

# **Charter**

**CITY OF FRANKFORT**

**Adopted May 20, 1935**

**Amended**

**November 7, 1950**

**Revision Adopted By The Electorate**

**May 20, 1980**

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## **PREAMBLE**

WE, the people of the City of Frankfort, Benzie County, pursuant to the authority granted by the Constitution and laws of the State of Michigan, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, do ordain and establish this Home Rule Charter for the government of our City, which was incorporated as a Home Rule City on March 11, 1935 By Authority of 1909 P.A. 279, as amended.

## **CHAPTER I NAME AND BOUNDARIES**

### **Section 1.1 - Name of City**

This municipal corporation shall be known as, and exist as a body corporate under the name "City of Frankfort".

### **Section 1.2 - Boundaries**

A. All the land situated in the township of Crystal Lake, County of Benzie, known and described as follows, to wit; Lots two, three and four of section twenty-one, the southeast quarter of the northeast quarter of section twenty-one, the south half of the north half of section twenty-two, the south half of section twenty-two; lots one, two, three and four of section twenty-seven, the northeast fractional quarter of section twenty-eight, being situated in township number twenty-six north, of range number sixteen west.

B. The City shall embrace the territory constituting the City of Frankfort on the effective date of this Charter, together with such annexations thereto and less such detachments therefrom as may be made thereafter. Upon annexation or detachment of territory, the boundary shall be deemed changed without amendment of this Charter.

C. The City Clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the City.

### **Section 1.3 - Ward**

The City of Frankfort shall consist of one single ward. The Election Commission shall establish election precincts as required by law.

## **CHAPTER II GENERAL MUNICIPAL POWERS**

### **Section 2.1 - Powers of the City**

A. **General Powers.** Unless otherwise provided or limited in this Charter, the City shall possess and be vested with all the powers, privileges, and immunities, expressed or implied, which cities are permitted by State law to exercise or to include in their charters.

B. **Specific Powers.** Officers and members of boards and commissions of the City shall possess and be vested with all the powers, privileges, immunities, and duties,

expressed or implied, by State law, in addition to the powers, privileges, immunities, and duties prescribed by this Charter or by ordinance.

### **Section 2.2 - Exercise of Powers**

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City or its Officers, the City Council shall prescribe a procedure by ordinance for the exercise thereof, subject to such limitation as may be imposed by law. Where a particular method or mode for exercising a power is made mandatory by law, then such law shall govern. Where alternative procedures or modes are found in different laws, the City Council shall adopt, by ordinance, the procedure which it deems most expedient and to the best advantage to the City and its inhabitants.

## **CHARTER III ORGANIZATION OF GOVERNMENT**

### **Section 3.1 The City Governing Body**

The City Council shall consist of five councilmen, one of whom shall also serve as mayor. The Council shall have the power and authority, except as limited in this Charter, to exercise all legislative powers conferred upon the City by the Constitution and General Laws of the State of Michigan and by this Charter. Members of the Council shall serve until their successors are elected and qualified as provided for in this Charter.

### **Section 3.2 - Qualifications**

The members of the Council shall meet the eligibility requirements as set forth in Chapter 7 of this Charter.

### **Section 3.3 - Qualifications of Members, Judge of**

The Council shall be the judge of the qualifications of its own members, subject only to review by the courts on facts and law.

### **Section 3.4 - Terms of Office**

The government of the City, and all the powers thereof, except as otherwise provided by this Charter or State Law, shall be vested in a council of five members, one of whom shall also serve as mayor. At the election in 1981, the electors shall be entitled to vote for not more than three candidates for the position of councilman. The two candidates with the first and second highest number of votes respectively shall be declared elected for a four year term ending in 1985, and the candidate with the third highest number of votes shall be declared elected for a two year term ending in 1983. At the election in 1983, and each subsequent election, there shall be elected three councilmen; the two receiving the highest number of votes shall be elected for a four year term, and the one receiving the third highest number of votes shall be elected for a two year term. No elected councilman shall serve more than eight consecutive years in office, nor be eligible for re-election or appointment to the office of councilman for a period of one year thereafter.

### **Section 3.5 - Compensation**

Each councilman and the mayor shall receive as compensation the sum of \$12.00 for each regular or special meeting attended, provided however, that neither the mayor nor any other member of the council shall be paid for attendance at more than one regular and two special meetings in any one calendar month. The mayor shall receive the additional sum of \$250.00 per year. All compensation is to be paid quarterly. The council may reimburse the mayor or any councilman for any authorized necessary expense incurred in the service of the city, provided an itemized statement thereof is submitted to the council and payment thereof is authorized.

### **Section 3.6 Organization of Council**

The Council shall, at its first meeting following the annual city elections, elect one of its members to serve as mayor and one of its members to serve as mayor pro tem and shall, by resolution, set the day and time for holding regular meetings of the Council.

### **Section 3.7 Mayor and Mayor Pro Tem**

A. The mayor shall be the executive officer of the City. He shall preside at all meetings of the city council and shall speak and vote in such matters as any other member of the council. He shall be the official head of the city for ceremonial purposes, for the purpose of military law, and for the service of legal process upon the city, and subject to the approval of the council, he shall appoint all committees of the council. He shall be a conservator of the peace and may exercise, within the City, the powers conferred upon sheriffs to suppress disorder.

B. The mayor pro tem shall act in place of the mayor, at the call of the mayor or, when on account of absence from the City, disability, or otherwise, the mayor is temporarily unable to perform the duties of his office and in case of vacancy in the office of mayor, until such vacancy is filled by the council. In the event of a vacancy or absence of the mayor and the mayor pro tem, the council shall select a temporary mayor pro tem from its membership to fill such vacancy or absence. The mayor pro tem shall continue to exercise all rights as a voting member of the council.

### **Section 3.8 - Restrictions**

Except for the purpose of investigations, the council must deal directly with the appointed city officials and the administrative services.

## **CHAPTER IV PROCEDURES, POWERS AND DUTIES**

### **Section 4.1 - Council**

All meetings will be in compliance with the Michigan Open Meeting Act No. 267 of 1976.

### **Section 4.2 - Regular Meetings**

Regular meetings of the council will be held at least once in each calendar month at the City Hall. If any time set by resolution of the council for holding of a regular meeting shall be a holiday, then such regular meetings shall be held on the next secular day which is not a holiday or on such other day as may be set by the council.

### **Section 4.3 - Special Meetings**

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 eighteen (18) hour written notice to each member of the council, served personally, or left at his usual place of residence, but any special meeting at which all members of the council are present or have waived notice thereof in writing shall be a legal meeting. Public notice of a special meeting shall be given at least eighteen (18) hours prior to the time of the meeting.

