

PART I
CHARTER*

* **Editors Note:** Printed herein is the Home Rule Charter of the City of Owosso, Michigan, adopted by the electors on April 6, 1964. Amendments are indicated by history notes in parentheses following the amended sections. Obvious misspellings have been corrected. Other changes made for clarity are enclosed in brackets [].

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PREAMBLE

We, the people of the City of Owosso, mindful of the ideals and labors of our fathers in founding and developing this community, grateful to Almighty God for the blessings of freedom, peace, health, safety, and justice, and desirous of further securing these blessings to ourselves and our posterity, and to provide for the health, peace and safety of persons and property in the city, do hereby ordain and establish this charter for the City of Owosso.

CHAPTER 1.

INCORPORATION AND BOUNDARIES*

* **State Law References:** Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.6 et seq., MSA 5.2085 et seq.

Section 1.1. Continuation of Existing Corporation.

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

Section 1.2. Boundaries.

(a) The city shall embrace the territory constituting the City of Owosso on the effective date of this charter, together with such annexations thereto and less any detachments therefrom.

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

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

Section 1.3. Wards.

The city shall constitute one ward.

State Law References: Mandatory that Charter provide for establishment of one (1) or more wards, MCL 117.3(e), MSA 5.2073(e).

CHAPTER 2.

DEFINITIONS AND GENERAL PROVISIONS

Section 2.1. Definitions and Interpretations.

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

(1) "Board" includes "commission";

- (2) "City" means the City of Owosso and all of its officers and departments;
- (3) "Clerk" means the City Clerk as that term may be used in any law;
- (4) "Council" means the City Council of the City of Owosso and includes "governing body" as that term may be used in any law;
- (5) "Law" denotes applicable Federal law, the Constitution and statutes of Michigan, the applicable common law, and this charter;
- (6) "Lien" includes security interest as defined by law or as brought into being by operation of law, or both;
- (7) "Officer" includes the Mayor, the members of the Council, the Municipal Judges*, the administrative officers named in this charter or created under authority of this charter and their deputies, and members of city boards created by or pursuant to law;

* **Editors Note:** Municipal courts were abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

- (8) "Person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- (9) "Printed" and "printing" include printing, engraving, stencil duplicating, lithographing, typewriting, photostating, or any similar method of duplicating the written word;
- (10) "Publish" or "published" include[s] publication of any matter, required to be published, in the manner provided by law, or where there is no applicable law at least once in one or more newspapers of the city qualified by law for the publication of legal notices, or when such newspaper publication is not available, by posting in at least one public place in each election precinct;
- (11) "Public utility" shall include all public and private common carriers, water, sewage disposal, electric light, gas, electric power, telephone and telegraph lines and systems, garbage collection, garbage disposal and reduction plants, and such other and different enterprises as the law or the Council may determine to be or designate as public utilities;
- (12) "Treasurer" means the City Treasurer as that term may be used in any law;
- (13) "Written" and "in writing" include[s] hand written script, printing, typewriting, teletype and telegraphic communications, and other forms of graphic English language readable by the average literate person;
- (14) Words and phrases which are not herein defined shall be taken in their ordinary signification and import and when there is doubt thereof, the meaning given in the latest edition of Webster's

Standard Unabridged Dictionary, extant at the time the meaning is required, shall govern;

- (15) All words indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement to which the provision is applied;
- (16) The singular shall include the plural, the plural shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

Section 2.2. Records to be Public.

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

State Law References: Mandatory that Charter provide that all records of the municipality shall be public, MCL 117.3(l), MSA 5.2073(l); freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

Section 2.3. 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 or required by law.

Section 2.4. Quorum, Effectiveness of Board Actions.

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

Section 2.5. Sundays and Holidays.

Except as otherwise expressly provided in this charter, whenever the date fixed by law or ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day, which is not a Sunday or legal holiday.

Section 2.6. Penalties for Violations of Charter.

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

provided in this charter.

State Law References: Limitation on penalties, MCL 117.4i, MSA 5.2082.

Section 2.7. Chapter and Section Headings.

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

Section 2.8. Amendments.

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

State Law References: Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22; Charter amendment procedure, MCL 117.21 et seq., MSA 5.2100 et seq.

Section 2.9. Severability of Charter Provisions.

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

CHAPTER 3.

MUNICIPAL POWERS AND LIABILITIES

Section 3.1. General Powers.

(a) Unless otherwise provided or limited by law, the City of Owosso shall be vested with and possess all the powers, functions, privileges, and immunities, expressed or implied, to which cities are, or hereafter may be, entitled under and in the spirit of the law of Michigan and the home rule traditions of the State, and may exercise all powers which are not prohibited by and which are not in contravention with law. In the exercise of such powers, functions and privileges, the city shall manage and control its finances, rights, interests, buildings, and property, enter into contracts; acquire by purchase, grant lease, or condemnation and hold and utilize any property, both within the limits and without the limits of the city; acquire, own, and operate any utility unless the power to do so is denied by law; do any act, including the adoption of ordinances, to advance the interests, good government, and prosperity of the city and its inhabitants; and protect the public peace, morals, health, and general welfare and the safety of persons and property.

(b) The city may join with any municipal corporation or with any unit of government, or with any number or combination thereof, by contract, or otherwise as may be permitted by law, in the ownership, operation, or performance, jointly, or by one or more on behalf of all, of any property, facility, or service which each would have the power to own, operate, or perform separately.

(c) The enumeration of particular powers, privileges, or immunities in this chapter or elsewhere in

this charter shall not be held or interpreted to be exclusive.

State Law References: Permissible that Charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, MCL 117.4j(3), MSA 5.2083(3).

Section 3.2. Permitted and Other Powers.

Under authority of Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, and other provisions of law, the power of the city shall include, but shall not be limited to, the following, which so far as possible shall be exercised by general ordinance provisions:

- (1) To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including, but not limited to, the accumulation of rubbish or the growing of noxious weeds which is or may be dangerous to the health, safety, morals or welfare of the inhabitants of the city; to provide for the abatement thereof; and to provide that the costs of such abatement shall be charged against the real property on which the hazard or nuisance is located as a special assessment: Provided, That suit may also be brought against the owner or occupant of the property concerned to collect or to enforce the collection of such costs;
- (2) To provide for the public health and welfare and the safety of persons and property by:
 - State Law References:** Mandatory that Charter provide for the public peace and health, and for the safety of persons and property, MCL 117.3(j), MSA 5.2073(j).
 - I Regulating trades, occupations, and amusements within the city, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;
State Law References: Permissible that Charter provide for regulation of trades, occupations and amusements, MCL 117.4i(4), MSA 5.2082(4).
 - II Regulating the preparation, storage, transportation, and sale or other distribution of foods, drugs, and beverages for human consumption;
 - III Collecting and disposing of sanitary and surface waters, and of private, commercial, and industrial liquid wastes, and licensing and regulating the same when done by others than the city;
 - IV Collecting and disposing of garbage and rubbish and licensing, regulating, and prohibiting the same when done by others than the city;
 - V Regulating and restricting the locations of oil and gasoline stations and other establishments which service and sell fuels for self-propelled vehicles;
 - VI Licensing and regulating the number and operation of vehicles which carry persons or property for hire, fixing the rates of fare and charges, and determining the location of stands or stations for such vehicles;
 - VII Regulating, limiting, and prohibiting the construction, erection, alteration, equipment, repair, moving, removal, use, and demolition of buildings and structures and their

appurtenances and service equipment, and creating and enforcing fire zones or districts in the city for the diminishing and control of the hazards of fire in such zones or districts.

- VIII Licensing, regulating, restricting and limiting the number and locations of billboards, signs, and other advertising devices within the city;
State Law References: Permissible that Charter provide for regulation of billboards, MCL 117.4i(5), MSA 5.2082(5).
- IX Establishing zones within the city and regulating therein the use and occupancy of lands or structures; the height, area, size, and location of buildings; the required open spaces for light and ventilation of buildings and the density of population;
State Law References: Permissible that Charter provide for zoning, MCL 117.4i(3), MSA 5.2082(3).
- X Regulating and controlling the use of streams, waters and watercourses within the city in any manner consistent with the provisions of law, including the prevention and control of the pollution and obstruction thereof in any manner, and the development of the stream beds and banks.
State Law References: Permissible that Charter provide for regulation of watercourses, MCL 117.4h(4), MSA 5.2081(4).
- XI Regulating the use of private property insofar as the same may affect the public health and safety, and the use of public streets and highways; and to provide for the health and safety of persons on property to which persons are customarily invited for purposes of trade, entertainment, or manufacture,
- (3) To establish and reasonably control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:
State Law References: Permissible that Charter provide for regulation of public ways, MCL 117.4h(1), MSA 5.2081(1).
- I Creating and vacating the same and by acquiring land or any interest in land which may be required therefor, which land may also be sold by the city to the extent it is not, or may no longer be, required for the purpose for which acquired, including any surplus land which may be incidental to or necessary for the purchase of land required;
- II Providing a plan of streets and alleys within the city and for a distance of not more than three miles beyond its limits and as otherwise provided by law;
State Law References: Permissible that Charter provide for plan of streets and alleys within three miles of city, MCL 117.4h(3), MSA 5.2081(3).
- III Providing for the safety of persons and property by regulating the use of the surface of streets and the space above and below the surface for the purposes of travel in any manner, and respecting advertising in any manner, excavations therein, structures therein or thereon of any type or kind, and easements or rights-of-way for any purpose;
- IV Compelling all persons to keep sidewalks which are in the area or streets, and the areas between the curb or traveled portion of streets and such sidewalks, immediately adjacent

to the premises owned, controlled, or occupied by them, free from any thing which obstructs such sidewalks or areas, or which makes the same offensive or hazardous to the public health or safety; and upon failure to do so, to remove the same and assess the cost thereof against such property as a special assessment;

- V Providing for the grade of streets and sidewalks, or either of them, and requiring public utility users of the streets to conform thereto with respect to their tracks or facilities located on, above, or under the streets; requiring railroads to keep their tracks, and the street surface between their tracks and for a distance of one and one-half feet on each side of them, in a state of repair deemed reasonable by the city officer responsible therefor;
 - VI Regulating the speed of vehicles, trains, and locomotives 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;
 - VII Providing for and regulating the lighting thereof, and which affect streets and alleys, whether such lights be located on public or private property;
 - VIII Regulating, preventing, or abating the obstruction of streets and alleys or any part thereof;
 - IX Regulating the location of buildings and structures, and of trees and shrubbery near street corners and street intersections with alleys, so as to provide for the protection of sewers and the safety of persons and property on or using the city's streets and alleys;
 - X Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers;
 - XI Providing for the use, by others than the owner, of public utility property located on, above, or under the streets, alleys, and public places, upon the payment of a reasonable compensation therefor to the owner thereof;
State Law References: Permissible that Charter provide for joint use of public property, MCL 117.4h(2), MSA 5.2081(2).
 - XII Providing for and regulating the planting and general care and protection of trees and shrubbery within any part of the streets and public places of the city, and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the city;
- (4) To undertake any public work or make any public improvement, or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency, or by any private party, whether individual or corporate;
- (5) To construct, provide, maintain, extend, operate, and improve:

- I Within the city: a city hall, city office buildings, community buildings, police stations, fire stations, civic auditoriums, public libraries, and polling places; and
- II Either within or without the corporate limits of the city: public parks, recreation grounds and stadiums; municipal camps, public grounds, and zoological gardens; museums; airports and landing fields; cemeteries; public wharves and landings upon navigable waters; levees, embankments, and structures for flood control and other purposes related to the public health, safety and welfare; electric light and power plants and systems; gas distribution systems; public heating plants and systems; waterworks and water treatment plants and systems; sewers, both for surface water and for sanitary wastes; sewage disposal facilities; garbage and rubbish collection and disposal facilities; market houses and market places; facilities for the storage and parking of vehicles; hospitals; facilities for helicopters and air vehicles having like landing and takeoff characteristics; and any other structure or facility which is devoted to or intended for public purposes within the scope of the powers of the city;

- (6) Acquiring by purchase, gift, condemnation, lease, or otherwise, real and personal property and interests in property, either within or without the corporate limits of the city, for any public use or purpose within the scope of its powers, including, but not by way of limitation, the uses and purposes set forth in this section;

State Law References: Permissible that Charter provide for condemnation, MCL 117.4e(2), MSA 5.2078(2).

- (7) Receiving, holding and managing any property, whether real, personal, or intangible, in trust for city hospital, library, park, cemetery, or any other municipal purpose and applying the same to the execution of such trust.
- (8) For the acquisition by construction, condemnation or purchase and for the ownership, equipment, possession, leasing, operation, maintenance and finance of a public transit system. For negotiating, executing and performing contracts with any other municipality or municipalities, duly authorized and empowered to that end, with reference to the construction, equipment, operation, maintenance and management of a public transit system and facilities, and for the financing of any obligations, assumed under or imposed by any such contract.

(Amd. by electors 11-6-07)

CHAPTER 4.

OFFICERS

Section 4.1. City officers.

(a) The elective officers of the city shall be the seven Councilmen and the Municipal Judge or Judges.

(b) The appointive officers shall be those named in or created under authority of Section 7.1, and the members of the several boards created by or under authority of this charter.

Editors Note: The municipal court was abolished by MCL 600.9921, MSA 27A.9921, which created the district court

system.

State Law References: Mandatory that Charter provide for election or appointment of certain officers, MCL 117.3(a), MSA 5.2073(a).

Section 4.2. Eligibility for City Office--General Qualifications.

(a) Except as otherwise provided in this charter, a person is eligible for election or appointment to an elective city office if he has been a registered elector of the city, or of territory annexed to the city, for a total of two years or more, immediately preceding his election or appointment and is the owner of property in the city which is assessed for taxes.

(b) A person is eligible for appointment to an appointive city office if he is a registered elector of the city: Provided, That this qualification may be waived as to any such officer, except members of a board, by a resolution concurred in by not less than five of the members of the Council. When such requirement is waived, the appointment to office shall be provisional, until the appointee becomes a registered elector of the city. Each person for whom such requirement is waived shall become a resident of the city within ninety days, and a registered elector of the city within nine months, after the date of his appointment.

(c) The Council shall be the judge of the election and qualifications of its members, subject to the election recount provisions of law and review by the courts relative to questions concerning qualifications for holding city office.

Editors Note: A two-year residency requirement for city office was held violative of equal protection by *Green v. McKeon*, 335 F. Supp. 630 (E.D. Mich. 1971), affirmed by 468 F.2d 883 (6t Cir. 1972). A one-year residency requirement was upheld by *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1981).

Property ownership requirement for elective office was held violative of equal protection by *Turner v. Frouche*, 396 U.S. 346 (1969).

State Law, Act 212 of 1999 (MCL 15.602), dictates residency can only be restricted to an area within 20 miles of the nearest boundary of the public employer.

State Law References: Mandatory that Charter provide for qualifications of its officers, MSL 117.3(d), MSA 5.2073(d).

Section 4.3. Certain Persons Ineligible for City Office or Employment.

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

(b) A person who holds or has held an elective city office shall not be eligible for appointment to an office or employment, for which compensation is paid by the city, until one year has elapsed following the term for which he was elected or appointed.

(c) A person who has been convicted of an infamous crime or of any violation of an oath of office or of the election law shall not be eligible to hold any city office.

(d) A person who has been elected to two consecutive 4-year terms of office on the City Council shall not be eligible to again serve on the City Council until 2 years have elapsed following his/her last term. This provision shall not constitute an additional eligibility requirement for appointment to those boards, other than the city council, whose members must have the qualifications of elective officers set forth in this charter. (Added by electors 11-6-79; Amd. by electors 11-4-97)

State Law References: Mandatory that Charter provide for qualifications of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.4. Terms of Office.

