

City of Kalamazoo

City Charter



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Kalamazoo City Charter

Preamble.

We the people of the City of Kalamazoo, Michigan, in order to obtain the benefits of local self-government, to encourage direct and businesslike methods in the conduct of our municipal affairs, to conserve and utilize public values for public benefit and to promote our common welfare, do enact the following Charter:

General.

Powers of the City.

SECTION 1. The inhabitants of the City of Kalamazoo, Michigan, as its limits now are or hereafter may be established, shall continue to be a body politic and corporate, to be known as the "City of Kalamazoo," and as such shall have and may exercise all powers which now are or hereafter may be conferred upon, or reserved to, cities under the constitution and laws of the State as fully and completely as though said powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive.

City Boundaries.

SECTION 2. The following described territory is and constitutes the City of Kalamazoo, and is subject to the municipal control of said corporation: That tract of country in the township and county of Kalamazoo and State of Michigan, and bounded as follows: Beginning at a point one-quarter mile east of the quarter post on the north line of section fourteen in town two south, range eleven west, being the township of Kalamazoo; running thence south two and one-half miles to the southwest corner of the southwest quarter of the northeast quarter of section twenty-six; thence west to the southwest corner of the northwest quarter of section twenty-eight; thence north to the south-west corner of the northwest quarter of section nine and ten to the west bank of the Kalamazoo River; thence northerly along the west bank of the Kalamazoo River to a point seven chains and eighty links south of the north line of section ten to the east line of the road running north and south between sections ten and eleven; thence south along the east line of said road to the north line of Riverside Cemetery; thence east to the northwest corner of the southwest quarter of the southeast quarter of section eleven; thence south to the section line between sections eleven and fourteen; thence east along said section line to the place of beginning.

[Ed. Note: The 1918 boundaries have never been officially updated in the City Charter.]

Wards and Precincts.

- SECTION 3. (a) The City shall be divided into five wards, numbered as at present, the boundaries of which shall be as now established. The City Commission may by ordinance affirm the boundaries as now established and may by ordinance, increase or decrease the number of wards, and fix the boundaries thereof.
- (b) The City Election Commission shall establish convenient voting precincts. Until it shall otherwise determine, the voting precincts shall continue as now established.

The City Commission

Creation of City Commission.

SECTION 4. There is hereby created a City Commission which shall have full power and authority, except as herein otherwise provided, to exercise all the powers conferred upon the City and is authorized to pass all laws and ordinances relating to its municipal concerns and provide proper penalties for the violation thereof, subject to the constitution and general laws of the State and this Charter.

Composition of City Commission.

SECTION 5. The City Commission shall consist of seven members who shall be elected on a general ticket from the City at large and shall serve for a term of two years, and shall be subject to recall as hereinafter provided.

Qualifications.

- SECTION 6. (a) A person seeking the office of City Commissioner shall be a resident of and a qualified elector in the City at the time of filing for election or appointment to that office. The City Commission shall be the judge of the election and qualification of its own members, subject to review by the Courts. No member of the City Commission shall, during his or her term of office, hold any other City office unless otherwise provided in this Charter.
- (b) No member of the City Commission, or other officer, shall be interested directly or indirectly in the profits of any contract, job or work, or be financially interested directly or indirectly in the sale to the City of any land, materials, supplies, or services (other than official services). Any member of the City Commission or other officer of the city, offending against the provisions of this section shall, upon conviction thereof, be fined not more than Five Hundred (\$500.00) dollars, or be imprisoned not more than ninety (90) days, or both, in the discretion of the Court, and shall forfeit office. The prohibitions of this section shall not apply if the City Commission shall declare on its records by a unanimous vote of the members thereof, other than the member so interested, that the best

interests of the City are served in spite of a personal interest, direct or indirect.

Restriction on Powers of City Commission.

SECTION 7. Any member of the City Commission who shall have been convicted of a felony while in office shall thereby forfeit office. Neither the Commission nor any of its members or committees shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager to prevent him or her from exercising his or her judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry, the Commission and its members shall deal with the administrative service solely through the City Manager, and neither the Commission nor any member thereof shall give orders to any of the subordinates of the City Manager.

Organization and Procedure of City Commission.

SECTION 8. (a) At eight o'clock P.M. on the first Monday of November following a regular municipal election, the City Commission shall meet at the usual place for holding the meetings of the legislative body of the City, at which time the newly elected Commissioners shall assume the duties of their office. Thereafter the City Commission shall meet at such times as may be prescribed by ordinance or resolution, except that they shall regularly meet not less than once every two weeks. Special meetings may be called at any time by the Mayor or by two other Commissioners, by giving such notice to its members of such meeting as the Commission shall provide. All meetings of the City Commission shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business, and shall keep a record of its proceedings.