### **Section 4.4 - Business of Special Meetings**

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

### **Section 4.5 - Quorum**

Three (3) members of the council shall be a quorum. Two (2) members of the council may adjourn any regular or special meeting to a later date.

### **Section 4.6 - Rules of Order**

The council shall determine its own rules and order of business and shall keep a legislative journal of all its proceedings in the English language which shall be signed by the mayor and the clerk. A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records; except that where the vote is unanimous it shall only be necessary to so state. Each councilman present at any meeting shall vote aye or nay on all questions decided by the council at such meeting, unless excused by the unanimous consent of the members present, or in any case where the matter personally or financially affects the member not voting.

### **Section 4.7 - Vote Required**

All ordinances or resolutions shall require a majority vote of the council members in attendance at the time of the vote and, except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least three (3) members of the council.

### **Section 4.8 Compulsory Attendance**

The council may, by a vote of not less than two (2) of its members, compel the attendance of its members and other officers of the city at any regular meeting. Any member of the council or other officer who, when notified of such request for his attendance, fails to attend such meeting for reasons other than confining illness or extenuating circumstances shall be deemed guilty of misconduct in office unless excused by the council. The presiding officer shall enforce orderly conduct at meetings and any councilman or other officer who shall fail to conduct himself in any orderly manner at any meeting shall be deemed guilty of misconduct in office.

### **Section 4.9 Publication of Proceedings**

The proceedings of the council shall be published in a local newspaper in accordance with the Open Meetings Act.

#### **Section 4.10 - Specific Powers of the Council**

The power of the council shall include, but not be limited to, the following:

A. **Investigations.** The council shall have the power to inquire into the conduct of any department, office, officer, or employee of the City of Frankfort and to make investigations as to the matters in which municipality has an interest. The council, for the purpose stated herein, may summon witnesses, administer oaths, and compel the attendance of witnesses and the production of books, papers, and other evidence. Failure on the part of any officer or employee to obey such summons or to produce books, papers, and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any officer or employee to obey under the provisions of this section shall constitute a violation of this Charter, and such employee, when found guilty of such violation by a competent tribunal, may be punished by a fine not to exceed \$500.00, or imprisonment not to exceed 90 days, or both, in the discretion of the court. It is provided further that, in case of failure on the part of any person to obey such summons, or to produce such books, papers, and other evidence as so ordered, the council may invoke the aid of the Circuit Court of Benzie County in requiring obedience of such summons or production of such books, papers, and other evidence.

B. **Depository of City Funds.** The council shall have the power to select one or more depositories in which the funds of the City shall be deposited.

C. **Public Health and Safety.** Through the established departments of the city government, the council shall have the power to provide for the public peace and health and for the safety of persons and property.

D. **Streets and Alleys.** The council shall have power to establish and vacate and to use, control, and regulate the use of its streets, alleys, bridges, and public places, whether such places be located within or without the limits of the City, and the space above and beneath them. Such power shall include but not be limited to, the proper policing and supervision thereof and to the licensing and regulation or the prohibition of the placing of signs, awnings, and things which are of such nature to impede or make dangerous the use of sidewalks, upon or over the sidewalks of the City, and the licensing and regulation of the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same.

E. **Health Powers of Council.** The council shall have and exercise within and for the City all the powers and authority conferred upon Boards of Health by State Law insofar as the same is applicable and consistent with the provisions of this Charter, and may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the City's inhabitants.

F. **Plats.** No lands or premises shall be subdivided within the City unless in accordance with the terms and conditions as may be provided by ordinance, subject to any limitations imposed by State Law.

**G. Licenses and Permits.** The council shall by ordinance prescribe the terms and conditions upon which licenses and/or permits may be granted, suspended, or revoked and may require an exact payment of such reasonable sums for any licenses or permits as it may deem proper.

**H. Rights as to Property.** The council shall have the power to acquire for the City by purchase, gift, condemnation, lease, construction, or otherwise, either within or without its corporation limits, and either within or without the County of Benzie, private property for any public use or purpose within the scope of its power, whether herein specifically mentioned or not, and shall have the power to maintain and operate the same to promote the public health, safety, and welfare.

**I. Parks and Cemeteries.** The council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of all cemeteries and parks, together with the improvements thereon and appurtenances thereto, owned or hereafter acquired by the City either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the City belonging to, or under the control of, any church or religious society, or any corporation, company, or association.

**J. Restriction - Sale of Property.** The council shall not have power, unless approved by a majority of the electors voting thereon, to sell any park, cemetery, or any part thereof, or any property bordering on a waterfront. Other city property may be sold by the affirmative vote of two-thirds of the members of the council after public hearings are held in conformance with the Open Meetings Act.

**K. Marina and Airport Authority.** Initially the council shall appoint a five member commission, two for a three-year term, two for a two-year term, and one for a one-year term, with each subsequent appointment for a three-year term. All members of the Marina and Airport Authority shall be either residents of the City of Frankfort, or individuals who own at least a fifty percent (50%) interest in a business enterprise located within the City limits and who pay commercial personalty tax to the City of Frankfort by virtue of such ownership: provided, that a majority of the Marina and Airport Authority members shall be City residents. No more than one (1) member of the Marina and Airport Authority shall be selected from each of the following categories: Season user of the City Airport, season user of the Municipal Marina (including charter basin). No member of the Marina and Airport Authority shall be a member of the City Council. The airport and marina managers and the Chief of Police will be ex-officio members of this commission. This commission will be called the Frankfort Marina and Airport Authority, and will establish and oversee rules and regulations under with the marina and airport facilities will be operated and maintained safely without environmental abuse, for the benefit of the public morals, peace, health, and general welfare of the residents of the City of Frankfort.

**L. City Planning Commission.** The council may appoint a City Planning Commission in accordance with the provisions of State Law relating to such boards or commissions, and provide for the making of a comprehensive plan for the City.

## **CHAPTER V LEGISLATION**

### **Section 5.1 - Prior Legislation**

All by-laws, ordinances, resolutions, rules, and regulations of the City of Frankfort which are not inconsistent with this Charter and which are in force and effect on the effective date of this Charter shall continue in full force and effect until repealed or amended.