- (a) The terms of office of all elective officers, shall be four years, unless otherwise provided by law.
- (b) Each appointive officer, except members of boards, shall serve for an indefinite term.
- (c) Unless otherwise required by law, members of city boards shall be appointed or chosen during the month of May before the time they are to assume the duties of the office to which appointed; and the term of office of each board member shall commence on and date from the first day of July of the calendar year in which his appointment is made.
- (d) With the consent of the Council, and for so long as the Council shall permit, an officer may continue, provisionally, in the office held by him, after the expiration of his term, until his successor has qualified for the office.

Section 4.5. Notice of Election or Appointment.

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

Section 4.6. Compensation of Officers.

Members of the several boards shall serve without compensation, except as otherwise provided in this charter. The compensation for all other officers shall be fixed by the Council, except as otherwise provided by law. They shall receive no other compensation from the city. The Council shall not act to change the compensation of any elective officer after the thirtieth day preceding the last day for filing nominating petitions for that office. The Council may provide for the payment to officers of reasonable expenses which are actually incurred on behalf of the city when the claim therefor has been audited by the Finance Director and approved by the Council.

State Law References: Mandatory that Charter provide for the compensation of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 4.7. Oath of Office.

Every officer, before entering upon his duties, and all employees designated by the Council, before entering upon their employment, shall take the oath prescribed by Section 1 of Article XI of the Michigan Constitution, and shall file the same with the Clerk. The Clerk shall not administer or accept the oath of office of any elective officer until such officer has filed with him a duplicate original copy of any statement of election expenses required by law to be filed with the County Clerk.

Section 4.8. Surety Bonds.

In order to protect the city and the public, the Council shall require appropriate surety bonds of officers and employees. The terms of surety bonds shall not exceed three years, unless the term of the officer or employee covered thereby exceeds three years, in which case the term of the bond therefor shall be for the term

of the officer or officers covered thereon. 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 4.9. Giving of Surety by Officers and Employees Forbidden.

No officer or employee shall give or furnish any bail or recognizance, nor shall he be the agent of any bondsman or insurer in connection with any bond or insurance, (except for the city, itself, in which case he shall be governed by Section 14.4 of this charter), which may be required by law, ordinance of this city, or by the Council relative to any city function, or which requires the approval of the Council.

Section 4.10. 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) Failure to take the oath or file or have furnished for him the bond required for the office within ten days from the date of election or appointment, or with such other time, not exceeding twenty days thereafter, as the Council may fix; (9) In the case of Councilmen, absence from four consecutive regular meetings of the Council, unless such absences be excused by the Council at the time they occur or at or prior to the fourth such absence; (10) Absence from twenty-five per cent of such meetings in any calendar year, whether or not such absences are excused; (11) Absence from the city or failure to perform the duties of his office for sixty days, unless such absence from the city or failure to perform the duties of office shall be excused by the Council prior to the expiration of such sixty day period; or (12) 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 4.11. Resignations.

Resignations of officers shall be made in writing and filed with the Clerk. The Clerk shall notify the Mayor and the City Manager, forthwith of all resignations and shall read the same to the Council at its next meeting. All such resignations shall be effective when filed with the Clerk, unless a later time of taking effect is specifically stated therein.

Section 4.12. Removal from Office.

(a) The City Manager may remove from office any officer, other than an elective officer, the deputy of an administrative officer, and a member of a city board, and each administrative officer having a deputy may remove his deputy; by filing with the Clerk a notice in duplicate of such removal, including a statement of the

reasons for his action.

(b) Each removal shall be effective when the required notice is served upon the removed person personally or by the mailing of the same to his last known address on record with the person having charge of personnel records and proof by affidavit of such delivery or mailing being filed in the office of the Clerk. Each such removal shall be deemed to be a suspension without pay for a period of ten days. If no appeal from such removal is taken within ten days after such affidavit is filed in the office of the Clerk, such removal shall be final and may not be questioned in any proceedings whatsoever.

(c) Within said ten day period the removed officer may appeal to the Council for a hearing on his removal. Such appeal shall be in writing, shall be filed with the Clerk, and shall contain a statement of his case. When such an appeal is filed such removal shall be deemed to be a suspension, until after the Council has held a hearing on such removal and has made a determination thereon. Such hearing shall be held at the second regular meeting of the Council following the filing of such appeal with the Clerk, unless the Council shall set such hearing for the third regular Council meeting following the filing of such appeal. Prior to such hearing, the City Manager or administrative officer in the case of a deputy, shall file with the Clerk a written answer to the statement of the suspended officer. The hearing shall be limited, in all cases to the substance of the statements and the answer filed by the City Manager or administrative officer and the removed person. At the next regular Council meeting following such hearing, the Council shall complete its determination of the appeal and shall announce whether the removal by the City Manager or administrative officer stands or the officer shall be reinstated in his office, with pay from the date of suspension.

(d) The Council may remove members of boards, regardless of term of office by resolution: Provided, That, if a removed member, within ten days thereafter, files with the Clerk a request for a hearing, such hearing shall be granted and held by the Council at its next regular meeting unless the Council shall set such hearing for the next regular meeting thereafter.

Section 4.13. Recall.

An elective officer may be recalled, and the vacancy thereby created shall be filled, in the manner prescribed by law.

State Law References: Permissible that Charter provide for recall of its officers, MCL 117.4i(b), MSA 5.2082(6); recall generally, MCL 168.951 et seq., MSA 6.1951 et seq. See also Mich. Const. 1963, Art. II, § 8.

Section 4.14. Filling Vacancies.

(a) If a vacancy occurs in an elective office or if no person qualifies for any such office, the Council shall, within thirty days thereafter, fill the vacancy, by appointing a person other than the person creating the vacancy, who shall hold such office until the Monday following the next regular city election. If the vacancy occurs less than twenty-four hours prior to the last date and time set for filing nominating petitions for offices to be filled at the next regular city election, it shall not be filled until the first regular meeting of the Council next following the subsequent regular city election. If the vacancy occurs more than twenty-four hours before the aforesaid last date and hour, the balance of the duration of such vacancy shall be filled by election at the next regular city election and the person elected at such election to fill such office shall hold office for such purpose, commencing on the Monday following such election.

(b) In the event that the Council shall not fill a vacancy within such thirty day period, its power to

fill such vacancy shall cease and the Clerk shall set the date for the holding of an election to fill such vacancy for the entire balance of the unexpired term thereof. The last day and time for filing nominating petitions for such nomination shall be thirty-five days before the date of such election, at 5:00 o'clock P.M. The date of the election to fill such vacancy shall be within not less than forty-five days nor more than sixty days after the last date that the Council could have filled such vacancy. The provisions of Chapter 13 of this charter shall govern in all respects the calling and holding of such election and the nomination of candidates therefor and the canvassing of votes cast thereat, except that no primary election shall be required and the person or persons receiving the highest number of votes shall be elected to fill the vacancy or vacancies to be filled.

(c) Except as otherwise provided in this charter, if a vacancy occurs in an appointive office, such vacancy shall be filled within thirty days, thereafter in the manner provided for making the original appointment: Provided, That, such time may be extended, for not to exceed an additional sixty days, by Council resolution setting forth the reasons therefor. During any vacancy, the appointing authority may designate a person to perform the duties of the vacant office temporarily.

Section 4.15. Delivery of Office to Successor.

Whenever an officer or employee resigns, or is removed from office, or his tenure in office expires, he shall deliver, forthwith, to his successor in the office or to the City Manager all records, books, working papers, moneys, effects, and property in his custody, possession, or control which are the property of the city or which were necessary to or were obtained as a part of the performance of his duties, or in any way pertain to the duties of his office or employment.

CHAPTER 5.

THE CITY COUNCIL

Section 5.1. The City Council.

The Council shall consist of seven members, one of whom shall be the Mayor. The term of office of each Councilman shall commence on the Monday next following his election, except that, in the case of appointments to fill vacancies made under Section 4.14(a) of this charter, an appointee shall qualify for and assume the duties of his office within ten days after his appointment.

Section 5.2. Compensation of Councilmen.

The compensation of each Councilman shall be ten dollars per Council meeting actually attended: Provided, That compensation shall not be paid for more than thirty-six meetings in a calendar year. The Mayor shall receive the sum of \$240.00 per year, pro rated and paid monthly, in addition to his compensation as a Councilman.

Section 5.3. Organization of the Council.

The Council shall meet and organize on the first Monday following each regular city election. At such meeting, or within one week thereafter, the Council shall elect from its membership a Mayor and Mayor Pro-tem and do such other acts as may be required for its organization and the conduct of its business, including

setting the dates and times of its meetings if any change is made from the dates and times then in effect.

Section 5.4. Meetings of the Council.

(a) The Council shall meet in the established Council chambers, or such other place in the city as may be established by ordinance, and shall hold at least two regular meetings in each month, the time and date of which shall be set by resolution. In the selection of its meeting place and time of meeting consideration shall be given to the reasonable accommodation of the public. If any time set for the holding of a regular meeting of the Council shall be a legal holiday, then such regular meeting shall be held at the same time and place on the next day which is not a legal holiday.

(b) The Mayor shall preside at all meetings of the Council and shall have an equal voice and vote with other members of the Council upon all matters. He shall be the chief executive officer of the city, shall be a conservator of the peace with all the powers of a sheriff to maintain order in the city, shall represent the city for all ceremonial purposes, and shall do and perform all duties required of him by law. The Mayor and persons acting in his stead shall not possess the veto power.

(c) In the absence or disability of the Mayor, the Mayor Pro-tem shall act in the stead of the Mayor, and shall possess the powers of the Mayor, but shall not be entitled to cast a vote for the Mayor. In the absence of both the Mayor and the Mayor Pro-Tem, the Councilmen present at any meeting shall appoint one of their number to act as Mayor during such absence.

(d) The Mayor Pro-tem shall succeed to the office of the Mayor when a vacancy occurs in that office, until such time as the Council shall appoint an elected member of the Council to fill such vacancy. When filling a vacancy in the office of Mayor, the Mayor Pro-tem and such appointed person shall receive the compensation of the Mayor pro rated during the time that they shall respectively be Mayor.

(e) Special meetings of the Council shall be held at the regular meeting place of the Council. Special meetings shall be called by the Clerk on the written request of the Mayor, or any two members of the Council, on at least six hours written notice, designating the time and purpose of such meeting, and served personally on each member of the Council, or left at his place of residence, as shown on the registration rolls of the city, by the Clerk or by someone designated by him. A copy of such notice shall also be so left at the place of business of each newspaper printed and published in the city. An affidavit of the service of notices required by this section thereof shall be entered in the journal of such meeting.

(f) Notwithstanding the foregoing requirements for the calling of special meetings, for an emergency, with the emergency stated in the minutes of the meeting, any special meeting for such purpose shall be a legal meeting if a quorum be present, without the six hour notice required by this section.

(g) No business shall be transacted at any special meeting of the Council, except that stated in the notice of the meeting.

(h) All regular and special meetings of the Council shall be public meetings and the public shall have a reasonable opportunity to be heard.

(i) Four members of the Council shall be a quorum for the transaction of business at all of its

meetings. In the absence of a quorum, any number less than a quorum may adjourn a meeting to a later date, with notice thereof to be given by the Clerk as in the case of a special meeting.

(j) The Council shall determine its own rules and order of business and shall keep a journal in the English language, of all its proceedings. The journal of each meeting of the Council shall be signed by the Clerk and countersigned by the Mayor. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be taken by "Yes" or "No" votes and shall be entered upon the record, except that, where the vote is unanimous, it shall only be necessary to so state. The public shall have access to the minutes and records of all meetings of the Council at reasonable times.

(k) Within ten days after each of its meetings, the Council shall cause the proceedings thereof, or a synopsis of such proceedings signed by the Mayor and the Clerk, to be published in a newspaper which is qualified by law to publish legal notices in the city.

(l) There shall be no standing committees of the Council.

(m) The Council may compel the attendance of its own members and of all other officers and employees of the city at its meetings. Any member of the Council or other officer who, when requested to do so by the Council, refuses to attend such meetings, for reasons other than confining illness, or to conduct himself in an orderly manner thereat, shall be deemed guilty of a violation of this charter. The Chief of Police or such other person as the Council shall designate shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section and to maintain order at Council meetings.

(n) No member of the Council shall vote on any question upon which he or a member of his family has a direct or indirect financial interest other than as a citizen of the city. Otherwise, each member of the Council present shall vote on each question before the Council for a determination, unless excused therefrom by the affirmative vote of all remaining members able to vote on the question. If a question is raised under this section at any Council meeting, such question shall be determined before the main question shall be voted on, but the council member affected shall not vote on such determination.

(o) Except in those cases where a larger majority is required by law or the provisions of this charter, no ordinance or resolution shall be adopted or passed, nor shall any other official action be taken, except by the affirmative vote of at least four members.

State Law References: Mandatory that Charter provide that all meetings of the council shall be open to the public, MCL 117.3(l), MSA 5.2073(l); mandatory that Charter provide for keeping of a journal of every session, MCL 117.3(m), MSA 5.2073(m); open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 5.5. Health Functions of Council.

To the extent and for the time that the health functions of the city are joined with or absorbed by the Health Department of the County of Shiawassee as provided or permitted by law, the powers exercisable by boards of health in cities shall be exercised for the city by such Health Department. In the event that the Health Department of Shiawassee County shall cease to exist or, in the opinion of the Council, shall cease or fail to exercise and perform any of the health functions of cities which are normally exercised by the boards of health thereof or which may be prescribed by ordinance, the Council shall constitute the Board of Health of the city and shall exercise and perform such functions.

Section 5.6. Restrictions of Powers of the Council.

(a) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the city. Further, the Council shall not have the power to engage in any business enterprise requiring an investment of money in excess of ten cents per capita, unless approved by three-fifths of the electors of the city, voting thereon at any general or special election.

(b) Except as otherwise provided in this charter, the Council and its members shall deal with the administrative officers or employees of the city through the City Manager only.

(c) Except as otherwise provided in this charter and for the purpose of investigation, the City Manager shall be the spokesman for the administrative services of the city before the Council, though he may direct any administrative officer or employee to give information to the Council on matters within his knowledge and line of duty.

Section 5.7. City Seal.

The Council shall provide a seal for the city, which shall be used on all documents requiring a seal.

CHAPTER 6.

CITY LEGISLATION*

* **State Law References:** Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

Section 6.1. Legislative Power.

The legislative power of the city is vested exclusively in the Council, except as otherwise provided by law.

State Law References: Mandatory that Charter provide for body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

Section 6.2. Legislation Preserved.

All ordinances, resolutions, and rules of the city which were in effect on the effective date of this charter, to the extent that they are consistent with the provisions of this charter, shall continue in full force, until repealed or amended. When this charter requires the Council to adopt or provide any ordinance, any existing ordinance which is continued hereunder and meets such requirements shall suffice.

Section 6.3. Introduction, Consideration, and Style of Ordinances.

(a) Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, "The City of Owosso Ordains:"

(b) No ordinance shall be passed at the same meeting at which it is introduced, unless the same is

declared to be an emergency ordinance by the affirmative vote of not less than five members of the Council.

(c) An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this chapter. An ordinance may be repealed by reference to its number and title only.

(d) If a section of an ordinance is amended, the section shall be re-enacted and published at length. This requirement shall not apply to the schedules of one-way streets and of parking limitations contained in any traffic ordinance, nor to the city's zoning ordinance nor to any ordinance authorizing the issuance of bonds.

(e) Each ordinance, after adoption, shall be identified by a number.

