss Clerk, Charter Commission of the City of Auburn

Ann W. Macheliski

Dale M. Pickelman

William A. Reder

Philip N. Wendell

State of Michigan County of Bay

Barbara L. Reiss upon oath states she is City Clerk of the City of Auburn and that she personally knows each of the above signatories; and that the above signatures are the genuine signatures of the members of the Charter Commission duly elected by the voters of the City of Auburn for the purpose of drafting a new City Charter, and that they did in fact serve on said Charter Commission and voted for the above resolution.

Barbara L. Reiss,
City Clerk

Subscribed and sworn to before me this 20th day of February 1973 at Auburn, Michigan.

Margaret M. Cardinal,
Com. Ex. Nov. 15, 1976
Notary Public
County of Bay

All the Commissioners having attested as to said resolution as above and also having attested the copy to be signed by the Governor, the meeting adjourned subject to the call of the Chairman.

Certificate

A meeting of the Charter Commission of the City of Auburn was duly called by the Chairman at the City Hall in Auburn, Michigan on July 17, 1973. Seven members were present and consented to the meeting.

Amendments to the proposed new City Home Rule Charter as suggested by the Governor upon advice of the Attorney General and as contained in the Governor's letter of July 5, 1973 were reviewed in detail. Commissioner Coger moved and Commissioner Machelski supported adoption:

Resolved, that the amendments to the proposed new Home Rule, Charter as submitted to the Governor March 13, 1973 be agreed to and the Charter as amended be resubmitted to the Governor for his approval according to law.

Resolved Further, that the signatures of the Commissioners be affixed to the amended Charter and duly certified by the Clerk as their official act."

On the motion the vote was as follows:

Ayes 7

Nays: 0

Absent: Wendell, Cisky

The resolution was unanimously adopted.

Maxine W. Clarey, Chairman, Charter Commission of the City of Auburn
Lester C. Behmlander
Wilma L. Berlin
Carl F. Cisky
Derrill E. Coger
Barbara L. Reiss, Clerk, Charter Commission of the City of Auburn
Ann W. Machelski
Dale M. Pickelman
William C. Reder
Philip N. Wendel
State of Michigan
County of Bay

Barbara L. Reiss, City Clerk of the City of Auburn, Bay County, Michigan being duly sworn says that at an election held in the City at Auburn on June 14, 1971, the following persons were elected to and comprised the Charter Commission to frame a Charter for the City of Auburn Namely: Maxine W. Clarey, Lester C. Behmlander, Wilma L. Berlin, Carl F. Cisky, Derrill E. Coger, Ann W. Machelski, Dale M. Pickelman, William A. Reder, Philip N. Wendell.

The members elected to said Charter Commission did meet on June 22, 1971, within the time prescribed by law, and elected Maxine W. Clarey, Chairman of said Charter Commission. The annexed and foregoing Charter was duly framed and adopted by said Charter Commission by the foregoing Resolution of Adoption which is a true and correct copy thereof, and that the said Charter Commission directed that said Charter be presented to the electors of the City of Auburn in accordance with the laws of the State of Michigan.

Barbara L. Reiss,
Clerk of the Charter Commission of the City of Auburn, Michigan

Subscribed and sworn to before me this 2nd day of August, 1973.

Ruth A. Wegener,
Notary Public,
Bay County, Michigan.
My Commission Expires: Apr. 19, 1975.