### **Section 5.2 - Ordinances and Resolutions**

All legislation of the City of Frankfort shall be by ordinance or by resolution. The word "Resolution" as used in this Charter shall be the official action of the council in the form of a motion and such action shall be limited to matters required or permitted to be done by resolution by this Charter, or by State or Federal law, and to matters pertaining to the internal affairs or concerns of the City government. All other acts of the council and all acts carrying a penalty for the violation thereof shall be by ordinance. Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than three (3) members of the council. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the council shall be: "The City of Frankfort Ordains:" Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the council at the same meeting at which it was introduced. No ordinances shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length.

### **Section 5.3 - Publication and Effective Date of Ordinance**

Before an ordinance may become operative, it shall be published in a legal newspaper to be selected by the council which is generally circulated in the City. The effective date of the ordinance shall be stated therein but shall not be less than ten (10) days after publication unless the council shall, upon attaching a declaration of emergency affecting the public peace, health, or safety, fix an earlier date, but no ordinance shall take effect until after publication thereof. Immediately after such publication the clerk shall enter in his records a certificate of publication made by the printer of the newspaper or by some person of the newspaper in which such publication was made. The certificate of publication of ordinances shall be entered in "The Ordinance Book" in the blank space which shall be left for such purpose just following the ordinance to which it refers. Such certificate shall be prima facie evidence of the due publication of such notice, proceedings, or ordinance.

### **Section 5.4 - Ordinance Record**

All ordinances when enacted shall be recorded by the clerk in a book called "The Ordinance Book", and it shall be the duty of the mayor and the clerk to authenticate such record by their signatures.

### **Section 5.5 - Technical Codes**

All technical codes and other ordinance subject matter which are, or may be permitted by law to be, adopted by reference shall be adopted and published in the manner permitted and required by law.

### **Section 5.6 - Initiative and Referendum**

An ordinance may be initiated by petition. A referendum on an ordinance enacted by the council may be had by a petition filed within twenty (20) days subsequent to enactment of the ordinance as hereinafter provided.

### **Section 5.7 - Initiatory or Referendary Petitions**

An initiatory or a referendary petition shall be signed by registered qualified electors of the City in number equal to twenty-five per cent (25%) of the vote cast for the councilman receiving the highest number of votes at the last regular city election prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the clerk. No such petition need be on one paper, but may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil and shall place thereon, after his name, the date and his place of residence by a street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit, by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Any such petition shall be filed with the clerk who shall, within ten (10) days, determine the sufficiency thereof, and so certify. If found to contain an insufficient number of signatures or qualified electors of the City, or to be improper as to form of compliance with the provisions of this section, ten (10) days shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the clerk shall present the petition to the council at its next regular meeting.

### **Section 5.8 - Council Procedure on Initiatory and Referendary Petitions**

Upon receiving a certified initiatory or referendary petition from the clerk, the council shall within thirty (30) days either: (a) if it be an initiatory petition, adopt the ordinance; (b) if it be a referendary petition, repeal the ordinance; or (c) in either case, submit the proposal to the electors.

### **Section 5.9 - Submission to Electors**

Should the council submit the proposal to the electors, it shall be submitted at the next city election held for any other purpose, or, in the discretion of the council, at a special election. The result shall be determined by a majority vote of the electors voting thereon except in cases where otherwise required by law.

### **Section 5.10 - General Provisions**

The certification by the clerk of the sufficiency of a referendary petition shall automatically suspend the ordinance in question pending repeal by the council or final determination by the electors as the case may be. An ordinance adopted by the

electorate through initiatory proceedings may not be amended or repealed by the council for a period of two (2) years, and then only by the affirmative vote of not less than four (4) councilmen. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

## **CHAPTER VI ELECTIONS**

### **Section 6.1 - Qualifications**

Each person who meets the qualification of an elector of the State of Michigan or who will have such qualifications at the next ensuing regular or special election shall be entitled to register as an elector of the City of Frankfort in the voting district in which such person resides.

### **Section 6.2 - Election Procedure**

The general election laws of the State shall apply to elections except as such laws relate to political parties or partisan procedure. In any circumstances, where the application of said laws may be uncertain, the election commission shall construe the same and prescribe the procedure.

### **Section 6.3 - Regular Elections**

A non-partisan regular city election shall be held in the month of November of each odd numbered year for the election of City officers.

### **Section 6.4 - Special Elections**

Special elections shall be held when called by resolution of the council at least sixty (60) days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more special elections shall be held in any one calendar year than are allowable by State law.

### **Section 6.5 - Notice of Elections**

Notice of the time and place of holding any elections and the officer to be elected and the questions to be voted upon shall be given by the city clerk as provided for by State law.

### **Section 6.6 - Voting Hours**

The polls of all elections shall be opened at 7:00 a.m. on election day and shall remain open until 8:00 p.m. of the same day. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

### **Section 6.7 - Nominations**

The method of nomination for all candidates for the city election shall be by petition. Such petition for each candidate shall be signed by not less than twenty (20) nor more than forty (40) registered electors of the City, and shall be filed with the clerk not more than sixty (60) days and not later than 4:00 p.m. on the 40th day preceeding either a

regular or special election. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following city election. Where the signature of any individual appears on more petitions than he is permitted to sign, the signatures bearing the most recent date shall be invalidated. The clerk shall publish notice of the last day permitted for filing nominating petitions and of the number of persons to be elected to each office at least one week before, and not more than three (3) weeks before the filing deadline. The petition for the nomination of non-partisan officers shall be in a form prescribed by law. The clerk shall provide and maintain a supply of official petition forms.

### **Section 6.8 - Form and Approval of Petition**

The clerk shall accept for filing only nominating petitions containing the required number of signatures for candidates having those qualifications required for elective city officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The clerk shall forthwith determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of qualified signatures, he shall immediately notify the candidate, who may file an amended petition not later than five (5) days after the date for filing the original petition. Each petition which is found by the clerk to contain the required number of signatures shall, be marked "in order" with the date thereof, and the clerk shall so notify the candidate whose name appears thereon, in writing. All nominating petitions filed shall be open to public inspection in the office of the clerk.

### **Section 6.9 - Form of Ballot**

The form of the ballot used in any city election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any city ballot. The names of qualified candidates for each office shall be listed in a single column and shall be rotated on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the State relating to elections.

### **Section 6.10 - Election Commission**

An Election Commission is hereby created consisting of the City Clerk as chairman, the chairman of the Board of Review and a person appointed by the council who shall not be a council member. The Election Commission shall appoint the board of election inspectors for each precinct and shall have charge of all activities and duties required of it by law relating to the conduct of elections in the city. The compensation of the election personnel shall be determined in advance by the city council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

### **Section 6.11 - Canvassing of Ballots**

The votes cast at all City elections shall be canvassed in accordance with State law. The candidate or candidates, where more than one are to be elected to the same

office, who shall receive the greatest number of votes, shall be elected.