(f) Each ordinance shall be recorded by the Clerk in the Ordinance Book, and the enactment of such ordinance shall be certified by him therein. Such recording and certification shall be prima facie evidence of the due and proper adoption and effectiveness of ordinances of the city.

(g) All ordinances, resolutions, rules, codes, and official proceedings of the city may be placed in evidence in all cases before all courts and tribunals by a copy thereof, certified as true by the Clerk, under the seal of the city, in addition to other methods provided or permitted by law.

Section 6.4. Publication of Ordinances.

(a) Before an ordinance may become effective, it shall be published. The publication of an ordinance as a part of the published proceedings of the Council shall constitute the publication required by this section. The effective date of an ordinance shall be stated therein, but shall not be less than twenty days from the date of its adoption, unless it is declared by the affirmative vote of not less than five members of the Council to be an emergency ordinance.

(b) Within two years after the effective date of this charter, the Council shall provide for and develop an ordinance code for the city. Such code shall be an ordinance of the city. It shall be amended and parts thereof shall be repealed only by an ordinance. It shall be adopted and published in the manner provided or permitted by law. In the development of such code, all existing ordinances of the city shall be reviewed and shall be adopted into such code, amended before such adoption, or omitted therefrom, as fits the needs of the city and the provisions of this charter. After the adoption of such code, all ordinances thereafter adopted shall be a part thereof. Copies of such code and all amendments thereof shall be available for public inspection in the office of the Clerk and in the Owosso Public Library. Copies of the Code shall be available in the office of the Clerk for public distribution at a cost which shall reasonably reflect the cost of the printing thereof.

State Law References: Mandatory that Charter provide for the publication of all ordinances before they become operative, MCL 117.3(k), MSA 5.2073(k); codification authority, MCL 117.56, MSA 5.2084(2); authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Section 6.5. Penalties.

The Council shall provide for the punishment of violations of its ordinances. Such punishment may be by a fine of not to exceed five hundred dollars or imprisonment for not more than ninety days, or both, in the discretion of the court. Imprisonment for violations of ordinances may be in the city or county jail, or in any correctional institution of the State which is authorized by law to receive prisoners of the city.

State Law References: Limitation on penalties, MCL 117.4i(10), MSA 5.2082(10).

Section 6.6. Time Limit for Prosecution of Ordinance Violations.

No prosecution for the violation of an ordinance shall be commenced after the expiration of two years after the commission of the offense. The Council may specify a shorter period in any ordinance for the limit upon the time for the prosecution of violations of its provisions.

Section 6.7. Proceedings for Prosecution of Ordinance Violations.

Except as may be inconsistent with or otherwise provided in Chapter 12 of this charter, all proceedings relative to the arrest, custody, and trial of persons accused of the violation of ordinances shall be governed by and conform as nearly as may be with the provisions of law relating to proceedings in criminal cases cognizable by justices of the peace or by any courts which may be the successors thereof. The Municipal Court of the city shall take judicial notice of all city ordinances.

Editors Note: The municipal court was abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

State Law References: Criminal procedure for ordinance violations, MCL 764.9a et seq., MSA 28.868(1) et seq.

Section 6.8. Initiative and Referendum.

An ordinance may be initiated, or a referendum on an ordinance or resolution adopted by the Council may be had, by a petition, as hereinafter provided.

State Law References: Permissible that Charter provide for initiative and referendum, MCL 117.4i(6), MSA 5.2082(6).

Section 6.9. Initiatory or Referendary Petitions.

An initiatory or a referendary petition shall be signed by not less than fifteen per cent of the registered electors of the city on the date of the last regular election prior to the filing thereof. Before being circulated for signatures, a copy of such petition shall be filed with the Clerk who shall refer the same to the City Attorney. Within fifteen days after such petition is filed with him, the City Attorney shall give his opinion on the form of such petition, and the legality of the ordinance proposed thereby if the petition be for the purpose of initiating an ordinance. Such petition may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name, and shall place thereon, after his name, the date and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten days after the receipt thereof by him, canvass the signatures thereon to determine the authenticity and the sufficiency thereof. Any signatures obtained more than sixty days before the filing of such petition shall not be counted. If found to contain an insufficient number of signatures of registered electors of the city, or to be improper as to compliance with the provisions of this section, the Clerk shall notify the person filing such petition, and ten days from such notification shall be allowed for the filing of additional petition papers. Thereafter, the Clerk shall determine the authenticity and sufficiency of the signatures on such additional petitions as in the first instance. When found sufficient and proper, the Clerk shall so certify and present the petition to the Council at its next regular meeting.

Section 6.10. Same--Council Procedure.

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days, either:

- (1) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal for the adoption thereof to the electors; or
- (2) If it be a referendary petition, repeal the ordinance or resolution to which the petition refers or determine to submit the proposal for the repeal thereof to the electors.

Section 6.11. Same--Submission to Electors.

Should the Council decide to submit any such proposal to the electors, it shall be submitted at the next election held in the city at which such proposal may be submitted or, in the discretion of the Council, at a special election. The proposed ordinance shall be published at least once in a newspaper of the city not less than ten days prior to the election thereon. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

Section 6.12. Same--Status of Ordinances Adopted.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Section 6.13. Same--Ordinance or Resolution Suspended.

The certification by the Clerk of the sufficiency of a referendary petition within forty-five days after the passage of the ordinance or resolution to which such petition refers shall automatically suspend the operation thereof, pending repeal by the Council or final determination by the electors.

CHAPTER 7.

THE ADMINISTRATIVE SERVICE*

* **State Law References:** Mandatory that Charter provide for the qualifications and duties of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 7.1. The Administrative Officers.

(a) The administrative officers of the city shall be the City Manager, Assessor, Chief of Police, Clerk, Finance Director, Fire Chief, the Treasurer, and the deputies of any of them.

(b) The administrative service of the city may be divided into such departments as the Council shall provide by ordinance. Such ordinance shall be known and designated as the Administrative plan [sic] of the city. In such administrative plan the Council shall define the duties of officers and departments of the city government. In such administrative plan the Council may create additional administrative officers or

departments, or combine any administrative offices and municipal departments, in any manner not inconsistent with law, and prescribe the duties thereof as it may deem necessary for the proper operation of the city government. No creation of any administrative office or department, or combination thereof one with another, shall abolish the office of City Manager nor diminish any of the duties or prerogatives of that office as set forth in this charter. Except as authorized by law the Council shall create no board for the purpose of exercising any administrative function of the city.

(c) Pending the adoption of the administrative plan, or when conditions arise which are not covered by the plan the City Manager may, with the approval of the Council, establish temporary regulations for the conduct of the city's government, consistent with this charter.

State Law References: Mandatory that Charter provide for appointment of certain officers, MCL 117.3(a), MSA 5.2073(a).

Section 7.2. Administrative Officers and Employees--Appointment, Terms, and Compensation.

(a) The City Manager shall hold office by virtue of appointment by the Council, which body shall also set his compensation. He shall hold office at the pleasure of the Council.

(b) Except as otherwise provided in this charter, all other administrative officers shall be appointed by the City Manager, subject to the confirmation of the Council, and serve at the pleasure of the City Manager.

(c) In making appointments of administrative officers, the appointing authority shall consider only the good of the public services and the fitness of the appointee for, and his ability to discharge, the duties of the office to which he is appointed. Such appointments shall also be subject to Section 4.2(b) of this charter.

(d) The compensation of all administrative officers and employees, except that of the City Manager, shall be set by the City Manager in accordance with budget appropriations.

State Law References: Mandatory that Charter provide for compensation of its officers, MCL 117.3(d), MSA 5.2073(d).

Section 7.3. The City Manager.

(a) The City Manager shall be chosen solely on the basis of his executive and administrative qualifications, with special emphasis upon his training and actual experience in municipal administration.

(b) The City Manager shall be the administrative agent of the Council; shall in such capacity be vested with all administrative powers of the city not inconsistent with the provisions of this charter; and shall perform the duties of his office under the authority of and be accountable to the Council.

(c) It shall be the duty of the City Manager to:

(1) Supervise and coordinate the work of the administrative officers and departments of the city, except the Clerk so far as his work is that required of him by Section 7.4(a) hereof, and as otherwise provided in this charter and;

(2) Prepare the annual budget proposals of the city, together with supporting information in explanation thereof;

(3) Establish and maintain a central purchasing service for the city;

- (4) Employ or be responsible, subject to the Civil Service ordinance of the city, for the employment of all city employees, and supervise and coordinate the personnel policies and practices of the city;
- (5) Maintain an inventory of city-owned property;
- (6) Keep informed and report to the Council concerning city affairs and the work of the several offices and departments of the city and, to that end, he may secure from the officers, heads of all administrative departments, and professional personnel of the city such information and periodical or special reports as he or the Council shall deem necessary;
- (7) Resolve the conflict or supply the necessary authority, so far as may be consistent with law and the ordinances of the city, in case of conflict of authority between officers and administrative departments or, in case of absence of administrative authority occasioned by inadequacy of charter or ordinance provisions, and direct the necessary action to be taken in conformance therewith; making a full report promptly to the Council;
- (8) Attend all meetings of the Council, with the right to be heard in all Council proceedings, but without the right to vote;
- (9) Recommend to the Council from time to time, such measures as he deems necessary or appropriate for the improvement of the city, its administration, or its services;
- (10) Possess such further powers and perform such additional duties as may be granted to or required of him, from time to time, by the Council;
- (11) Establish any rules necessary to carry out any of the foregoing duties.

Section 7.4. City Clerk.

- (a) The Clerk shall be clerk of the Council. He shall attend all meetings of the Council, and shall keep its journal.
- (b) He shall keep a record of all ordinances, resolutions, and actions of the Council.
- (c) He shall have power to administer all oaths required by law and the ordinances of the city.
- (d) He shall be custodian of the city seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided for by this charter.
- (e) He shall give to the Council and to the officer concerned ample notice of the expiration or termination of the term of any city officers and of any official bond, franchise, contract, or agreement to which the city is a party.

(f) He shall notify the Council of the failure of any officer or employee to take the required oath of office or to furnish any bond required of him or to file any statement of election expenses required by law.

(g) He shall certify all ordinances and resolutions adopted by the Council.

Section 7.5. Finance Director.

(a) The Finance Director shall be the general accountant of the city and shall be responsible to the City Manager. He shall keep the books of account of the assets, receipts, and expenditures of the city, and shall keep the Council and the City Manager informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform systems as may be required by law.

(b) He shall examine and audit all accounts and claims against the city and, respecting those which are eligible for payment, designate the budgetary funds from which they are to be paid.

(c) He shall balance all the books of account of the city at the end of each calendar month, and shall make a report thereon to the City Manager.

(d) He shall, upon direction of the City Manager, examine and audit all books of account kept by any officer, department, or board of the city. He shall examine the books of account of the Treasurer and the Municipal Court at least once each month.

(e) Until such time as the Council shall provide by ordinance for a Finance Director, the Clerk shall act in such capacity.

State Law References: Mandatory that Charter provide for a system of accounts, MCL 117.3(n), MSA 5.2073(n); uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

Section 7.6. City Attorney.

(a) The Council shall designate an Attorney or firm of attorneys as the legal advisor of the Council. The attorney shall also advise the City Manager concerning legal problems affecting the city administration and the Clerk, Treasurer, and Assessor concerning their statutory and charter duties, when so requested, and shall file with the Clerk a copy of all written opinions given to the Council and such officers.

(b) It shall be the duty of the Attorney to:

(1) At the request of the Chief of Police and other proper officers of the city, prepare complaints concerning ordinance violations and violations of this charter and shall prosecute all such violations.

(2) Represent the city in cases before all courts and other tribunals;

(3) Prepare or review all proposed ordinances[,] regulations, contracts, bonds, and such other instruments as may be required by this charter or by the Council, and shall promptly give his opinion as to the legality thereof;

(4) Attend all regular meetings of the Council and, on the request of the Mayor with the same notice

as given to members of the Council, special meetings of the Council;

(5) Defend all officers and employees in all actions against them arising out of the performance of their official or employment duties;

(6) Perform such other duties as may be prescribed for him by this charter or the Council;

(c) Upon the attorney's recommendation, or upon its own initiative, the Council may provide for an assistant to the attorney and may retain special legal counsel to handle any matter in which the city has an interest, or to assist the Attorney therewith.

Section 7.7. City Treasurer.

(a) The Treasurer shall have the custody of all moneys of the city and all evidences of value belonging to or held in trust by the city.

(b) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine.

(c) He shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and moneys as are conferred by law.

Section 7.8. Deputies.

The Clerk and Treasurer and other administrative officers, may appoint and remove their deputies subject to the budget allowances therefor and the approval of the City Manager in the case of appointments. Removals of deputies shall be subject to Section 4.12 of this Charter. Each deputy shall possess all the powers and authorities of his superior officer except as the same may be from time to time limited by his superior.

Section 7.9. Assessor.

(a) The Assessor shall be a person who is qualified for such office by education, training, or experience respecting property evaluation, and shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by law.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by or under authority of law.

Section 7.10. City Engineering Services.

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

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

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

Section 7.11. Police Department.

(a) The Police Department shall be in charge of the Chief of Police, who, except as otherwise provided by law, shall be responsible to the City Manager. To be eligible for appointment as Chief of Police, a person must be qualified for such office by education, training or experience.

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

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

Section 7.12. Fire Department.

(a) The Fire Department shall be in the charge of the Fire Chief, who, except as otherwise provided by law, shall be responsible to the City Manager. To be eligible for appointment as Fire Chief, a person must be qualified for such office by education, training, or experience.

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

(c) The Fire Chief or any of his authorized subordinates may cause any building to be pulled down

or destroyed, when deemed necessary in order to arrest the progress of a fire. In such case no action shall be maintained against the city or any person therefor. If any person having an interest in such a building shall apply to the Council, within three months after the fire, for damages or compensation for such building the Council may pay him such compensation as it may deem just. The Council may ascertain the amount of such damage or compensation by agreement with the owner of the property or by the appraisal of a jury selected in the same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid by the city on account of any loss which would probably have occurred to a building by or on account of fire, if it has [had] not been pulled down or destroyed under authority of this section. In making any award under authority of this section, the Council or the jury, as the case may be, shall credit against the damages arising out of the pulling down or destruction of the building any insurance recoverable by persons having an interest in the property.

Section 7.13. City Library.

(a) The city library shall be a department of the city government under the direction of a Library Board composed of five members who shall be appointed by the Mayor, subject to confirmation by the Council. The terms of members of the Library Board shall be for five years, commencing on July 1, and shall 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 law.

State Law References: Libraries generally, MCL 397.201 et seq., MSA 15.1661 et seq.

Section 7.14. City Planning.

(a) The council shall provide for and maintain a City Planning Commission which shall possess all of the powers and perform the functions of planning commissions as set forth in Act No. 285, P.A., 1931 as amended or as provided for in its successor legislation. The membership and term of office of the planning commissioners shall be established by city ordinance and comply with Act No. 285, P.A. 1931, as amended or as provided for in its successor legislation.

(b) The Commission may appoint a Planning Director, subject to the confirmation of the Council, who shall perform the duties prescribed by the established rules of the Commission.
(Amd. by electors 11-6-07)

Section 7.15. Civil Service.

(a) Within one year after the effective date of this charter, the Council shall adopt an ordinance establishing a civil service plan for the city, providing for the selection, tenure, promotion, demotion, discharge, and discipline of city employees.

(b) For the purpose of this section, the personnel of the city, other than its officers and their deputies, the Court Officer, and persons employed or retained in a professional capacity shall be deemed to be city employees.