- (b) The member of the City Commission who received the highest number of votes for the office of City Commission at the preceding election shall be the Mayor, and the member who received the second highest number of votes for the office of Commissioner shall be the Vice-Mayor. In the event the candidate receiving the highest number of votes does not wish to serve as Mayor and the candidate receiving the second highest number of votes does not wish to serve as Mayor, the City Commission shall elect from its membership the Mayor for that term of office. In the event the candidate receiving the second highest number of votes does not wish to serve as Vice-Mayor, the City Commission shall elect from its membership the Vice-Mayor for that term of office. The Vice-Mayor shall perform all the duties of the Mayor when, on account of absence from the City or otherwise, the Mayor is temporarily unable to perform the duties of his or her office, or, in case of vacancy in the office of the Mayor, until such vacancy is filled by the City Commission.
- (c) A majority of the members elected to the City Commission shall be a quorum to do business, but, in the absence of a quorum, two or more

Commissioners can adjourn any regular or special meeting to a later date. Except as otherwise provided in this Charter, the affirmative vote of a majority of the members elected to the City Commission shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances, and upon the adoption of all such resolutions as this Charter or the City Commission by its rules shall prescribe, shall be taken by “YEA” and “NAY” votes and entered upon the record.

Salaries, Absences, Vacancies.

- SECTION 9. (a) The salary of each Commissioner shall be One Thousand Dollars (\$1,000.00) per annum, except that of the Mayor, who shall receive Fifteen Hundred (\$1,500.00) per annum.¹
- (b) For each absence of a Commissioner from a regular meeting of the Commission (unless authorized by a majority vote of the members thereof) there shall be deducted a sum equal to one percent (1%) of the annual salary of such member. Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member, unless such absence be authorized by the Commission.
- (c) In case of a vacancy in the office of City Commissioner, the vacancy of the unexpired term shall be filled by the remaining Commissioners within thirty days after such vacancy occurs; provided, however, that the affirmative vote of a majority of the remaining members shall be required to elect.

Powers of Mayor.

- SECTION 10. (a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the City. The Mayor shall have a voice and vote in the proceedings, but no veto power.
- (b) The Mayor shall authenticate by his or her signature such instruments as the City Commission, this Charter or the laws of the State shall require.
- (c) The Mayor shall exercise only such powers as the state laws, this Charter or the City Commission specifically confer.

Appointments.

- SECTION 11. (a) The City Commission shall elect a City Manager, City Clerk, City Attorney, and City Assessor, and Internal Auditor, all of whom, except as otherwise provided in this Charter, shall hold office at the pleasure of the City Commission.
- (b) The City Manager shall appoint the Directors of Departments (except the City Attorney and Internal Auditor) and, subject to the Civil Service provisions, a City Treasurer, Chief of Police, Chief of the Fire Department,

¹ Ordinance 1472 established the Local Officers Compensation Commission (LOCC) and gave this body the power to determine the salaries of the members of the City Commission. The current City Commission salaries are: Mayor - \$9,500 per annum; Vice Mayor - \$8,000 per annum; City Commissioners - \$7,000 per annum. The current salaries have been in place since 2006.

and such other officials, subordinates or clerks as may be determined by the City Commission to be necessary to properly conduct the business or public works of the City, and shall make appointments to all positions for which no other mode of appointment is provided. All such appointees, except as otherwise provided in this Charter, may be removed by the City Manager at will.

Ordinances.

Ordinance Enactment.

- SECTION 12. (a) Each proposed ordinance shall be introduced in written or printed form. The enacting clause of all ordinances passed by the City Commission shall be, "The City of Kalamazoo Ordains."
- (b) No Ordinance shall be adopted by the Commission at the same meeting at which it is introduced. It may be adopted at any following regular meeting. No Ordinance shall be amended unless such section or sections as are intended to be amended shall be reenacted.

Emergency Measures.

- SECTION 13. (a) All Ordinances, except Franchise Ordinances, passed by the City Commission shall be in effect from and after ten days from the date of their passage, except that the City Commission may by an affirmative vote of at least five of its members, pass emergency measures to take effect at the time indicated therein.
- (b) An emergency measure is herein defined to be an Ordinance for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department. In every such measure, the emergency shall be set forth in the preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be so passed.

Record and Publication.

- SECTION 14. (a) Every ordinance when passed shall be recorded by the City Clerk in a book kept for that purpose, and it shall be the duty of the Mayor and the City Clerk to authenticate said records by their official signatures thereto.
- (b) Within five days after the adoption of an Ordinance by the Commission, the same shall be published by one of the following methods:
- Said Ordinance shall be printed in full in some newspaper printed and published in said City, or said Ordinance shall be posted in the office of the City Clerk and in two other public places in the said City of Kalamazoo.
- In case an Ordinance is posted rather than printed in full in a newspaper, a notice of the enactment of the Ordinance giving the subject of the Ordinance and the places where the copies have been posted shall be printed once in one (1) newspaper published in the City.

Compilation.

- SECTION 15. (a) At least once in every two years the City Commission shall direct the publication in pamphlet form of all amendments to the Charter and all ordinances and amendments thereto which shall have been enacted since the date of the last publication of like nature, including franchises and contracts for the use of City property by public utilities privately owned.
- (b) At least once in every ten years the City Commission shall direct the compilation and publication in book form of the Charter and all ordinances, franchises and contracts for the use of City property by public utilities privately owned, or the parts thereof, then in force. The publications referred to in this section shall be certified by the City Clerk.