**Section 6.12 - Tie Vote**

If at any City election there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the County Canvassers shall name a date for the appearance of such candidates for the purpose of determining the election of such candidates by lot, as provided by State law.

**Section 6.13 - Recount**

A recount of the votes cast at any City election for any office or upon any proposition may be had in accordance with election statutes. Any official elected prior to a recount of the votes cast for his or her office shall hold office until and unless the recount specified herein finally determines that an error has been made which would result in another person being elected to that office.

**Section 6.14 - Recall**

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

**CHAPTER VII**

**GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL**

**Section 7.1 - Eligibility**

A. No person shall hold any elective office of the City, unless he was a resident of the City for at least six (6) months immediately prior to the date of the election at which he is a candidate. He must also have been a registered elector on the last day for filing nominating petitions for such office or prior to his appointment to fill a vacancy.

B. No person shall be eligible for any elective or appointive City office who is in default to the City within thirty (30) days prior to the last day for filing nominating petitions for such office, or within thirty (30) days prior to his appointment to fill a vacancy. The holding of office by any person who is in default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his last known place of residence by the City Clerk.

**Section 7.2 - Oath of Office**

Each elective officer of the City, before entering upon the duties of his office, and within the time specified in this Charter, shall take and subscribe to the oath of office prescribed by the State Constitution for officers of the State, which shall be filed and kept in the office of the Clerk.

**Section 7.3 - Surety Bonds**

Except as otherwise provided in this Charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement, or both, and all other officers and employees so required by the council shall, before they enter upon, the duties of their respective office, file with the City an official bond in such form and amount as the council shall direct and

approve. The official bond of every officer or employee whose duty it may be to receive or pay out money shall be conditioned that he will, on demand, pay over or account for to the City, or any proper officer or agent thereof, all monies received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, City employees and officers. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. The clerk shall be custodian of all bonds of all officers or employees.

#### **Section 7.4 - Notice of Election**

Notice of the election of any officer of the City, and of the requirement of any official bond, is to be given such officer by the clerk in writing within five (5) days after the canvass of the vote by which he was elected. If within ten (10) days from the date of notice such officer shall not take, subscribe, and file with the clerk his oath of office, or shall not execute and file with the clerk the required bond, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall extend the time in which such officer may qualify.

#### **Section 7.5 - Vacancy**

A vacancy shall be deemed to exist in any elective or appointive office when any such officer dies, resigns, is removed, or holds another elective or appointive governmental office as hereinafter states in Chapter 7.7 of this Charter, is convicted of a felony while in office, or of misconduct in office under this Charter, is judicially declared to be mentally incompetent, or if residence is a requirement of the office, moves from the City. A vacancy on the City Council shall occur if a member of the council shall miss four (4) consecutive regular meetings of the City Council or twenty-five percent (25%) of all regular and special meetings in any fiscal year of the City, unless such absence be excused by the City Council and the reason therefore entered in its proceedings.

#### **Section 7.6 - Filling Vacancies**

A. Elective Office. If a vacancy occurs in any elective office, the council shall, within thirty (30) days after the vacancy occurs, appoint a qualified elector to fill such vacancy for the unexpired term. However, if any such vacancy is not filled by appointment within the said thirty (30) days, the City Clerk shall call a special election to fill such vacancy.

#### **Section 7.7 - Restrictions Concerning Officers**

Subject to State conflict of duties statutes, no elective or appointive officer, except the Health Officer, shall be entitled to hold any other elective or appointive governmental office unless permission is first obtained from the council by an affirmative vote of three-fifths (3/5) of the council. This provision shall not prevent government employees or civil service workers from serving in City office, nor shall it prevent City officers from seeking other governmental offices while in office.

### **CHAPTER VIII APPOINTIVE OFFICERS OF THE CITY**

#### **Section 8.1 - Appointive Officers**

The appointive officers of the City shall be the City Superintendent, Clerk-Treasurer, Assessor, and Chief of Police. The council may, by ordinance, create such department heads as it may deem necessary for the operation of the City government, or may combine any such appointive offices in one or more persons in any manner not inconsistent with the provisions of the general laws of the State.

### **Section 8.2 - Appointive Officers Dismissal Procedure**

No appointive officer who has been in the service of the City for one year or more prior to the regular City election may be removed during the six months immediately following the regular City election except by a four-fifths (4/5) vote of the council.

### **Section 8.3 - City Superintendent**

The City Superintendent shall be the chief administrative officer of the City and shall be directly responsible to the council. He need not be a resident of the City at the time of his appointment, but shall become a resident within (90) days after his appointment, and shall remain so throughout his tenure of office. His duties shall be as set forth by Ordinance or Council Action and shall be as follows:

1. To supervise all public improvements, works, and undertakings of the City. He shall have charge of the construction, repair, maintenance, and cleaning of streets, sidewalks, bridges, pavements, sewers, and of all public buildings or other property belonging to the City. He shall manage and supervise all City utilities and shall be responsible for the preservation of property, tools, and appliances of the City.
2. To attend all meetings of the council, with the right to take part in discussions, but without the right to vote.
3. To prepare, present, and administer annual budgets for all departments under his control.
4. To appoint and remove all employees in departments under his control.
5. To be purchasing agent for the City.
6. To recommend to the Council for adoption such measures as he may deem necessary or expedient.

### **Section 8.4 - City Clerk-Treasurer**

The Clerk-Treasurer will supervise and perform specialized administrative and clerical work in the maintenance of the City, and be charged with the custody of all public monies of the City. The Clerk-Treasurer need not be a resident of the City at the time of appointment, but shall become one within ninety (90) days after his appointment and shall so remain throughout his tenure of office. He will perform all duties required by State law or ordinance, and will:

1. Keep and preserve the corporate seal and all official documents.
2. Supervise voter registration and conduct elections.
3. Be the clerk of the city council and record and preserve all the proceedings and resolutions of the council.
4. Countersign and register all bonds issued and all licenses granted.
5. Administer oaths of office.
6. Examine and report to the council all claims against the City with accompanying vouchers counterclaims.

7. Make payments of approved claims in the manner prescribed by resolution or ordinance and designate the budget item for which payment is to be made and shall take proper receipts.
8. Instruct, assign, and review the work of subordinate personnel assigned to his office.
9. Collect all taxes levied by the City, County, and Schools and prepare the necessary reports related to these taxes.
10. Prepare weekly payrolls.
11. Keep all accounts of the City Government and report to the Council as required.
12. Supervise billing and collecting procedures for municipal sewer and water services.
13. Be responsible for the investment of all City funds as approved by the City Council, and payment of bond issues and interest as they become due.
14. Shall compile the City budget for each fiscal year.