(c) In the selection, discharge, and fixing of terms and conditions of the employment of city employees, there shall be no discrimination on grounds of race, color, religion, or national origin.

(d) Reserved.

(e) In the civil service plan, the Council shall provide for the control or prevention of nepotism in city employment.

(Amd. by electors 11-5-91)

State Law References: Permissible that Charter provide for a system of civil service for employees, MCL 117.4i(7), MSA 5.2082(7).

Section 7.16. Citizen Committees.

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

Section 7.17. Additional Administrative Powers and Duties.

From time to time, the Council may, in the administrative plan adopted by it, prescribe additional powers and duties or diminish any powers and duties in a manner not inconsistent with this charter, to be exercised and administered by appropriate officers and departments of the city. Administrative officers shall also perform such duties in connection with their offices as may be required by law, the Council, or by the City Manager.

Section 7.18. Administrative Rules.

Before any rule or set of rules or amendment thereof affecting the public, as distinguished from the officers and employees of the city, which is made or provided by any office or board of the city, except rules of the Municipal Court, shall become effective, such rule or set of rules shall be approved by the Council and filed with the Clerk. A copy of such rules or set of rules, and of all amendments thereof shall also be placed in the Owosso Public Library. After notice to the office or board concerned and an opportunity to be heard thereon, the Council shall have power to review any rule at any time and to affirm or rescind its approval thereof.

Section 7.19. Employee Welfare Benefits.

The Council shall have power to make available to the administrative officers and employees of the city and its departments and boards, any recognized standard group plan of life, hospital, health, or accident insurance.

State Law References: Permissible for Charter to provide for a system of compensation for its employees and their dependents in the use of disability, injury or death of such employees, MCL 117.4i(8), MSA 5.2082(8).

Section 7.20. Employee Relationships.

Except as otherwise provided by ordinance, after the same have been laid before the proper department heads of the city and the City Manager, employees of the city may lay matters concerning general employee relationships and compensation before the Council and they and the City Manager and the proper department heads shall be heard thereon.

CHAPTER 8.

GENERAL FINANCE*

* **State Law References:** Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

Section 8.1. Fiscal Year.

The fiscal and budget year of the city shall begin on the first day of July of each year.

Section 8.2. Budget Procedure.

Not later than the first Monday of February of each year each officer, department, and board of the city shall submit to the City Manager an itemized estimate of its expected income and expenditures during the next fiscal year for the department or activities under its control. The City Manager shall compile such information and after reviewing the same shall submit to the Council, not later than the first meeting of the Council in April of each year a budget proposal which sets forth such budget requests and his recommendations thereon, and shall contain such information as the Council shall request. The anticipated expenditures by the city in such budget proposal shall be within the tax limit and other anticipated revenue of the city, considering anticipated unexpended balance, if any, from the then current budget as income, and taking into account any anticipated deficit in the current budget at the end of the current fiscal year. In addition to the foregoing information, such recommended budget shall include therein, at least the following information:

- (1) The detailed estimates of the City Manager, with supporting explanation, of proposed expenditures for each office, department and board of the city, with a comparison of the actual appropriations and expenditures for corresponding items for the last preceding fiscal year, in full, and the appropriations for the current fiscal year, together with the expenditures for such year to January first, and estimated expenditures for the balance of the current fiscal year;
- (2) An estimate of and provision for paying carry-over accounts payable from the current fiscal year;
- (3) 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;
- (4) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts estimated for and actually received from each of the same or similar sources for the last preceding fiscal year in full, for the current fiscal year to January first, and estimated revenues therefrom for the balance of the current fiscal year;
- (5) A statement of the estimated accumulated cash and unencumbered balances, or deficits, at the end of the current fiscal year;
- (6) An estimate of the amount of money to be raised from taxes to be levied, from delinquent taxes,

and the amount to be raised from bond issues which, together with available unappropriated funds and any revenues from other sources, will be necessary to meet the proposed expenditures;

- (7) The budgetary recommendations of the city's auditors, its officers, department heads, and boards, and the City Manager's comments and recommendations thereon.

Section 8.3. Further Budget Procedure.

The budget proposal of the City Manager, together with his recommendations and its supporting schedules and information shall be available for public inspection in the office of the Clerk. Within five days after the budget proposal is submitted to the Council, the City Manager shall place a copy thereof in the Owosso Public Library. Such budget proposal, together with the City Manager's supporting schedules, information, and messages, shall be reviewed by the Council.

Section 8.4. Budget Hearing.

A public hearing on the budget proposal shall be held not less than one week before its final adoption, at such time as the Council shall direct. Notice of the public hearing shall be published by the Clerk at least one week in advance thereof.

Section 8.5. Adoption of Budget.

(a) At a regular meeting held not later than the fourth Monday in May of each year, the Council shall, by resolution, adopt a budget for the ensuing fiscal year and make an appropriation of the money needed therefor. Such resolution shall designate the sum to be raised by taxation for the general purposes of the city and for the payments of principal and interest on its indebtedness. Failure to adopt such resolution within the time herein set shall not invalidate either the budget or the tax levy therefor.

(b) A copy of the appropriations for each fiscal year, certified by the Clerk, shall be furnished to the Finance Director within ten days after the date of the adoption of the budget resolution.

(c) In the event that the Council shall not adopt a budget for any fiscal year by the first Monday in June preceding the commencement of such fiscal year, the budget proposal for that year, as presented to the Council by the City Manager in accordance with the provisions of this chapter shall be deemed to be the budget for that fiscal year and there shall be an appropriation therefor, without the necessity of Council action.

State Law References: Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).

Section 8.6. Budget Control.

(a) Except for purposes which are to be financed by the issuance of bonds or by special assessments, no money shall be drawn from the treasury of the city, except in accordance with an appropriation for such purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation during the fiscal year. The Council only, by resolution adopted by the affirmative vote of not less than five of its members may appropriate unappropriated funds or transfer any unencumbered appropriation balance, including the contingent account of the general fund of the city, or any portion thereof, from any budget item or account, department, or agency to another.

(b) Expenditures shall not be charged directly to any contingent or general account. Instead, the necessary amount of the appropriation from such account shall be transferred to the appropriate budget item or account and the expenditure then charged thereto.

(c) During each month, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to the end of the preceding month; and, if it shall appear that the revenues are less than anticipated, the Council may, by resolution, 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 8.7. Accumulation Accounts.

(a) The Council may, by ordinance, establish and maintain accounts for accumulating moneys to be used for acquiring, extending, altering, constructing, or repairing public improvements.

(b) Appropriations to such accounts may be made by the Council either in the annual appropriation resolution or from time to time during the fiscal year, from available funds, from whatever source derived, which are not required for other appropriations or obligations of the city. Such accounts shall be continuing accounts and the balances therein at the end of each fiscal year shall remain a part thereof.

(c) Moneys which are accumulated for the purpose of public improvements, as set forth in subsection (a) hereof, shall be used only at the direction of the Council and only for the purpose provided in the original ordinance establishing such account, unless their use for some other municipal purpose be authorized by a majority vote of the electors of the city who vote on the proposition to amend such ordinance to provide for a change of the use of the moneys in such account. After the purpose of any such account has been fulfilled for the purpose for which the fund was created, any balance remaining therein may be transferred by the council to any other accumulation account or to the general fund of the city.

(d) Moneys may be accumulated in the same manner for the purpose of purchasing equipment required by the city. Such moneys shall be expended only for the purpose provided in the ordinance establishing any such account, or as such ordinance may be amended from time to time, and, when no longer required for such purpose, such moneys or any part thereof may be transferred by any other such accumulation account, or to the general fund, by a resolution adopted by the affirmative vote of not less than five members of the Council.

Section 8.8. Claims against City, other than for Injuries.

Procedures for the examination and payment of claims against the city, other than for injuries for which provision is made in Section 8.9 shall be as prescribed by law. In the absence of any such law, the Council shall prescribe such procedures by ordinance.

Section 8.9. Claims against City for Injuries.

(a) Procedures and limitations for the examination and adjustment of claims against the city for injury to persons and property shall be such as are provided by law.

(b) This section shall not be deemed to waive any defense of immunity which the city may have from claims for damages arising out of negligence or otherwise, but shall apply in all cases where such defense is not available to the city.

State Law References: City liability for injury on public ways, MCL 691.1401 et seq., MSA 3.996(101) et seq.

Section 8.10. Withdrawal of City Funds.

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

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

(c) Checks or warrants for the disbursement of city funds may be signed by the Clerk only. The Council may, however, provide by ordinance that checks or warrants shall also be countersigned by the Finance Director or the Treasurer. Signatures may be facsimile, when and as is authorized by the Council.

Section 8.11. Municipal Borrowing Power.

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

- (1) General obligation bonds for the payment of which the full faith and credit of the city is pledged;
- (2) Special assessment bonds which are issued in anticipation of the payment of special assessments for the purpose of defraying the cost of any one or more public improvements, which bonds shall be both an obligation of the special assessment district and a general obligation of the city;
- (3) Revenue bonds, as authorized by law;
- (4) Tax anticipation notes, which may be issued in anticipation of the collection of taxes for the current or next succeeding fiscal years of the city, or any other year permitted by law, in the manner and subject to any limitations provided by law;
- (5) Mortgage bonds, as authorized by law, for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by law to finance in this manner;
- (6) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund, or any other funds of the State, which the city may be permitted by law to pledge for the payment of the principal and interest thereof, which bonds, if the law so permits, may also be a general obligation of the city;

- (7) Water main extension bonds, in an amount not to exceed one per cent of the assessed valuation of all real and personal property in the city, for the payment of which the full faith and credit of the city are pledged for the refunding from time to time of moneys advanced or paid on special assessments imposed for water main extensions as buildings are connected to such extensions, which bonds shall be payable in not more than thirty years, with interest thereon at a rate which shall not exceed six per cent per annum;
- (8) Calamity bonds, issued in case of fire, flood, or other calamity for the relief of the inhabitants of the city and for the preservation of municipal property, in a sum not to exceed three-eighths of one per cent of the assessed value of the real and personal property in the city, which shall become due in not more than five years.

(b) Whenever any portion of public improvements shall be assessed by or charged to the city at-large and the balance of such cost assessed against the property benefitted, the Council may provide for the payment of the city's portion of such cost in installments. In such case, bonds may be issued in anticipation of the payment of the amount assessed against the city at-large, the same as they may be issued in anticipation of the payment of the amount assessed against the benefitted property. In such case, the Council shall appropriate in each fiscal year an amount which is sufficient to pay the principal of and interest on such bonds which are required to be paid during that year. Such bonds may be included as a part of a total issue of bonds for the public improvement to which they apply and need not be separated from bonds issued in anticipation of the payment of special assessments assessed against the benefitted property.

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

(d) All collections on special assessment rolls or on any combination of such rolls shall be set apart in a separate fund and shall be used for the purpose for which levied, and for the payment of the principal of an [sic] interest on bonds issued in anticipation of such special assessments. If there is any deficiency in any special assessment fund to meet the payment of the principal or interest to be paid therefrom, moneys 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.

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

- (1) For the retirement of such bond issue, or
- (2) If such bond issue has been fully retired, then for the retirement of other bonds or obligations of the city provided for by this section: Provided, That in the case of special assessment bonds, such funds shall be refunded to the owners of property against which special assessments therefor were made, or placed in the general fund of the city in accordance with the provisions of Section

10.2 of this charter, and

- (3) For such other purposes as may be permitted by law, subject to the proviso in paragraph (2) above; or
- (4) If such funds cannot be so used, then in any manner approved by the vote of not less than five members of the Council.

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

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

State Law References: City authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1), MSA 5.2074(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2), MSA 5.2074(2); municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

Section 8.12. Limitations Upon Borrowing Power.

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten per cent of the assessed value of all the real and personal property in the city: Provided, That, in computing such net bonded indebtedness, there shall be excluded money borrowed under the provisions of Section 8.11.(a) clauses (2), (3), and (4) of this chapter, and any other bonds which are not, by law, subject to the debt limitation of the city. The resources of any debt retirement or sinking fund pledged for the retirement of any outstanding bonds which are subject to the debt limitation herein established, shall also be deducted from the amount of the bonded indebtedness.

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

State Law References: Limitation on net bonded indebtedness incurred for all public purposes, MCL 117.4a(1), MSA 5.2074(1).

Section 8.13. Depositories.

The Council shall designate depositories for city funds in accordance with law and shall provide for the regular deposit of all city moneys.

State Law References: Designation of depositories, MCL 129.12, MSA 3.752; deposit of public moneys, MCL 211.436, MSA 7.86.

Section 8.14. 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 days thereafter. Special independent audits may be made at such time that the Council may designate. All such audits shall be made to the Council by a Certified Public Accountant designated by it. Each such audit and reports supplemental thereto shall be submitted to the Council and made public by it in the manner that it determines. Copies thereof shall be placed in the office of the Clerk, and the Owosso Public Library.

Section 8.15. Annual Report.

The City Manager shall prepare an annual report of the affairs of the city, after the completion of the annual audit. The report shall include condensed financial statements showing the results of all city operations, including statements for each public utility owned or operated by the city. Copies of such report shall be filed in the office of the Clerk and in the Owosso Public Library and shall be available for public inspection and distribution at the office of the Clerk and by such other method as the Council may determine.

CHAPTER 9.

TAXATION*

* **State Law References:** General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

Section 9.1. Power to Tax and Tax Limits.

- (a) The city shall have the power to annually levy and collect ad valorem taxes, rents, tolls, and excises for municipal purposes.
- (b) The subjects of ad valorem taxation for municipal purposes shall be the same as for State, county, and school purposes under the general law. Except as otherwise provided by this charter, city taxes shall be levied, collected, and returned in the manner provided by law.
- (c) Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds and exclusive of any other levies authorized by law to be made beyond charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed one and one-half of one percent of (fifteen mills on) the assessed value of all real and personal property in the city.
- (d) The foregoing tax limitation of one and one-half of one percent of (fifteen mills on) the assessed value of all real and personal property in the city may be increased for any period, not to exceed two fiscal years of the city, by a majority of the electors of the city voting on the question at a regular or special election. In no case shall the total of any such increase cause the tax limitation of the city, including the limitations authorized in sub-section (c) hereof, to exceed two percent of (twenty mills on) the assessed value of all real and personal property in the city.

State Law References: Mandatory that Charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g); mandatory that Charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and

school purposes under general law, MCL 117.3(f), MSA 5.2073(f); property subject to taxation, MCL 211.1 et seq., MSA 7.1 et seq.

Section 9.2. Tax Day.

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

State Law References: Property exempt from taxation, MCL 211.7 et seq., MSA 7.7 et seq.; designation of tax day, MCL 211.2, MSA 7.2.

Section 9.3. Preparation of the Assessment Roll.

(a) On or before the first Monday in March in each year the Assessor shall prepare and certify an assessment roll of all property in the city, in the manner and form required by law. Values of all property listed on such assessment roll shall be estimated according to recognized methods of systematic assessment which are uniform for comparable properties. Not less than ten (10) days prior to the second meeting of the board of review in each year, the Assessor shall give notice of any increase in the assessed value of any property on, or of the addition of any property to, the assessment roll. Such notice shall be given to the owner thereof, as shown by such assessment roll, by first class mail. The failure of the owner to receive any such notice, shall not invalidate any assessment roll or any assessment or levy of taxes thereon.

(b) No exemptions from taxation shall be allowed, except as expressly required or permitted by law. (Amd. by electors 11-7-95)

State Law References: Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

Section 9.4. Board of Review.