### **Section 8.5 - City Assessor**

The assessor shall have the qualifications of an assessing officer as provided by law. He shall be the assessing officer of the City and shall prepare all of the assessment and tax rolls of the City, both general and special. He shall perform all the duties and have all the powers required of and possessed by assessing officers under the general laws of the State.

### **Section 8.6 - Chief of Police**

The Chief of Police shall be a working member and administrative head of the Police Department, and he shall be accountable and responsible to the council for the performance of his duties. He shall perform all duties as may be prescribed for him by law, this Charter, or ordinances or resolutions of the Council.

### **Section 8.7 - Compensation and Fees**

The compensation of the appointive officers shall be fixed by the council. Except as otherwise provided in this Charter, all fees paid to any appointive officer in the performance of any duties which may be required under the ordinances of the City, this Charter, or by State law, shall belong to the City and shall be accounted for and deposited forthwith, upon receipt thereof, in a depository designated by the council. Failure to do so constitutes misconduct in office.

### **Section 8.8 - Notice of Appointment**

Notice of the appointment of any appointive officer and of the requirement of any bond to be given by any such officer shall be given him by the clerk in writing within five (5) days after his appointment by the council. If, within ten (10) days from the date of notice, such officer shall not take, subscribe, and file with the clerk his oath of office, or shall not execute and file with the clerk any bond required of him, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall extend the time in which such officer may qualify as above set forth.

### **Section 8.9 - Oath of Office**

Every appointive officer, before entering upon the duties of his office, shall take and subscribe to the usual oath of office as provided by the State Constitution for State

officers, which shall be filed and kept in the office of the Clerk-Treasurer.

### **Section 8.10 - Books and Records**

Within ten (10) days after any appointive officer has qualified for the office to which he has been appointed, his predecessor in such office shall surrender to him all books, papers, records, and other City property which may be in his custody. The failure of such predecessor to reasonably comply with this provision shall constitute a misdemeanor.

## **CHAPTER IX FINANCE AND BUDGETS**

### **Section 9.1 - Fiscal Year**

The fiscal and budget year of the City shall begin on July first of each year and end on the thirtieth day of June of the following year.

### **Section 9.2 - Budget Procedure**

On or before April 1, each City department head shall submit to the City Clerk-Treasurer, or such other officer or officers as may be designated by the council, an itemized estimate of the expenditures for the next fiscal year for the department or activities under his control. The City Clerk-Treasurer, or such officer or officers, shall compile a proposed itemized budget for the next fiscal year, and shall submit it to the council on or before the first regular meeting in May.

### **Section 9.3 - Budget Document**

A. Detailed estimates of all proposed expenditures for each department and office of the City, showing the actual expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, as compared with appropriations for the current year.

B. Statements of the bonded and other indebtedness of the City showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any.

C. Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years.

D. A statement of the estimated balance or deficit, as the case may be, for the current fiscal year.

E. An estimate of the amount of money to be raised from taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures.

F. An inventory of supplies, equipment, and materials on hand at the date of the preparation of the estimates, with the value thereof, except office supplies and other minor items.

G. Such other supporting schedules as the council may require.

### **Section 9.4 - Budget Hearing**

A public hearing on the budget shall be held before its final adoption at such time and place as the council shall direct, and notice of such public hearing shall be published at least one week in advance by the Clerk-Treasurer. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the City Clerk-Treasurer for a period of not less than one (1) week prior to such public hearing.

### **Section 9.5 - Adoption of Budget-Tax Limit**

Not later than the first Monday in June, the council shall, by ordinance, adopt the budget for the next fiscal year and shall provide, by resolution, for a levy of the amount necessary to be raised by taxation for municipal purposes which shall not exceed two percent (20 mills) of the assessed valuation of all real and personal property subject to taxation by the City.

### **Section 9.6 - Transfer of Appropriations**

After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of such money be incurred, except pursuant to the budget appropriation. The council may transfer any unencumbered appropriation balance or any portion thereof from one department fund or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund and be re-appropriated during the next fiscal year.

### **Section 9.7 - Budget control**

At the first regular council meeting of each quarter (unless requested more often by the council), the Clerk-Treasurer shall submit to the council, data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is less than anticipated, the council may reduce appropriations, except amounts required for debt and interest charges, to such degree as may be necessary to keep expenditures within the cash income. If the revenues exceed the amounts estimated in the budget, the council may make supplemental appropriations if all five of the members of council affirmatively approve the supplemental appropriations; otherwise, excessive revenue shall be carried forward as surplus to the next fiscal year.

### **Section 9.8 - Depository**

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

### **Section 9.9 - Audit**

An independent audit shall be made of all accounts of the City government annually and more frequently if deemed necessary by the council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the council may determine. An annual report of the City business shall be made available for review by the public in such form as will disclose pertinent facts concerning the activities and finances of the City government.

### **Section 9.10 - Withdrawal of Funds**

All funds drawn from the treasury shall be drawn pursuant to the authority and appropriation of the council, and upon a check signed by the mayor and ClerkTreasurer. Each such check shall specify the fund or funds from which it is payable and shall be paid from no other fund or funds.

## **CHAPTER X TAXATION**

### **Section 10.1 - Subject to Taxation**

The subjects of taxation for municipal purposes shall be the same as for the State, County, and School purposes under the general laws of the State.

### **Section 10.2 - Taxation Procedure**

Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by State law.

### **Section 10.3 - Assessment Roll**

On or before the first Monday in March of each year, the assessor shall make and certify an assessment roll of all persons and property in the City liable to taxation.

### **Section 10.4 - Board of Review**

The council shall appoint three persons who are either residents of the City of Frankfort, or, taxpayers on real property who shall constitute a board of review for all general and special tax assessments. Members of the board of review shall serve until new members are appointed by the next succeeding council, unless sooner removed by the council. No council member shall serve on the board. The assessor shall be the secretary of the board of review, shall keep a record of its proceedings, and may be heard at its meetings, but he may not be a member of the board.

### **Section 10.5 - Duties and Function of the Board of Review**

The Board of Review shall have the power to correct or amend the assessment roll and to increase or decrease any assessment or valuation of taxable property, to strike therefrom any property wrongfully listed, or add any property rightfully taxable, either on its own motion or at the request of any person. Any person considering himself aggrieved by reason of any assessment may complain thereof, either verbally or in writing to the Board. The Board may establish reasonable regulations for the conduct of its hearings, require the filing of a brief written memorandum of the arguments by those appealing to it, require any appellant to appear in person or in writing, and otherwise provide for expediting its work. The concurrence of a majority of a membership of the Board shall be necessary to decide any question. The assessor shall make any changes, additions, or corrections to the roll as directed by the Board of Review. Thereupon the Board shall complete and adopt the roll, and a majority thereof shall endorse it as provided by law. When so endorsed, the roll shall be conclusively presumed by all courts to be valid and shall not be set aside except for causes mentioned in the general laws. The omission of the endorsement or any other formality

herein prescribed shall not affect the validity of the roll. A summary report of the assessment roll shall be delivered to the county by the assessor immediately thereafter.

#### **Section 10.6 - Meeting of the Board of Review**

The Board of Review shall convene as prescribed by State laws. One of the sessions of the Board of Review shall be an evening session.

#### **Section 10.7 - Notice of Meeting**

Notice of the time and place of the sessions of the Board of Review shall be published by the clerk at least ten (10) days prior to the Board's first session. In each case where assessed value of any property is increased or any property added to the rolls by the Board, the City assessor shall give notice to the owners thereof, according to the first assessment roll, by letter mailed first class not later than midnight following the end of the session at which the board made the increase or addition. Such notice shall state the date, time, and place that the Board of Review will hear objections to the changes made by the Board of Review, which date shall not be less than five (5) days after the mailing of such notice. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereof.

#### **Section 10.8 - Endorsement of Assessment Roll**

On or before the first Monday in April, the Board of Review shall endorse the assessment roll as provided by general law. Such roll shall be the assessment roll of the City for all tax purposes.

#### **Section 10.9 - Certification of Tax Levy to Assessor**

Within three (3) days after the adoption by the council of the budget for the next fiscal year, the clerk shall certify to the assessor the amount of the tax levy fixed by the council, which the assessor shall proceed to rateably assess to each person and piece of property on the assessment roll, together with all special assessments, as well as any other amounts which the council may require under authority of State law or this Charter, or determine to be assessed or reassessed against any property or person.

#### **Section 10.10 - Collection of Taxes**

After extending the taxes on the assessment roll, and certifying to such roll in the manner required of assessing officers by State law, the assessor shall, on or before the fifteenth (15th) day of June, deliver such assessment roll to the Clerk together with a copy or duplicate thereof. The Clerk-Treasurer shall forthwith annex his warrant to the original roll directing the collection from the several persons named in such roll the several sums, or the total thereof, opposite their respective names. The taxes thus assessed shall become at once a debt to the City from the persons to whom they are assessed, and together with all charges thereon, shall on the first (1st) day of July become a lien, until paid, on the property assessed, of the same character and effect as a lien created by general law for State and County taxes.

#### **Section 10.11 - When Taxes Due**

City taxes shall be due and payable on July 1st of each year. All taxes paid on or before the 10th day of August shall be collected by the City Clerk-Treasurer without additional charge. On the first (1st) day of September, the City Clerk-Treasurer shall add to all taxes paid thereafter the maximum collection charges as provided by State law, and on the 1st day of each succeeding month beginning October 1, he shall add the maximum monthly tax delinquency charges provided by State law. Such collection charges shall not exceed the maximum allowed by State law, and shall belong to the City, and constitute a charge, and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added. If mailing of the tax bills is delayed for any reason for more than fifteen (15) days after July 1st, the application of the collection charge provided herein shall be postponed thirty (30) days or major fraction thereof of such delay. The collection fees herein provided and all penalty charges shall be credited to the general fund. In the collection of taxes on both real and personal property, the Clerk-Treasurer shall have and exercise all the powers possessed by City and Township Treasurers for the collection of taxes.

#### **Section 10.12 - Return to County Treasurer**

All City taxes on real property remaining uncollected by the City Treasurer at the end of the last day for collection of County and School taxes shall be returned to the County Treasurer in the manner and with like effort as provided by statute for returns by Township Treasurers of Township, School, and County taxes. Such returns shall include all the additional assessments, charges, and fees herein before provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be, and remain, a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the County Treasurer is no longer charged with the collection of delinquent real property taxes, such taxes shall be collected in the manner then provided by statute for the collection of delinquent Township, School, and County Taxes.

#### **Section 10.13 - State, County, and School Taxes**

For the purpose of assessing, levying, and collecting taxes for State, County, and School purposes, the City shall be considered the same as a Township, and all provisions of the law relative to the collection and accounting of such taxes shall apply. For these purposes, the City Treasurer shall perform the same duties and have the same powers as are granted and imposed upon Township Treasurers by law.

#### **Section 10.14 - Erroneous Assessment**

When there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, the error or mutual mistake is verified by the local assessing officer and approved by the Board of Review at a meeting held only for that purpose, on Tuesday following the second Monday in December, the Board of Review shall file an affidavit within 30 days relative to the errors or mutual mistake with the proper

officials who are involved with the assessment figures, rate of taxation, or mathematical computation and all official records relative thereto shall be corrected. Where the error or mutual mistake results in an overpayment or underpayment, the rebate shall be made to the taxpayer or the taxpayer notified and payment made within 30 days of the notice. A correction under this section may be made in the year in which the error was made or in the following year only.

## **CHAPTER XI BORROWING**

### **Section 11.1 - General Powers**

Subject to the applicable provisions of law, the City may borrow money for any purpose within the scope of its powers and may issue bonds or other evidence of indebtedness including, but not limited to:

- A. General obligation bonds pledging for their payment the full faith and credit of the City or authorized by a majority of the electors of the City.
- B. Special assessment bonds which are issued in anticipation of the payment of special assessments for public improvements in a special assessment district or combination thereof, which bonds may be either an obligation solely on the special assessment district or districts, or both an obligation of such district and a general obligation of the city.
- C. Revenue bonds as authorized by law.
- D. Mortgage bonds 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, or for such other purposes as may be authorized by law.
- E. Tax anticipation notes as authorized by law.
- F. Calamity bonds issued in case of fire, flood, or other calamity as authorized by law.
- G. Bonds for the City's share of the cost of local improvements which bonds may be issued as a part of, or independently of, any issue of special assessment bonds which are issued for the same improvement or improvements.
- H. Bonds for refunding the in indebtedness of the City.
- I. Time-purchase contracts authorized elsewhere herein, to the extent that the same are considered to be debts.
- J. Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the State which the City may be permitted by law to pledge for the payment of principal and interest thereof.