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

(b) The members of the Board of Review shall be appointed by the Mayor, subject to confirmation by the Council, and may be removed for reasons of non-feasance or misfeasance by a vote of five or more members of the Council. The first members shall be appointed during the month of January, 1965 for terms which shall be such that the term of one of the members will expire in the month of January of each year. Thereafter one member shall be appointed in the month of January of each year, for a term of five years, commencing upon his appointment.

(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.

State Law References: Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

Section 9.5. 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 law, conferred upon and required of boards of review in townships, except as otherwise provided in this charter. At the time, and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessments. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the Board of Review shall make any change upon, or addition or correction to, the assessment roll. The assessor shall make a permanent record of all proceedings of the Board and enter therein all resolutions and decisions of the Board. Such record shall be filed with the Clerk on or before the first day of May following the meeting of the Board of Review.

Section 9.6. Meetings of the Board of Review.

The board of review shall convene its first meeting on the Tuesday following the first Monday in March of each year. The purpose of the first meeting is to review and correct the assessment roll. When the board of review makes a change that will increase an assessment or add property to the assessment roll, the person chargeable with the assessment shall be promptly notified in such a manner as will assure the person opportunity to attend the second meeting of the board of review.

The board of review shall meet for its second meeting on the second Monday in March and shall continue in session for at least four (4) hours. The board of review shall also meet the following day for not less than four (4) hours. One of the aforementioned meetings shall be in session for not less than two (2) hours after 5:00 p.m. The purpose of such second meetings shall be to consider and correct the assessment roll prepared and presented by the assessor. The board of review shall schedule such additional meetings as may be required to hear persons who have given notice of a desire to be heard during such two-day period. The assessor shall order the publication of the time and place of the meeting of the board of review not less than one (1) week before it convenes in each year.

(Amd. by electors, 11-7-95)

State Law References: Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073(i).

Section 9.7. 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, a majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement or statement shall not affect the validity of such roll. In the event that the Board of Review shall fail or refuse to so review the assessment roll of the city, such roll, as prepared and presented to the Board of Review by the Assessor shall be the assessment roll for the year for which it was prepared and shall stand as though it had been certified by the Board of Review and the amounts required to be certified by Section 9.9 shall be spread thereon by the Assessor and collected by the Treasurer.

State Law References: Completion of review of assessments prior to first Monday in April required, MCL 211.30a, MSA 7.30(1).

Section 9.8. Validity of Assessment Roll.

Upon the completion of the assessment roll, and from and after midnight ending the last day of the

meeting of the Board of Review, it shall be the assessment roll of the city for county, school and city taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all courts and tribunals to be valid and shall not be set aside except for cause set forth by law.

State Law References: Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i).

Section 9.9. Clerk to Certify Tax Levy.

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

Section 9.10. City Tax Roll.

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare the city tax roll. Such city tax roll may be either a copy of the assessment roll with the authorized city taxes, assessments, and charges spread thereon, or may be a combined tax roll upon which county, school, and other taxes may be spread for collection under the general property tax act, in addition to city taxes, assessments and charges, as determined by the Council. Upon receiving the certification of the several amounts to be raised, or to be assessed, reassessed, or charged as provided in Section 9.9 of this charter, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be raised, charged, assessed, or reassessed against persons and property. He shall spread the amount to be raised by general city tax, according to and in proportion to the several valuations set forth in said roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised thereon not more than the amount prescribed by law. Any excess created thereby on any tax roll, for the levy and collection of taxes in the city, shall belong to the city.

Section 9.11. Tax Roll Certified for Collections.

After spreading the city taxes and any assessments, reassessments, and charges, the Assessor shall certify the tax roll and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the persons named in said roll the several sums mentioned therein opposite their respective names as a tax, assessment, reassessment, or charge, and granting to him, for the purpose of collecting taxes, assessments and charges on such roll, all of the statutory powers and immunities possessed by township treasurers for the collecting of taxes. On or before June 15th, the city tax roll shall be delivered to the Treasurer for the collection of the taxes, assessments, reassessments, and charges set forth thereon.

State Law References: Collection of taxes, MCL 21.44 et seq., MSA 7.87 et seq.

Section 9.12. Taxes a Debt and Lien.

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

from and after the first day of July following the said tax day and shall so remain until paid. Said tax liens on personal property shall take precedence over all other claims, encumbrances, and liens upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgment, or, otherwise. No transfer of personal property assessed for taxes shall operate to divest or destroy such lien, except where such property is actually sold in the regular course of retail trade.

Section 9.13. 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 situs 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 proceeding to collect such tax, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

State Law References: Jeopardy assessment of personal property taxes, MCL 211.691 et seq., MSA 7.51(1) et seq.

Section 9.14. Taxes Due and Notification Thereof.

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

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

Section 9.15. Tax Payment Schedule.

The Council shall provide, by ordinance, a tax payment schedule. Such schedule shall state the amount of collection charges and interest to be added to taxes, charges, assessments, and reassessments on the city tax roll and when such charges and interest shall be added. Such schedule may provide for the closing of the city tax roll on the first day of November of each year and the spreading of the taxes then delinquent upon the December tax roll upon which county and school taxes are collected, to be collected upon such roll with a four percent collection charge added thereto.

Section 9.16. Failure or Refusal to Pay Personal Property Taxes.

If any person shall neglect or refuse to pay any city tax on personal property assessed to him, the Treasurer shall collect the same by seizing any personal property of such person, wherever it may be found in the State of Michigan, to an amount sufficient to pay such tax, and charges and interest added thereto. No

personal property shall be exempt from such seizure. He may sell the property seized, to an amount sufficient to pay such tax, together with all charges, fees, penalties, and interest added thereto, in accordance with statutory provisions. The Treasurer may also sue the person to whom a personal property tax is assessed, in accordance with the powers granted him by law.

State Law References: Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

Section 9.17. Collection of Delinquent Taxes.

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

- (1) The real property against which such taxes, assessments, and charges are assessed shall be subject to disposition, sale, and redemption for the enforcement and collection of the tax lien against the same in the method and manner which may be provided by ordinance. The Council may provide by ordinance the procedure for the sale and redemption of real property for such unpaid taxes, assessments and charges, together with collection charges and interest added thereto, by judicial sale on petition filed in behalf of the city. Such procedure shall correspond substantially to the procedure provided by law for the sale by the State of tax delinquent real property and redemption therefrom, except that the acts performed by state and county officers shall be performed by appropriate city officers and that city tax sales shall be held not less than thirty nor more than ninety days prior to the dates of corresponding tax sales under the general law.
- (2) If no ordinance is in effect pursuant to subsection (1) of this section, such taxes, assessments, and charges, together with any collection charges and interest added thereto shall be returned to the County Treasurer, to the extent and in the same manner and with like effect as provided by law for returns by township treasurers of township, school, and county taxes. The taxes, assessments, and charges, together with any collection charges and interest added thereto, which collection charges and interest shall be treated and collected in the same manner as taxes returned to the County Treasurer are to be collected in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

Section 9.18. Protection of City Lien.

The city shall have power to acquire, by purchase, any premises within the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner when such purchase is necessary to protect the lien of the city for taxes or special assessments, or both, on said premises and the lien for other charges, collection charges and interest, and may hold, lease, or sell the same for purpose of securing therefrom the amount of such taxes, special assessments, charges, collection charges, and of personal property assessed for taxes shall operate to divest or destroy such lien, except where such property is actually sold in the regular course of retail trade.

Section 9.19. State, County, and School Taxes.

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

accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same deputies and have the same powers as township treasurers under State Law.

State Law References: Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i); state law relative to the assessment, levy and collection of taxes, MCL 211.1 et seq., MSA 7.1 et seq.

Section 9.20. Disposition of Real Property Held by the City.

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

CHAPTER 10.

SPECIAL ASSESSMENTS*

* **State Law References:** Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

Section 10.1. General Power Relative to Special Assessments.

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

State Law References: Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 10.2. Detailed Procedure to be Fixed by Ordinance.

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

- (1) The procedure for filing petitions for public improvements;
- (2) A survey and report by the City Manager concerning the need for, desirable extent of, and probable cost of such proposed public improvement;
- (3) A public hearing by the Council on the necessity of the making of such public improvement with a publication of notice of such hearing: Provided, That no such public hearing shall be required when a petition for a public improvement is signed by all of the owners of property to be assessed therefor;
- (4) A resolution of the Council determining to proceed or not to proceed with the proposed public improvement;
- (5) A public hearing by the Council on the special assessment roll for the project with a publication of notice of such hearing;
- (6) A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefor, or the first installment thereof, if installment payments be allowed, shall be due and payable, the number of annual installments, if allowed, in which the special assessment may be paid, and the rate of interest to be charged upon such deferred installment;
- (7) That no additional assessment for any public improvement which exceeds 10% of the original assessment shall be made, unless such additional assessment be reviewed at a meeting of the Council, for which meeting notices shall be published as provided in the case of review of the original special assessment roll;
- (8) That, in any case when the main purpose of a sidewalk is to provide travel convenience to and from a school, factory, or other institution, public or private, and not for the benefit of the property in a district, except incidentally, the city shall pay not less than one-half of the cost of such sidewalk;
- (9) If, under item (4) above, the determination is to proceed, determining the probable life of the improvement, finally fixing the special assessment district therefor, and ordering the Assessor to prepare a special assessment roll therefor: Provided That, if prior to the adoption of the resolution to proceed with the making of the public improvement, written objections thereto have been filed by the owners of property in the district, which according to the City Manager's report will be required to bear more than fifty per cent of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted while such objections remain, except by the affirmative vote of five members of the Council;
- (10) Publication of notices required by this section shall be given in a newspaper published in the city not less than seven days prior to the hearing to which it applies. Notice of all hearings in special assessment proceedings shall also be given by first class mail to the persons and in the manner provided in Act 162, P.A., 1962 [MCL 211.741 et seq., MSA 5.3534(1) et seq.].

(11) In the event that funds are on hand or a revolving fund exists to defray the expense of any public improvement prior to the completion thereof, the special assessment roll therefor may be made within sixty days after the improvement is completed and shall be based upon the actual cost thereof.

(b) When the city may, by law, participate in intergovernmental improvements, the cost of which may be defrayed in whole or in part by special assessments, the procedure therefor shall be as provided by the law permitting the same. If such procedure is not so provided, the procedure established by and under authority of this chapter shall govern.

Code reference--See Code of Ordinances, Chapter 28.

Section 10.3. Reconsideration of Petitions.

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

Section 10.4. Condemnation costs.

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

Section 10.5. Limitation on Suits and Actions.

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

Editors Note: This type of section was held invalid as in conflict with the general property tax law (MCL 211.53, MSA 7.97) and the statute of limitations for personal actions (MCL 600.5813, MSA 27A.5813). See *Wells v. City of Southfield*, 14 Mich. App. 393, and *Smuezynski v. City of Warren*, 14 Mich. App. 464.

Section 10.6. Lien for and Collection of Special Assessments.

(a) Upon the confirmation of each special assessment roll, the special assessments thereon shall, until paid, constitute a personal obligation to the city of the owner of the property against which it is assessed and shall be and continue to be a lien upon the property assessed for the amount of such assessments and all interest and collection charges which may accrue thereon. Such lien shall be of the same character and effect as that which is created by this charter for city taxes. Such special assessments or the installments thereof as the case may be, shall be charged against the owners of the property assessed, according to the records of the assessor's office at the time the special assessment or installment thereof, as the case may be, is due for

payment. All special assessments or installments thereof, made in any calendar year which remain unpaid on the first day of March of the succeeding calendar year, together with the collection charges and interest which have accrued thereto, shall be placed upon the delinquent tax roll of the city as required in Chapter 9 of this charter and shall be collected, or the collection thereof enforced, in the same manner as are delinquent taxes on the city. For this purpose, the word "assessments" used in Chapter 9 shall include special assessments authorized by this chapter.

(b) In addition to the procedures established in sub-section (a) hereof for the collection of special assessments levied against property, the city may recover them in a suit in any court of competent jurisdiction. In any such suit, the confirmed special assessment roll upon which the special assessment concerned appears shall be prima facie evidence of the existence of the special assessment, of the regularity of the proceedings in making the special assessment, and of the right of the city to recover judgment therefor.

State Law References: Specific authority to institute an action in assumpsit to recover unpaid assessments, MCL 211.501, MSA 7.721.

Section 10.7. Hazards and Nuisances.

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

Section 10.8. Boulevard Lighting.

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

State Law References: Permissible that Charter provide for boulevard lighting, MCL 117.4d(2), MSA 5.2077(2).

Section 10.9. All Real Property Liable for Special Assessments.

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

Section 10.10. Special Assessment Accounts.

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

Section 10.11. Certain Postponements of Payments.

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

CHAPTER 11.

COUNTY SUPERVISORS*

* **Editors Note:** This chapter is now obsolete. The election of supervisors is governed by MCL 46.401 et seq., MSA 5.359(1) et seq.

Section 11.1. Number of Supervisors.

The City of Owosso shall be entitled to such number of representatives on the Board of Supervisors of Shiawassee County, as shall be provided by law.

Section 11.2. Selection of Supervisors.

The representatives of the city on the Board of Supervisors of Shiawassee County shall be the Mayor, or if the Mayor shall file statement that he is unable to serve in such capacity, a member of the Council who is elected by the Council, the Assessor, and such number of electors of the city, including officers of the city, who possess the qualifications set forth in this charter for holding an elective city office, as shall be required to complete the number of representatives to which the city is entitled. Such electors shall be appointed by the Mayor, subject to confirmation by the Council not later than fifteen days before elected township supervisors assume office following their election and their terms of office shall commence as nearly as possible coincidentally with the beginning of the terms of office of township supervisors and shall continue for the same terms as are provided by law for township supervisors.

Section 11.3. Temporary Absences and Vacancies.

In cases of temporary absence or of the inability of any city representative on the Board of Supervisors, to serve or perform the duties of his office, the Mayor shall, in writing appoint a person having the same qualifications as required for appointed city representatives on the county board of supervisors to serve during

the absence or inability.

Section 11.4. Vacancies in Office of Supervisor.

All vacancies in the office of city representatives on the county board of supervisors who are appointed by the Mayor, shall be filled within thirty days after such vacancy occurs, in the manner provided in this charter for the appointment of such city representatives.

Section 11.5. Compensation of Supervisors.

Each city representative on the county board of supervisors shall be entitled to retain any compensation and mileage paid to him by the county.

CHAPTER 12.

MUNICIPAL COURT*

* **Editors Note:** This chapter is now obsolete. The municipal court was abolished by MCL 600.9921, MSA 27A.9921, which created the district court system.

Section 12.1. Style of Municipal Court.

The Municipal Court of the city shall be that created for cities by Act No. 5 of the Public Acts of 1956 [MCL 730.501 et seq., MSA 27.3937(1) et seq.] as amended. The Municipal Court of the city organized and operating under such act on the effective date of this charter shall continue under this charter.

Section 12.2. Jurisdiction of Municipal Court.

The Municipal Court shall have exclusive original jurisdiction in the trial of actions involving violations of the provisions of this charter and of the ordinances of the city and such other jurisdiction as may be conferred by law.

Section 12.3. Associate Municipal Judge.

The Council may create the office of Associate Municipal Judge as provided by law.

Section 12.4. Compensation of Municipal Judge.

The Council shall set the compensation of the Municipal Judge and of each Associate Municipal Judge.

Section 12.5. Rules of the Municipal Court.

Rules adopted by the Municipal Court, shall become effective when filed with the Clerk. A copy of such rules shall be deposited with the Owosso Public Library.

Section 12.6. Court Room and Supplies.

The city shall furnish the Municipal Court with all necessary court room quarters, dockets, books, forms, stationery and equipment which may be required for the proper conduct of its business, which shall be and remain the property of the city.

Section 12.7. Violations Bureau.

A Violations Bureau may be established by ordinance within the Court. The creation of such a Bureau shall not operate so as to deprive any person of a full and impartial hearing in court, should such person so choose.

Section 12.8. Court Officer-Constable.

With the advice and subject to the confirmation of the Council, the Municipal Judge shall appoint one or more persons having the qualifications of elective officers of the city, to act as court officers in the Municipal Court. Such court officers shall serve at the pleasure of the Municipal Judge and be subject to his orders and direction. Such officers shall be charged with the duty of and shall be responsible for maintaining order in the court room under the direction of the Judge, and each shall be responsible for the safety and custody of persons placed in his charge. Such officers shall be the Constables of the city and shall have like powers, authorities, and immunities in the service of warrants, notices, and process lawfully directed to them as are conferred by law on constables in townships. They shall have power to serve all process issued for violations of the charter and ordinances of the city. They shall not have the power of arrest, other than as private citizens unless acting as members of the city's police department or as deputy sheriffs. The compensation of the court officers shall be fixed by the Council. If a Court Officer shall be a police officer, his compensation shall be as provided in the budget, or, if not so provided, as the Council shall determine.

Section 12.9. Court Clerk.

Subject to the conformation of the Council, the Municipal Judge may appoint a person having the qualifications of appointive officers of the city as Clerk of the Court. Such person shall perform the duties provided by law for clerks of municipal courts and by the Municipal Judge and shall be compensated at a rate fixed by the Council.

Section 12.10. Juries.

Juries in the Municipal Court shall be selected in a manner provided by law. Each calendar year shall constitute a term of court: Provided, That the fees paid to jurors and the deposits required to be paid into court for jury trials shall conform to those set by law.

CHAPTER 13.

ELECTIONS*

* **State Law References:** Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).

Section 13.1. Regular City Election.

A regular city election shall be held biennially on the first Tuesday in April of even numbered years. Four members of the Council shall be elected at each such election. At each such election, the three persons receiving the largest number of votes who are elected to the office of Councilman shall be elected for terms of four years, each, and the person elected to such office who receives the least number of votes shall be elected for a term of two years. The Municipal Judge or Judges shall be elected at each such election that occurs in even numbered years which are not divisible by four, unless otherwise provided by law.

Section 13.2. Special Elections.

Special city elections shall be held when called by resolution of the Council, adopted at least forty-five days in advance of such election. Any resolution calling a special election shall set forth the purpose of such election. Unless otherwise permitted by law, no more than two special city elections shall be held in any one calendar year.

State Law References: Special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

Section 13.3. Primary Election.

Primary Elections for elective city offices are abolished.
(Amended by electors 11-4-86)

Section 13.4. Qualifications of Electors.

Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next ensuing primary or regular or special city election, shall be entitled to register as an elector of the city.

State Law References: Mandatory that Charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.

Section 13.5. Election Procedure.

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

State Law References: Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 13.6. City Election Commission.

A City Election Commission, consisting of the Clerk, the Assessor, and the City Attorney, is hereby created. If any of such persons are candidates for office at any election such person shall not be a member of the Commission for such election and the Council shall designate a person to act in his stead. The Clerk shall be chairman. The Commission shall have charge of all activities and duties required of it by law relating to the conduct of elections in the city. It shall select and appoint the election inspectors and other election personnel. The compensation of all election personnel shall be determined by the Council. In any case where election

procedure is in doubt, the Election Commission shall prescribe the procedure to follow.

Section 13.7. Nominating Petitions.

A person desiring to qualify as a candidate for any elective office under this charter shall file with the Clerk a properly filled out official nominating petition on a form secured from the office of the Clerk. The Clerk shall prepare and provide such official blank nominating petitions, in substantially the same form as required by law or designated by the Secretary of State for non-partisan judicial officers. Each such petition may be on more than one petition form and shall be signed by not less than fifty nor more than one hundred of the registered electors of the city. Such petitions shall be filed with the Clerk not later than 4:00 o'clock in the afternoon on the Tuesday succeeding the first Monday in August preceding every odd-year November election. The Clerk shall publish notice of the last date and time for receiving nominating petitions not less than ten days prior thereto. Before the Clerk shall furnish nominating petitions 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 under the provisions of this section.* Nominating petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which they are to be used. If any person signs his name to a greater number of petitions that [than] are filed for any office than there will be persons elected to that office, his signature shall be disregarded on all petitions for that office.

* **Editors Note:** The filing of any petition is permitted as long as it complies substantially with MCL 168.546, MSA 6.1546.

(Amended by electors 11-4-86)

State Law References: Mandatory that Charter provide for nomination of elective officers, MCL 117.3(b), MSA 5.2073(b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 13.8. Approval of Petitions.

The Clerk shall accept for filing only nominating petitions on official blanks furnished by him which contain the required number of signatures of qualified and registered electors of the city. Within five days after receiving any nominating petition, the Clerk shall determine the sufficiency of the number and genuineness of the signatures on each petition filed, and, if he finds that any petition does not contain the required signatures of qualified and registered electors, he shall immediately notify the candidate, in writing, of the insufficiency of his petition. Each petition which is found by the Clerk to contain the required signatures of qualified and registered electors shall be marked "valid," with the date thereof.

Section 13.9. Affidavit of Qualification for Office.

On or before the third day after the last day for filing petitions for any city office as above provided, each person for whom a nominating petition has been filed or the person who filed the petition, shall file with the Clerk an affidavit that the person named in the petition is possessed of all of the qualifications set forth by this charter for election to and the holding of the office for which his petition has been filed. Such affidavit shall be on the form therefor provided by the Clerk. If a second petition is filed for nominating a person to an office different from that named in a prior petition filed by him or on his behalf, the first petition must be withdrawn by the person named therein before the affidavit required by this section may be received by the Clerk on behalf of such person respecting the second petition.

Section 13.10. Form of Ballots.

The form, printing, and numbering of ballots and ballot labels used in any city election, shall conform, as nearly as may be, to that prescribed by law, except that no party designation or emblem shall appear thereon.

Section 13.11. Canvass of Votes.

The Board of City Canvassers created by law to canvass the votes cast at all city elections shall meet in the office of the Clerk, at 10:00 o'clock in the forenoon on the day following each city primary [now abolished] and election, and shall publicly canvass the returns of such primary [now abolished] or election, and shall determine the vote upon all questions and propositions, and declare whether the same have been adopted or rejected which persons have been nominated for or elected to office. The said Board of Canvassers shall make a report of its determinations to the Council at the next regular meeting thereof, which report shall be spread upon the journal of such meeting.

Editors Note: Canvassing is now performed by the county, MCL 168.24a et seq., 168.30a et seq., MSA 6.1024(1) et seq., 6.1030(1) et seq.

Section 13.12. Tie Vote.

If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes at any primary or regular city election, the Election Commission shall name a date and time and notify each such candidate thereof, in writing and mail to each by certified mail at the address shown on his petition, for the appearance of such persons for the purpose of determining the nomination or election of one of such persons by lot, as provided by law. Should any person or persons fail or refuse to appear, in person or by representative, to determine the result of any such tie, at the time and place named by the Commission, such determination shall be made by lot in his or their absence, at the direction and under the supervision of the said commission. Such determination shall, in any event, be final.

State Law References: Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

Section 13.13. Recount.

A recount of the votes cast at any primary [now abolished] or election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

State Law References: Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

CHAPTER 14.

CONTRACTS

Section 14.1. Authority of Council.

(a) The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law.

(b) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 14.2 hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the Clerk, and, except as so provided, in the case of contracts for five hundred dollars or more, shall not be

enforceable unless so signed.

Section 14.2. Purchase and Sale of Personal Property.

The Council shall establish, by ordinance, the procedures for the purchase and sale of personal property. Such ordinance shall provide for centralized purchasing on behalf of the city. The ordinance shall also provide the dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made without the necessity of Council approval and signature by the Mayor and Clerk. No purchase of personal property shall be made unless a sufficient unencumbered appropriation is available therefor, or for such amount of the purchase price as shall be required to be paid during the current fiscal year of the city.

Editors Note: See Code of Ordinances, Section 2-341 et seq.

Section 14.3. Limitations on Contractual Power.

(a) The Council shall have power to enter into contracts which by the terms thereof, will be fully executed within a period of ten years. Except contracts exempted from the limitations of this section, contracts which, by the terms thereof, will not be fully executed within a term of ten years shall first receive the approval of a majority of the qualified electors voting thereon at a regular or special election before they shall be binding on the city. The total of the amounts of principal payable under all contracts which will not be fully paid within the fiscal year in which executed shall not exceed an amount equal to one-quarter of one percent of the assessed value of all real and personal property in the city. The limitations of this section shall not apply to any contract for services with a public utility or one or more other governmental units, to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law, nor to any contract for a term of years which may be permitted by law.

(b) The city shall not have power to purchase, sell, lease, or dispose of any real estate, unless:

- (1) Such action is approved by the affirmative roll call vote of five or more members of the Council, and, unless;
- (2) In the case of real estate owned by it, the resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the Clerk for public inspection for twenty-one days after its original introduction at a meeting of the Council before the final adoption or passage thereof and, unless;
- (3) When the proposition is to sell any park cemetery or any part thereof, except when such park is not required under an official master plan of the city, or any property bordering on a water front, the proposition to sell, lease, or dispose of the same shall also be approved by a three-fifths vote of the electors of the city voting thereon at any general or special election.

(c) Except as provided by ordinance authorized by Section 14.2 of this chapter, each contract for construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be sealed before filing with the Clerk and shall be opened in public in the Council room by the Clerk at the time designated in the notice of letting and shall be reported by him to the Council at its next regular meeting or special meeting called for that purpose. The Council may reject any or all bids, if deemed advisable. If, after two or more opportunities for competitive bidding, no bids are

received or such bids as were received were not satisfactory to the Council, it may either endeavor to obtain new competitive bids or may authorize the City Manager or other proper official of the city to negotiate for a contract in the open market.

(d) No contract shall be made with any person who is in default to the city.

(e) No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

State Law References: Restriction on making contracts with persons in default to city, MCL 117.5(f), MSA 5.2084(f).

Section 14.4. Business Dealings With City.

An officer or employee of the city who intends to have business dealings with the city, whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties, shall file with the Clerk a statement, under oath, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the Clerk not less than ten days before the date when action may be taken by the Council or any other officer or agency of the city upon the matter involved. The statement shall be spread upon the proceedings of the Council for the meeting at which it is received and published in full therewith. In each case where the type of dealings with the city is on a continuing basis, involving more than one or a sequence of transactions described in the statement, each such statement shall stand for and apply to such transactions for a period of one year and may be renewed at the end of each one year period for so long as such transactions continue. Each such renewal shall be spread upon the proceedings of the Council and published as in the case of the original statement. In the event that the interest of any officer or employee of the city in any business dealings with the city changes at any time, he shall file a statement thereof as herein required, which statement shall also be spread upon the proceedings of the Council and published as herein required. Any business dealing made in violation of this section shall be void.

Editors Note: This section has been preempted by MCL 15.321 et seq., MSA 4.1700(51) et seq., on conflicts of interest as to contracts.

CHAPTER 15.

PUBLIC UTILITY SERVICES*

* **State Law References:** Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25; permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

Section 15.1. General Powers Respecting Municipal Utilities.

The city shall have all the powers granted by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities, either within or without its corporate limits and either within or without the corporate limits of Shiawassee County, including, but not by way of limitation, public utilities for supplying water and water treatment, sewage disposal and treatment, electric light and power, gas, steam, or any of them, to the municipality and the inhabitants thereof; and also to sell water, electricity, gas, steam, and other utility services beyond its corporate limits as authorized by law.

Section 15.2. City's Water Supply and Sanitary Sewer Systems.

The water supply and sanitary sewage plants and systems and appurtenances of the city shall be under the general control of the Council and shall be managed by the City Manager, as the administrative agent of the Council. The City Manager shall employ such personnel as may be required for the efficient and proper operation of said systems.

Section 15.3. Rates.

(a) The Council shall fix just and reasonable rates and such other charges as may be deemed advisable for supplying water and other municipal utility services, to the inhabitants of the city and others. Discrimination in rates by the Council, within any classification of users, shall not be permitted, nor shall free service be permitted other than to the city. Increased utility rates, approved by the Council, may be charged for service outside the corporate limits of the city.

(b) The rates and charges for any municipal utility, shall be fixed by the Council on a basis at least adequate to compensate the city for the cost of such service and to make reasonable provision for the extension thereof according to the needs of the city. Transactions pertaining to the ownership and operation of each such municipal utility shall be recorded in a separate group of accounts, which shall be classified in accordance with generally accepted accounting practices. Charges for all service furnished to, or rendered by, other city departments or administrative units shall be recorded, whether collected or not. An annual report shall be prepared to show the financial position of each utility and the results of its operation. A copy of such reports shall be available for inspection at the office of the Clerk.

Section 15.4. Collection of Municipal Utility Rates and Charges.

(a) The Council shall provide by ordinance for the collection of rates and charges for public utility services furnished by the city. When any person fails or refuses to pay to the city any sums due on utility bills, the service upon which such delinquency exists may be discontinued and suit may be brought for the collection thereof.

(b) As permitted by law, the city shall have a lien upon the premises to which utility services are supplied for such services and, for such purpose, shall have all the powers granted to cities by law. The lien shall become effective immediately on the distribution or supplying of utility services to such premises. In each case where a lien to secure the payment of utility charges is not available to the city by operation of law or otherwise, the Council shall require that an adequate deposit be made by the person to whom city utility services are furnished, for the purpose of guaranteeing the collection of charges for such utility services.

(c) Except as otherwise provided by law, all unpaid charges for utility services which constitute a lien upon the premises to which they are supplied or furnished which, on the last day of March of each year, have remained unpaid for a period of three months or more, shall be reported to the Council by the Finance Director at the first meeting thereof in the month of April. The Council thereupon shall order the publication in a newspaper of general circulation in the city of notice that all such unpaid utility charges not paid by the last day of April will be spread upon the city's tax roll against the premises to which such utility services were supplied or furnished, and such charges shall then be spread upon the city's tax roll, with a surcharge of ten percent thereof added thereto to defray the cost of making such spread, and shall be collected in the same manner as the city taxes.

Section 15.5. Disposal of Municipal Utility Plants and Property.

The city shall not sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of any municipal public utility, unless the proposition to do so is approved by a three-fifths majority vote of the electors of the city voting on such proposition at a regular or special city election. All contracts, 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 articles of machinery or equipment of any municipally owned public utility which are no longer useful or which are replaced by new machinery or equipment, or to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or interests in property.

Section 15.6. Public Utility Franchises.

The city may grant a franchise to any person for the use of the streets, alleys, bridges, and other public places of the city for the furnishing of any public utility service to the city and its inhabitants. Franchises and renewals, amendments, and extensions thereof shall be granted only by ordinance. Public utility franchises shall include provisions for fixing rates and charges, and may provide for readjustments thereof at periodic intervals. The city may, with respect to any public utility franchise granted after the effective date of this charter, whether or not so provided in the granting ordinance:

- (1) Terminate the same for the violation of any of its provisions, for the misuse or nonuse thereof, for failure to comply with any provision thereof, or any regulation imposed under authority of this section;
- (2) Require proper and adequate extension of plant and the maintenance thereof at the highest practicable standard of efficiency;
- (3) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (4) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) Impose other regulations determined by the Council to be conducive to the health, safety, welfare, and convenience of the public;
- (6) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, and public places, by the city and others than the owner, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor and, in the absence of agreement, upon application by the public utility, provide for the arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- (7) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, that arises from its use thereof, and to protect and save the city

harmless from all damages arising from such use;

- (8) Require the public utility to file with the Clerk such reports concerning the utility and its financial operation and status and with the City Engineer such drawings and maps of the location and nature of its facilities as the Council may request.