### **Section 11.2 - Special Assessment Collections**

All collections on each special assessment roll or combination of rolls, in anticipation of which bonds have been issued, shall be set apart in a separate fund (but not necessarily a separate bank account) and shall be used for the purpose for which levied and for the payment of the principal and interest on such bonds. If there is any deficiency in a special assessment fund to meet the payment of the principal or interest to be paid therefrom, monies shall be advanced from the general fund of the City to meet such deficiency and shall be replaced in the general fund when the special assessment fund shall be sufficient therefore.

### **Section 11.3 - Use of Borrowed Funds**

Each bond or other evidence of indebtedness shall contain on its face a statement of the purpose for which the same is issued, and no officer of the City shall use the proceeds thereof for any other purpose, except that whenever the proceeds of any bond issue, or part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of such unexpended and unencumbered funds:

- A. For an additional extension or improvement of facility or project for which the bond issue was made;
- B. For the retirement of such bond issue;
- C. If such bond issue has been fully retired or funds are segregated which are adequate for such purpose, then for the retirement of other bonds or obligation of the City;
- D. If there is no other indebtedness, or if funds are segregated which are adequate for such purpose, then for such other purposes as may be permitted by law.

### **Section 11.4 - Execution of Bonds and Bond Records**

All bonds issued by the City shall be signed by the mayor and countersigned by the City Clerk -Treasurer, and shall bear the corporate seal of the City. Said signatures may be by facsimile if permitted by law. Any attached coupons may be signed with facsimile signature of the City Clerk-Treasurer. The Clerk-Treasurer shall keep a detailed record of all bonds and other evidence of indebtedness. Upon payment of bonds or other evidence of indebtedness, the same shall be cancelled.

## **CHAPTER XII SPECIAL ASSESSMENT**

### **Section 12.1 - Power to Assess**

- A. The council shall have power to determine, with or without a petition therefore, that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessment upon the parcels or property especially benefited, and so declare by resolution. Such resolution shall state the estimated cost of the improvement, what portion of the cost shall be paid by special assessment, what portion, if any, shall be a general obligation of the City, the number of installments in which assessment may be paid, the interest to be charged, and designate the districts or land and premises upon which special assessments shall be levied.
- B. No such improvement shall be made if the owners of more than one-half (1/2) of the property to be assessed shall object thereto in writing, but if the council shall determine and declare by a resolution adopted by four-fifths (4/5) of the council that the proposed improvement is immediately necessary for the public health, welfare, and safety, such improvement may be made, and such special assessment may be levied thereof, notwithstanding such objections thereto. The whole amount to be levied upon the premises subject to special assessment shall not be limited by the assessed valuation of the property subject to such special assessment.

### **Section 12.2 - Procedure Ordinance**

The council shall prescribe by general ordinance the complete special assessment

procedure to be used, including the preparing of plans and specifications, estimated costs, the preparation, hearing and correction of the special assessment roll, the collection of special assessments, and the assessment of single lots or parcels. Said ordinance shall provide for a public hearing by the council on the necessity of making such public improvement and shall provide for a public hearing by the council on the apportionment of the roll, as well as any other matters concerning the making of improvements by the special assessment method. It shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and costs incident thereto, or in case of invalidity in whole or in part, and it shall also provide for the refund of excessive assessments.

### **Section 12.3 - Assessment Lien**

From the date of confirmation of any assessment or reassessment roll the same shall constitute a lien upon the respective premises assessed and shall also be a charge against the person to whom assessed until paid and, in case of delinquency, may be enforced by addition to any later return to the County Treasurer or regular taxes or by suit against such person.

## **CHAPTER XIII UTILITIES**

### **Section 13.1 - General Powers Respecting Utilities**

The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve enlarge, extend, repair, maintain, encumber, convey, dispose of, or sell, either within or without its corporate limits, public utilities, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, garbage disposal, and facilities for the parking of vehicles, and also to sell and deliver the products or service thereof, both within and without its corporate limits, subject to limitations provided by State law. The power to supply utility service shall include the power to purchase such services from others.

### **Section 13.2 - Control of Utilities**

The Council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control, and operation of any public utilities which the City may in any manner acquire, own or operate, and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the City by the provisions of this Charter.

### **Section 13.3 - Rates**

The council shall have power to fix such just and reasonable rates as may be deemed advisable for supplying the inhabitants of the City and others with such public utility services as the City may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted, but higher rates may be 'charges outside the corporate limits of the City.

### **Section 13.4 - Collection of Utility Charges**

The council shall provide by ordinance for the collection of all public utility charges made by the City and for such purpose shall have all the power granted to cities by Act 173, P.A., of Michigan, year 1939, and amendments thereto. When any person or persons, or any firm or corporation shall fail or refuse to pay to the City any sums due on utility bills which are covered by deposits, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

### **Section 13.5 - Accounts**

Separate accounts shall be kept for each public utility owned and operated by the City. Such accounts shall be classified and made in accordance with generally accepted municipal utility accounting practices. Charges for all services furnished to, or rendered by other City departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operations, which report shall be on file in the office of the Clerk-Treasurer for inspection.

### **Section 13.6 - Disposal of Utility Property**

Unless approved by the affirmative vote of three-fifths (3/5) of the electors voting thereon at as regular or special election, the City shall not sell, exchange, lease, or in any way dispose of any property, easements, equipment, privilege, or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the City. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any City-owned public utility which are worn out or useless, or which have been or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easement. The provisions of this section shall not extend to the vacation or abandonment of streets as provided by statute.

## **CHAPTER XIV FRANCHISES AND PERMITS**

### **Section 14.1 - General**

No franchise or grant which is not revocable at the will of the council shall be granted or become operative for a longer period than three (3) years until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths (3/5) of the electors voting thereon at such election.

### **Section 14.2 - Multi-Year Franchises**

No multi-year franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application thereof has been filed with the council, not until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk-treasurer his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered unless the

expense of holding such election, as determined by the council, shall have been first paid to the clerk-treasurer by the franchise applicant.

### **Section 14.3 - Right of Regulation**

All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the right of the City:

- A. To repeal the same for misuse or non-use, or for failure to comply with the provisions thereof;
- B. To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- C. To establish reasonable standards of service and quality to products and prevent unjust discrimination in service or rates;
- D. To make independent audit and examination of accounts at any time and to require reports annually;
- E. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- F. To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public.

### **Section 14.4 - Revocable Permits**

Temporary permits for public utilities, revocable at any time at the will of the council, may be granted by the council by resolution on such terms and conditions as it shall determine, provided that such permits shall, in no event be construed to be franchises or amendments to franchises.

### **Section 14.5. - Uses of Streets by utility**

Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its street, alleys, bridges, and public places, and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places as shall arise from its use thereof, and shall protect and save the City harmless from all damages arising from said use, and may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the City by the City and other utilities, insofar as such joint use may be reasonably practicable, and upon payments of a reasonable rental thereof; provided that, in the absence of agreement, upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and compensation to be paid thereof, which award shall be final.

### **Section 14.6 - Existing Franchises**

All franchises and permits to which the City is a party when this Charter becomes effective shall remain in full force and effect.

## **CHAPTER XV CONTRACTS AND PERMITS**

### **Section 15.1 - Power to Make Contracts**

The power to authorize the making of contracts on behalf of the City, the performance of which would not exceed three (3) years, is hereby vested in the council. After such contract has been authorized by the council, it shall be signed on behalf of the City by the mayor and City clerk-treasurer. Subject to Chapter 15.3 of this Charter, no contract shall be authorized for a longer period than three (3) years until the same shall have been referred to the people at a regular or special election and has received the approval of a majority of the electors voting thereon at such election.

### **Section 15.2 - Contract Procedure**

Purchasing and contracting procedures, including bidding procedure when it will serve the best interest of the City, shall be established by ordinance. The authority to contract in behalf of the City is vested in the council, provided that the City Superintendent shall have the power to bind the City as to routine or operational items. No materials, supplies, or public improvements costing more than \$1,000.00 shall be purchased or contracted for except after competitive prices shall have been obtained or requested, except in case of emergency, as determined by council. The council shall have the right to reject any and all bids for work or for furnishing of materials or supplies to the City. No contract shall be made with any person, firm, or corporation in default to the City.

### **Section 15.3 - Deferred Payment Contracts**

Notwithstanding Chapter 15.1, the City council may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than ten (10) years, nor shall the total amounts of principal payment under all such contracts exceed a sum permitted by law. Each such deferred payment shall be included in the budget for the year in which each respective installment is payable.

## **CHAPTER XVI MISCELLANEOUS**

### **Section 16.1 - Injuries**

The City shall not be liable to pay damages for injuries which arise out of governmental functions and shall have all the immunities from claims or damages for injury to persons or property as may be permitted by law. The procedures in regard to filing, if claims and disposition of same, shall be as permitted by law.

### **Section 16.2 - Records To Be Public**

All records of the City, except those exempted by the Freedom of Information Act, shall be public. They shall be kept in City offices except when required for official reasons, or for purpose of safe keeping, to be elsewhere and shall be available for inspection at all reasonable times.

### **Section 16.3 - Statements of City Officers**

No officer of the City shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the City. Any such representation shall be void and of no effect against the City.

### **Section 16.4 - Trusts**

All trusts established for any municipal purpose shall be used and continued in

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

### **Section 16.5 - Headings**

The chapter and section headings in this Charter are for convenience only and shall not be considered to be a part of this Charter.

### **Section 16.6 - Amendments**

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

### **Section 16.7 - Severability of Charter Provisions**

Should any provision or section, or portion thereof, of the Charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or section.

### **Section 16.8 - Appropriation of Private Property**

Private property may be taken and appropriated, either within or without the City, for any public use in connection with any acquisition, enlargement, or extension of public utilities for supplying water, light, heat, power, gas, and sewage and garbage disposal facilities, or any of them; for the purpose of opening, widening, altering, and extending streets, alleys, and avenues; for the construction of bridges, for public buildings, and for other public structures; for public grounds, parking spaces, parks, market places, and spaces; for the improvement of waters and water sources within the City; for sewers, drains, and ditches; for public hospitals and public cemeteries; and for other lawful and necessary public uses. The ownership of such property shall be acquired by the City by negotiation and purchase, or in any other manner permitted by the general laws of the State for the taking of private property for public use.

### **Section 16.9 - Anti-Nepotism**

Unless the council shall, by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the City shall be served, the following relatives of any elective or appointive officer are disqualified from holding office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-sister, half-brother, or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the City at the time of the election or appointment of said official.

### **Section 16.10 - System of Accounts**

The City shall maintain a system of accounts as required by the Uniform Accounting

System Act being Public Act 2 of 1968 or such statute as may apply.

**Section 16.11 - Annexation**

Any lands to be annexed to the City of Frankfort must be approved by a majority of the City electors voting thereon. No special election for the sole issue of voting on a proposed annexation shall be held unless the petitioning party deposits with the City clerk-treasurer sufficient monies to pay for the costs of such special election. Any annexation proceeding shall be according to State law.

**Section 16.12 - Transition**

This Charter, if adopted, shall go into effect immediately. All elective and appointive officers in office at the time of the adoption of this Charter shall continue in office as City officers under this Charter until their successors are chosen and qualified. 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 Charter, the City council shall supply the necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required thereof.

**Resolution of Adoption:**

At a regular meeting of the Charter Commission of the City of Frankfort, held on the 23rd day of October 1979, the following resolution was offered by Commissioner Thomas G. Metes:

RESOLVED, that the Charter Commission of the City of Frankfort does hereby adopt the foregoing proposed Charter for the City of Frankfort and the Secretary of this Commission is directed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, for his approval.

The resolution was seconded by Commissioner Mary Hoppock and adopted by the following vote:

Yeas: 8

Nays: 0

Absent: 1

Dorothy Hensel, Secretary of the Charter Commission of the City of Frankfort, Michigan

Attested by the following Commissioners:

Marcia Charters Steve Zackmann

Mary Hoppock Dorothy Hensel

Thomas G. Metes Robert Smith

Jack Bowen Mike Nagy

Pat Johnson

Certified to be a true copy:

Dorothy Hensel, Secretary Charter Commission

I, Alma Penfold, City Clerk for the City of Frankfort, hereby certify that the above individuals are duly elected Charter Commissioners and are qualified to so act.

Alma Penfold, City Clerk

March 27, 1980

Ms. Alma Penfold, City Clerk  
City of Frankfort  
City Hall  
Frankfort, Michigan 49635

Dear Ms. Penfold:

**City of Frankfort - Charter Revision**

Notice is hereby given of my approval of the submission of the charter revision for the City of Frankfort to the vote of the people.

Pursuant to statute, charters and amendments adopted by the electorate must be filed with the Secretary of State. For your convenience, I have enclosed an additional copy of this approval letter for inclusion in such filing.

Sincerely,

William G. Milliken, Governor