Section 15.7. Limitations on the Granting of Franchises.

Franchises may be granted by the city for a term not exceeding thirty years. No exclusive franchise shall be granted. Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of an existing franchise. An irrevocable franchise and any extension or amendment of such a franchise may be granted by the city only when the ordinance granting such franchise has first received the affirmative vote of at least three-fifths of the electors of the city voting thereon at a regular or special city election. An irrevocable franchise ordinance may be approved by the Council, for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with the Clerk his unconditional acceptance of all the terms of the franchise. A special election for such purpose may be ordered by the Council only when the expense of holding such election has first been paid to the Treasurer by the grantee.

State Law References: Franchises limited to thirty (30) years, Mich. Const. 1963, Art. VII, § 30; submittal to electors if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).

Section 15.8. Procedure for Granting Franchises.

Every ordinance granting a franchise, license, or right to occupy or use streets, alleys, bridges or public places shall remain on file with the Clerk for public inspection in its final form for at least twenty-eight days before the final adoption thereof, or the approval thereof for referral to the electorate.

Section 15.9. Certificate of Convenience and Necessity.

No person who or which is not required by law to obtain a certificate of convenience and necessity from the Michigan Public Service Commission shall commence the operation of any public utility or public utility service in the city without first obtaining from the Council a certificate that the public convenience and necessity requires or will require the services of such public utility. Before any such certificate shall be granted, the person desiring it shall file with the Clerk an application therefor, setting forth the name of the person making such application, his or its personal, partnership, corporate, or other organizational status, a current verified financial statement, the names of all other municipalities in which it supplies public utility services, and the names of all persons having a financial interest in the business, and of its corporate officers, if the applicants be a corporation. The Council shall hold a public hearing on such application, with notice thereof given to the applicant and to all persons rendering like services in the city, not less than ten days before the date of such hearing. In determining the question of public convenience and necessity, the Council shall take into consideration the services being rendered by others in the city, the investment required by the applicant for rendering the proposed services, the information set forth in the application, the experience of other municipalities concerning the applicant, and the benefit or lack thereof to the public, if any, in rates and other matters which would result from the granting or denial of the certificate.

Section 15.10. Sale or Assignment of Franchises.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council gives its consent. In the case of utilities which supply electric, gas, and communications services within the city, Council consent shall not be required in any case where approval of the Michigan Public Service Commission is given. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property, other than its 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 chapter.

Section 15.11. Plans of Facilities in Streets and Public Places.

The Council may, by ordinance, require, as a condition to the placing or installment thereof, that each public utility conducting a business in the city file with the city a duplicate copy of layout plans of pipes, conduits, wires, and other facilities which are, or are to be, placed on, under, or above the surface of the city's streets, alleys, bridges, and public places.

CHAPTER 16.

RESERVED*

* **Editors Note:** Ord. No. 638, § 1, adopted Sept. 15, 2003, and approved at an election held Nov. 4, 2003, repealed chapter 16, sections 16.1--16.13, 16.15--16.27, 16.27A, 16.28--16.35, in its entirety. Former chapter 16 pertained to municipal employees' pensions and derived from an Amd. by electors on Nov. 5, 1968; Amd. by electors on April 12, 1977; Amd. by electors Nov. 6, 1990. Provisions pertaining to municipal employees' pensions may now be found in chapter 2, article VII of this Code.

Secs. 16.1--16.35. Reserved.

BOUNDARY APPENDIX

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

Description of Owosso City Limits, October 20, 1987.

The City of Owosso shall include all the territory contained within the boundaries described as follows, to-wit:

Commencing at the Southwest corner of the Southeast one-quarter (1/4) of Section twenty-three (23) of the Township of Owosso in the County of Shiawassee and State of Michigan, being Town seven (7) North of Range two (2) East, Michigan; thence running West along the South line of Sections twenty-three (23) of the said Township of Owosso to a point thirteen (13) rods East of the West eighth (1/8) line of Section twenty-six (26), T7N, R2E; thence South thirty-seven (37) rods, thence West thirteen (13) rods to the West eighth (1/8) line of said Section twenty-six (26), thence South along said eighth (1/8) line to the Westerly right-of-way line of the New York Central Railroad right-of-way, thence Northeasterly along this right-of-way line to the North line of said Section 26, thence East along said North Section line to the East right-of-way line of said New York Central Railroad, thence Southwesterly along said East right-of-way line to the said West one-eighth (1/8) line of said Section 26, thence South along said one-eighth (1/8) line to the East and West one-quarter (1/4) line of said Section twenty-six (26), thence East along said one-quarter (1/4) line to a point eighty (80) rods West of

the East line of said Section twenty-six (26); thence North four (4) rods; thence East to the East line of said Section twenty-six (26); thence North along the East line of said Section twenty-six (26) to a point twenty (20) rods South of the North line of Section twenty-six (26); thence West sixteen (16) rods, thence North twenty (20) rods to the South line of said Section twenty-three (23); thence East along the South line of said Section twenty-three (23) and twenty-four (24) in said Township of Owosso to the North one-quarter (1/4) post of Section twenty-five (25) of said Owosso Township, thence Southwesterly along the centerline of old M-47 Highway now designated State Highway M-52 to a point three hundred ninety-six (396) feet South of the North line of said Section twenty-five (25), as measured in a North-South direction; thence Easterly to the East right-of-way line of said M-52 Highway; thence Southwesterly along said East right-of-way line 468.24 feet; thence North-easterly to the centerline of old M-47 highway now designated as M-52; thence S 37°52'26" W 393.76'; thence South fifty-five degrees five minutes four seconds East (S 55°05'04" E) four hundred forty (440) feet; thence South thirty-eight degrees twenty-three minutes ten seconds West (S 38°23'10" W) one thousand three hundred sixty-three and fifty-four hundredths (1363.54) feet; thence North eighty-nine degrees thirty-nine minutes thirty seconds East (N 89°39'30" E) four hundred ten (410) feet; thence South seven degrees twenty-three minutes twenty-four seconds West (S 07°23'24" W) two hundred ninety-one and eighty hundredths (291.80) feet; thence South eighty-nine degrees twenty-eight minutes East (S 89°28' E) three hundred fifty-nine and fifty hundredths (359.50) feet; thence South forty-seven degrees three minutes twelve seconds East (S 47°03'12" E) four hundred seventy-eight and thirteen hundredths (478.13) feet to the North-South one-quarter (1/4) line of said Section 25; thence North 1.5 feet along said one-quarter (1/4) line; thence Easterly parallel with the East and West one-quarter (1/4) line of said Section twenty-five (25) six hundred seventy-five and thirty-four hundredths (675.34) feet; thence Northerly parallel with the North and South one-quarter (1/4) line of said Section twenty-five (25) three hundred twenty-two and fifty hundredths (322.50) feet to the East and West one-quarter (1/4) line of said Section twenty-five (25); thence Westerly along said East and West one-quarter (1/4) line of said Section twenty-five (25) eighty-one and thirty-four hundredths (81.34) feet; thence Northerly parallel with the North and South one-quarter (1/4) line of said Section twenty-five (25) nineteen hundred and eighty (1980) feet; thence Easterly parallel with the North line of said section twenty-five (25) thirty-three (33) feet to the centerline of Palmer Street; thence Northerly along the centerline of Palmer Street six hundred and sixty (660) feet to the South line of said Section twenty-four (24); thence Easterly along the South line of Section twenty-four (24) of the said Township of Owosso and along the North line of Section thirty (30) of the Township of Caledonia in the County of Shiawassee and State of Michigan, being Town seven (7) North Range three (3) East, Michigan, to the North one-quarter (1/4) post of said Section thirty (30), thence South along the North and South one-quarter (1/4) line of said Section thirty (30) to a point South of the North one-eighth (1/8) line of said Section thirty (30) that is at the South line of the North ten (10) acres of the South one-half (1/2) of the Northeast one-quarter (1/4) of said Section thirty (30), thence East parallel with the North one-eighth (1/8) line of said Section thirty (30) to the East line of said Section thirty (30); thence North along said East line of Section thirty (30) to the southeast corner post of Section nineteen (19) in Town Seven (7) North, Range Three (3) East, thence West along the South line of said Section nineteen (19) to the Southeast corner of the Southwest one-quarter (1/4) of the Southeast one-quarter (1/4) of said Section nineteen (19); thence Northerly along the East, North and South one-eighth (1/8) line of said Section nineteen (19) to the center of the channel of the Shiawassee River; thence running downstream along the center of the channel of said Shiawassee River to a point which is due East of the intersection of the centerlines of Jerome and Gould Streets; thence running due West to a point of intersection of the centerlines of said Jerome and Gould Streets, which point is on the North and South one-quarter (1/4) line of said Section nineteen (19); thence Northerly along the said North and South one-quarter (1/4) line of said Section nineteen (19) and the North and South one-quarter (1/4) line of Section eighteen (18) of said Township of Caledonia; thence North along said one-quarter (1/4) line to the Northeast corner of the Northwest one-quarter (1/4) of said Section eighteen (18); thence Westerly along the North line of

said Section eighteen (18) three hundred and forty-nine (349) feet; thence North Zero degrees four minutes three seconds West (N 0°04'03" W), parallel to the West, North and South one-eighth (1/8) line of Section seven (7) of said Township of Caledonia, a distance of eighteen hundred six and ninety-six hundredths (1806.96) feet; thence South eighty-nine degrees one minute twenty-nine seconds West (S 89°01'29" W), parallel to the Southerly line of said Section seven (7), a distance of nine hundred sixty-four and twenty-seven hundredths (964.27) feet to the West, North and South one-eighth (1/8) line of said Section seven (7); thence South Zero degrees four minutes three seconds East (S 0°04'03" E), along said West, North, and South one-eighth (1/8) line of said Section seven (7), seven hundred thirty-nine and seventy-four hundredths (739.74) feet; thence South eighty-nine degrees one minute twenty-nine seconds West (S 89°01'29" W), parallel with the Southerly line of said Section seven (7), a distance of four hundred ninety-five and sixty-six hundredths (495.66) feet; thence South Zero degrees four minutes three seconds East (S 0°04'03" E), parallel with the West, North and South one-eighth (1/8) line of said Section seven (7), seven hundred thirty-seven and twenty-two hundredths (737.22) feet; thence North eighty-nine degrees one minute twenty-nine seconds East (N 89°01'29" E), parallel with the southerly line of said Section seven (7), seventy-three and sixteen hundredths (73.16) feet; thence South Zero degrees four minutes three seconds East (S 0°04'03" E), parallel with the West, North and South one-eighth (1/8) line of said Section seven (7), two hundred and ninety-seven (297) feet to the North line of North Street; thence East along said North line seventy-five (75) feet; thence South thirty-three (33) feet to the centerline of North Street which if the Northerly line of Section eighteen (18) of said Township of Caledonia; thence Westerly along the Northerly line of Section eighteen (18) of the Township of Caledonia and the Northerly line of Section thirteen (13) of the Township of Owosso in the County of Shiawassee and State of Michigan, being Town seven (7) North of Range two (2) East, Michigan, to the intersection of the centerlines of Washington and North Streets; thence Northerly along the centerline of Washington Street to the South, East and West one-eighth (1/8) line of Section twelve (12) of said Township of Owosso at a point sixteen hundred, ninety-one and ninety-one hundredths (1691.91) feet East of the Northwest corner of the South one-half (1/2) of the Southeast one-quarter (1/4) of said Section twelve (12); thence Westerly along the said South, East and West one-eighth (1/8) line of said Section twelve (12) to the East, North-South one-eighth (1/8) line of said Section twelve (12); thence North along said one-eighth (1/8) line two hundred thirty-one (231) feet; thence North eighty-six degrees fifty-six minutes fifty-five seconds West (N 86°56'55" W) to the North-South one-quarter (1/4) line of said Section 12, thence South along said one-quarter (1/4) line to a point one hundred fifteen (115) feet South of the South East and West one-eighth (1/8) line of said Section twelve (12); thence East thirty-five (35) feet to the East right-of-way line of State Highway M-47 now M-52; thence South along said East right-of-way line sixty (60) feet; thence South eighty-seven degrees fourteen minutes fifty-three seconds East (S 87°14'53" E) seven hundred ninety-five (795) feet; thence North two minutes eleven seconds West (N 2'11" W) one hundred seventy-five (175) feet; thence East one hundred thirty-five and twenty-six hundredths (135.26) feet to the West line of North Water Street; thence South six hundred thirty-two and forty-two hundredths (632.42) feet to the centerline of Wesley Drive; thence Easterly along the centerline of Wesley Drive three hundred twenty-nine and sixty-six hundredths (329.66) feet; thence South three hundred and twelve (312) feet; thence East one hundred thirty-three and seventy hundredths (133.70) feet; thence South three hundred sixty-two and ninety-five hundredths (362.95) feet to the centerline of North Street, the South line of said Section twelve (12) of said Township of Owosso; thence West along said South line of Section twelve (12) to the East, North-South one-eighth (1/8) line of said Section twelve (12); thence North along said one-eighth (1/8) line three hundred twenty-nine and ninety-five (329.95) feet; thence West one hundred twenty-nine and eighty hundredths (129.80) feet; thence South parallel with said East one-eighth (1/8) line three hundred twenty-nine and ninety-five hundredths (329.95) feet to South line of said Section twelve (12); thence Westerly along the Northerly lines of Sections thirteen (13) and fourteen (14) of the Township of Owosso, to the Northwest corner of the Northeast one-quarter (1/4) of said Section fourteen (14); thence Southerly along the

North and South one-quarter (1/4) line of Sections fourteen (14) and twenty-three (23) of the said Township of Owosso to a point four hundred sixty-eight and thirty hundredths (468.3) feet North of the center of said Section twenty-three (23); thence South eighty-eight degrees fifty-three minutes thirty seconds West (S 88°53'30" W) one thousand three hundred twenty-six and seventy hundredths (1326.70) feet to the West one-eighth (1/8) line of said Section twenty-three (23); thence South along said one-eighth (1/8) line to said East-West one-quarter (1/4) line; thence East to the center of said Section twenty-three (23); thence South to the place of beginning.

Also those lands annexed as described below:

Beginning at a point 2 rods east and 30 rods 7 1/3 links north of the south 1/4 post of section 18. in T7N.R3E. Caledonia township, Shiawassee County, Michigan; thence east parallel with the south line of said Section 12, 39 chains; thence north parallel with the north and south 1/4 line to a point 20 rods due south of the south line of the extension of Oliver Street; thence westerly parallel with the extension of the south line of Oliver Street to a point 2 rods east of the north and south 1/4 line and thence south to the place of beginning, containing 10 acres of land, more or less.

Also, beginning eight hundred fifteen (815) feet east and six hundred sixty (660) feet South of the North 1/4 post of Section 25, T7N. R3E.; thence South eighty-nine degrees twenty minutes East (S 89°20' E) four hundred eighty and forty-one hundredths (481.41) feet to the East one-eighth (1/8) line of said Section 25; thence South zero degrees six minutes East (S 0°6' E) along said one-eighth (1/8) line eight hundred fifty-one and fifty-four hundredths (851.54) feet; thence North eighty-nine degrees twenty-eight minutes West (N 89°28' W) six hundred thirty-three and ninety-two hundredths (633.92) feet; thence North five hundred eighty-seven and twenty-eight hundredths (587.28) feet; thence East one hundred fifty-five (155) feet; thence North two hundred sixty-six (266) feet to the point of beginning.

EXCEPT the following:

A triangular parcel of land lying on the East R.O.W. line of Highway M-52 and part of the Northwest Quarter (NW 1/4) of Section 25, T7N, R2E, Michigan described as: Commencing at the North Quarter post of said Section 25; thence South along North and South Quarter line of Section 25; 297' to the place of beginning; thence West parallel to the North line of Section 25 to the intersection of the East R.O.W. line of Highway M-52 (formerly M-47); thence Northeasterly along this 5°00' (arc definition) curve to the intersection of the North and South Quarter line of Sec. 25; thence South along this Quarter line to the place of beginning.

SCHEDULE

Section 1. Purpose and Status of Schedule Chapter.

The purpose of this schedule chapter is to provide for the transition of the government of the city to that under this charter. It shall constitute a part of this charter only to the extent and for the time required to accomplish that end. Sections 2, 3, and 4 of this schedule chapter shall take effect and be operative on and after February 6, 1964. The balance of this Schedule chapter shall take effect and be operative on April 9, 1964.

Section 2. Election to Adopt Charter.

- (a) This charter shall be submitted to a vote of the qualified electors of the territory comprising the

City of Owosso at the regular city election to be held on Monday, April 6, 1964, between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law.

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

(c) If so adopted, this charter shall take effect and become law at 12:01 o'clock a.m., on Wednesday, July 1, 1964, except as otherwise provided herein, thereby superseding in all respects, except as provided otherwise in this Schedule, the charter of the city adopted by the electors of the city on November 5, 1913.

Section 3. Form of Ballot.

The form of the question on submission of this charter shall be as follows:

Shall the proposed charter of the City of Owosso drafted by the Charter Commission which was elected November 12, 1963, be adopted?

Yes No

Section 4. Election of First Officers under Charter.

At a special city election to be held on May 26, 1964, there shall be elected by the city at-large seven Councilmen from candidates for such offices who are eligible under the provisions of 4.2(a) and 4.3 of this charter and who have qualified as such according to the provisions of 13.7, 13.8, and 13.9 of this charter excepting that the petitions therefor shall be filed with the Clerk not later than 5:00 o'clock p.m. on the 27th day of April, 1964. No primary election shall be held in connection with the election of such officers. The seven candidates for the office of Councilman who receive the largest number of votes cast by the electors of the city shall be deemed to have been elected to that office. The three Councilmen who receive the largest number of votes cast for such office shall hold office until the Monday following the regular city election held in the year, 1968. The remaining four Councilmen shall hold office until the Monday following the regular city election held in the year, 1966.

Section 5. First City Council.

(a) The Council elected under the provisions of Section 4 of this chapter, shall meet at 7:30 p.m., on the first day of June following their election, take their oaths of office, and organize by selecting a Mayor and a Mayor Pro-Tem.

(b) During the month of June, 1964, the Council shall undertake to find a proper person to fill the office of City Manager,[.] After July 1, 1964, and until a City Manager assumes the duties of his office, the Council may appoint an acting City Manager.

(c) Beginning at 12:01 a.m. on July 1, 1964, the said Council shall constitute the governing body of the city and shall assume and perform its full duties under the provisions of this charter.

(d) The Council shall have power to make adjustments in the budget of the city for the city's fiscal year commencing on July 1, 1964, to conform with the requirements of this charter, within the tax requirements of such budget and the anticipated revenues of the city.

Section 6. Administrative Officers.

From and after July 1, 1964, the persons then holding the administrative offices designated in Section 7.1 of this charter, shall continue in such offices as though appointed under the provisions of this charter and shall perform their several duties and, in all respects, be subject to the provisions thereof. In the appointment of other administrative officers and employees of the city prior to July 1, 1965, the provision of Section 4.3(b) shall not apply.

Section 7. Meetings of Council under Charter.

Until otherwise provided in accordance with Section 5.4(a) of this charter, the Council shall hold its regular meeting at 7:30 p.m., on the first and third Monday of each month.

Section 8. Effects and Property of Terminated Offices.

All records, books, working papers, money, effects, and property in the custody, possession, or control of any board or office ceasing to exist on July 1, 1964, or which are the property of the city or which were necessary to or were obtained as a part of the performance of the duties of the office, or in any way pertain to the duties of such board or office shall be delivered to the Clerk, forthwith, after the duties of such board or office terminate.

Section 9. Municipal Court.

The Municipal Court established by this charter, having been in existence prior to the adoption of this charter by operation of law, shall be and remain the Municipal Court of the city, subject to the provisions of this charter. The Municipal Judge and the Associate Municipal Judge who held such offices at the time this charter became effective shall continue in such offices until the end of the terms for which they were elected, and until their successors are elected and assume their offices under the provisions of this charter.

Section 10. First Constable under Charter.

The Constable of the city who held that office on the effective date of this charter shall continue in such office under and subject to the provisions of this charter as though he had been appointed in accordance with its provisions. His compensation shall be that which was set for his office on the effective date of this charter, until otherwise provided under authority of law.

Section 11. Compensation of Officers and Employees.

The compensation of administrative and judicial officers and employees of the city, as established at the time this charter became effective, shall continue as the compensation of such officers and employees, until otherwise provided under authority of law.

Section 12. Council Action.

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

Section 13. Interim Civil Service Board.

(a) All full time permanent employees of the city who were so employed on the effective date of this charter shall remain as employees of the city, subject to the provisions of this charter.

(b) In order to protect the full time permanent employees of the city who were in the employ of the city on the effective date of this charter and those who become employees prior to the adoption of the Civil Service Plan ordinance against unmerited or political discharges, transfers, or demotions, an Interim Civil Service Board is hereby created, to be composed of seven persons having the qualifications and being appointed as set forth in Section 7.15(d) of this charter. If any discharged, transferred, or demoted full time permanent employee shall, within ten days after he shall receive notice thereof, make written application to the Interim Civil Service Board for a hearing thereon, such discharge, transfer, or demotion shall thereupon become provisional. Such application shall be filed with the Clerk, who shall, forthwith, notify the Board and the person making such discharge, transfer, or demotion. Within five days after such notice by the Clerk, the person making such discharge, transfer, or demotion shall file with the Clerk a statement, in duplicate, of his reasons for such action. The Clerk shall, forthwith, furnish one copy of such statement to the affected employee. The employee affected may, within ten days after receiving such statement, file with the Clerk an answer thereto. The Clerk shall, thereupon, file the written appeal and the statement and answer of the parties with the chairman of the Board, who shall convene the Board within fifteen days for the purpose of holding a hearing on such appeal, based upon the facts and circumstances set forth in the statement and answer filed by the parties. Within ten days after the completion of such hearing the Board shall make a determination in the matter. If such Board shall deem that any person has been discharged, transferred, or demoted unjustly or for political reasons, it shall order such person restored to the position from which he has been discharged, transferred, or demoted and such person shall thereupon be entitled to reassume such position and be entitled to his pay therefor from the date of his discharge, transfer, or demotion.

(c) The members of the Interim Civil Service Board to be chosen by the members of the Police Department, the Fire Department, and the general employees of the city shall be chosen on or before July 31, 1964, in the same manner as the representatives of the said employee groups are chosen thereby for the Board of Trustees of the Retirement System of the City of Owosso.

Section 14. Vested Rights and Liabilities.

After the effective date of this charter, the city and all its agencies shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of the previous charter. No right or liability, contract, lease or franchise, either in favor of or against the city, existing at the time this charter became effective, and no suit or prosecution of any character, shall be affected in any manner by any change resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All taxes, debts, and liabilities, due to the city from any person, and all

finances and penalties, imposed and existing at the time of such change, shall be collected by the city. All trusts, established for any municipal purpose, shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Owosso held on the 6th day of February, 1964, at the usual meeting place of the Commission the following members of the Charter Commission were present: Commissioners Himburg, Hoddy, Lyons, Miner, Montague, Roth, Towne, Trezise, and Woodbury.

At such meeting the following resolution was offered by Commissioner Himburg and seconded by Commissioner Hoddy.

Resolved, That the Charter Commission of the City of Owosso does hereby adopt the foregoing instrument as the proposed charter of the City of Owosso and the Clerk of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.], as amended, for his approval.

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

Ayes: Nine

Nays: None

Absent: None

G. A. VanEpps

Clerk of The Charter Commission of the City of Owosso, Michigan

Attested by the following Commissioners:

James S. Miner

R. Douglas Trezise

Eugene G. Lyons

Leon A. Montague

Joseph R. Woodbury

Samuel W. Roth

Ralph E. Towne

Gerald L. Hoddy, Vice-Chairman

W. P. Himburg, Chairman

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

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
Lansing

George Romney
Governor

I hereby approve the foregoing Charter of the City of Owosso, Michigan.

George Romney
Governor of the State of Michigan

Dated March 31, 1964 11:18 A.M.

Statement Of The
Charter Commission

To the People of Owosso:

In accordance with your instructions of November 12, 1963, when you voted for charter revision, we have drafted a revised charter for the City of Owosso, embodying a change in form of government, and herewith submit it for your consideration.

Effort was made to have the charter brief and clear, to give the city every permitted home rule power, to limit rigidly those powers it seems should be limited, to leave flexibility in the exercise of powers where flexibility appeared advantageous.

The plan of government is simple and logical. Responsibility is clearly fixed at every point and, where responsibility is placed, proportionate authority is granted.

To facilitate clear understanding of the proposed charter, we summarize as follows its more important provisions:

GOVERNMENTAL STRUCTURE

The people elect a Council of seven members, upon whom is placed the responsibility of governing the city.

The Council appoints a City Manager, who is the chief administrative officer of the city government, under the Council, and upon whom is placed the responsibility for efficient operation of the administrative service.

Other officials appointed or confirmed by the Council are: members of the Board of Review, the city's representatives on the Board of Supervisors, a Mayor, a City Clerk, Treasurer, Assessor, and other needed officers. The Mayor, chosen from the Council's membership, serves as presiding officer of the Council and as ceremonial head of the city government. The duties of the Council are chiefly legislative and policy determining. The compensation of its members is nominal, since they are not administrative officers under this charter.

The City Manager is given adequate authority, including appointment and removal of administrative officers, subject to Council approval and review.

The Council is free to hire the best City Manager available, paying such reasonable salary as his capabilities command, and is equally free to dismiss him at any time if not satisfied with his performance. The field from which he may be chosen is defined and while he need not be a resident of the city or the state at the time he is selected, he must become a resident within a reasonable time.

MUNICIPAL COURT

Our present municipal court is continued unchanged and may handle cases up to \$1,000. The municipal judge is elected by the people.

ELECTIONS

Regular non-partisan city elections are held the first Tuesday in April of each even numbered year. Candidates for Councilmen seek office by petition, or a petition may be filed by friends. If more than twice the number of candidates file than there are persons to be elected to an office (that is, more than 2 for Municipal Judge, or more than 8 for the office of Councilman) a primary election is held to reduce the number to 2 and 8, respectively, so that each person elected to a city office shall have received a clear majority of the votes cast for his office. The terms of Councilmen are so arranged that a majority of Council must be elected every two years.

FINANCE--TAXATION--BONDS

Greatest care was taken in preparing the provisions relating to finance, taxation, and the issuance of bonds, so that the city might possess all rightful powers, but with the people's interest carefully safeguarded. Authority to issue bonds without the approval of three-fifths of the electors is strictly limited by State law.

Not because we believe it the ultimate answer to the vexations [vexatious] taxation problem, but rather because it has so long been established in the existing charter we have included in this new charter the fifteen-

mill limitation on taxation contained in the present charter. The Charter Commission feels that any change in the tax limitation should be by a direct vote of the people and should not be a part of a package in a new charter.

BUDGET

Under the proposed charter, an itemized annual budget, prepared by the City Manager shall be considered at a public hearing, after notice to the public and filing at the City Library, and will be passed upon finally by the Council. Under the existing form of government, in which the commissioners are administrators as well as legislators, a budget is worked out by the Mayor, and each Commissioner has his attention on his own department and functions. Under the proposed charter, the City Manager will present a correlated budget and the Council will review and adopt it on the basis of a city wide and overall interest.

RETIREMENTS--PENSIONS

It is the intent of the chapter on retirements and pensions to preserve the present pension plans of the city. This has been done by writing the present plans into the charter. The only changes in the pension plan are changes in wording to make it conform to the style of the charter and those recommended by the actuary to conform to modern practice. Minor changes had to be made to comply with the new State Constitution. The city's consulting actuary advises the Charter Commission that these changes do not change the rights of employees in a pension for their years of work for the city as they have existed in the past but, rather, strengthen and clarify these rights.

CIVIL SERVICE

The Charter Commission has protected every appointive officer and employee of the city in the position held by him. To this purpose, both groups are protected by the availability of public hearings at their request, if there has been any unmerited discharge, demotion, or disciplinary action. The Council is required to adopt a civil service plan for all employees within one year after the effective date of the charter.

PUBLIC UTILITIES--FRANCHISES

Every care was taken to safeguard fully the people's rights in the granting of public utility franchises, and at the same time to avoid such drastic restrictions as might work to the city's disadvantage. No irrevocable franchise may be granted except by a 3/4 vote of the people, and exclusive franchises are prohibited. Thirty years is fixed as the maximum life of a franchise, but the Council and the people may limit them to any shorter terms, as circumstances at the time may dictate. Because the right of municipal ownership of public utilities is satisfactorily provided by state law and is among the powers vested in the city, it was not repeated in detail in this charter, except by a general reference thereto.

INITIATIVE--REFERENDUM--RECALL

The initiative, the referendum, and the recall are preserved. Exercise of any of these rights is cumbersome and costly, but there always is a possibility that at some time resort to one or another of them may be justifiable.

OPEN RECORDS--PUBLIC MEETINGS

In the proposed charter, the early American "town meeting" rights are preserved. All city records are open to public inspection. The public may attend and voice opinions at both special and regular council meetings, which must be held at a time and place convenient to the public.

NEW STATE CONSTITUTION

In the drafting of this charter, the Charter Commission has been aware of the adoption of the new Michigan Constitution. In so far as the Constitution, itself, affects the provisions of city charters, the Charter Commission has endeavored to comply with its provisions. The Charter Commission is and has been aware of the fact that implementing legislation has been passed and will be required to make such Constitution fully effective. In so far as such implementing legislation is known and could be foreseen by the Charter Commission from information available to it, every effort has been made to make this charter conform thereto or to include the intent and purposes thereof.

CONCLUSION

Your Charter Commission has followed as much as possible the excellent work of the 1956 Charter Commission. We do, however, feel that we have improved the instrument and brought it into line with the progress in local government ideas and statutory requirements of the mid-1960's.

You are requested to pass judgment upon this proposed new charter in its entirety, and not allow disapproval of some particular provision to cause rejection of the whole.

Perfection is not claimed, but we are convinced this charter offers the best governmental machinery that has been evolved for a city of Owosso's size and needs. Should any provision of the charter fail to live up to the expectations of the people and of the Charter Commission, the procedure for amending the charter is relatively simple and democratic. Amendments to this charter may be presented by the Council or by popular petition and are voted by the people, themselves, under our Michigan law.

Your thoughtful consideration to the provisions of this charter is requested by your Charter Commission and your vote of approval is recommended at the election on its adoption on April 6, 1964.

THE OWOSSO CITY CHARTER COMMISSION

Eugene G. Lyons

James S. Miner

Leon A. Montague

Samuel W. Roth

Ralph E. Towne

R. Douglas Trezise

Joseph R. Woodbury

Gerald L. Hoddy, Vice Chairman

William P. Himburg, Chairman