Enforcement of Ordinances.

Proceedings, When to be Commenced.

SECTION 16. Prosecution for the violation of the ordinances of said City shall be commenced within two years after the commission of the offense, and shall be brought within the city.

Prosecutions by Warrant.

SECTION 17. Prosecutions for the violation of ordinances of the City may, in all cases, except against corporations, be commenced by warrant for the arrest of the offender.

Proceedings.

SECTION 18. Such warrant shall be in the name of the People of the State of Michigan, and shall set forth the substance of the offense complained of and be substantially of the form, and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings and all proceedings upon the trial of the cause and in procuring the attendance and testimony of witnesses, and in rendition of judgment, and the execution thereof shall, except as otherwise provided by this Charter, be governed by and conform as nearly as may be to the provisions of law regulating the proceedings in criminal cases cognizable by justices of the peace.

Judgment.

SECTION 19. If the accused shall be convicted the court shall render judgment thereon and inflict such punishment, either by fine or imprisonment, or

both, not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with costs of prosecution. In no case shall the party complained of recover costs.

Commitment.

SECTION 20. Every such judgment shall be executed by virtue of an execution or warrant of commitment specifying the particulars of the judgment. If judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment without payment, operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprisonment is alone imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

Use of County Jail.

SECTION 21. Said City of Kalamazoo shall be allowed the use of the jail of the county of Kalamazoo for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this Charter; and any person so liable to imprisonment may be sentenced to and committed to imprisonment, in such county jail, and the sheriff or other keeper of such jail, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged.

Process, to Whom Directed.

SECTION 22. All process issued in any prosecution or proceeding for the violation of any ordinance of the city, shall be directed to the officers authorized by law to serve process from justices of the peace, or to the chief of police or any member of the police force of the City of Kalamazoo, and may be executed in any part of the state by said officers.

Pleadings, Etc., Statement of Ordinances.

SECTION 23. It shall not be necessary in any suit, proceeding or prosecution for the violation of any ordinance of the city, to state or set forth such ordinance or any provisions thereof in any complaint, warrant, process or pleading therein; but the same shall be deemed sufficiently set forth or stated by reciting its title and the date of its passage or approval. And it shall be a sufficient statement of the cause of action in any such complaint or warrant, to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of, and to allege the same

to be in violation of an ordinance of the City of Kalamazoo, referring thereto by its title and the date of its passage or approval, and every court or magistrate having authority to hear or determine the cause, shall take judicial notice of the enactment, existence and provisions of the ordinances of the city, and the resolutions of the City Commission, and of the authority of the City Commission to enact the same.

Jury.

SECTION 24. In all prosecutions for violations of the ordinances of the City, whether commenced by summons or warrant, either party may require a trial by jury. Such jury, except when other provision is made, shall consist of six (6) persons and shall be selected and drawn as provided by law for selecting and drawing juries in the Municipal Court of said City. No inhabitant of the City shall be incompetent to serve as a juror in any cause in which the City is a party or interested on account merely of such interest as he may have in common with the inhabitants of the City in the result of the suit.

Removal to Circuit Court.

SECTION 25. Any party convicted of a violation of any ordinance of the city, in a suit commenced by warrant, as aforesaid, may remove the judgment and proceedings in the circuit court for the county of Kalamazoo by appeal, or writ of certiorari; and the proceedings therefore and the bond or security to be given thereon and the proceedings and disposition of the cause in the circuit court, shall be the same as an appeal and certiorari in criminal cases cognizable by justices of the peace; and in suits to which the City shall be party, brought to recover any penalty or forfeiture for such violation, either party may appeal from the judgment, or remove the proceedings, by certiorari, into the circuit court; and the like proceedings shall be had therefore and thereon, and the like bond or security shall be given as in cases of appeal and certiorari in civil cases tried before justices of the peace, except that the City shall not be required to give bond or security thereon. The circuit court of said county shall also take judicial notice of the ordinances of the City and the resolutions of the City Commission, and of the provisions thereof.

Fines, Payment of.

SECTION 26. All fines imposed for violations of the ordinances of the city, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution, the officer or persons receiving the same shall immediately pay over the money collected to such court or magistrate. If the accused be committed, payment of the fine and costs shall be made to the sheriff, or other keeper of the jail, who shall, within thirty days thereafter, pay the same to said court or magistrate, and the court or magistrate receiving any such fine or penalty or any part thereof, shall pay

the same into the City treasury on or before the first Monday of the month next after the receipt of same, and take the Treasurer's receipt for and file the same with the City Clerk.

Suit and Penalty for Retention of.

SECTION 27. If any person who shall have received any such fine, or any part thereof, shall neglect to pay over the same pursuant to the foregoing provisions, it shall be the duty of the City Commission to cause suit to be commenced immediately therefore, in the name of the City, and to prosecute the same to effect. Any person receiving any such fine, who shall willfully neglect or refuse to pay over the same, as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

Apprehending Expenses Paid by City.

SECTION 28. The expenses of the apprehension and punishment of persons violating the ordinances and Charter of the City shall be defrayed by the City.

Security for Costs.

SECTION 29. No case or prosecution shall be commenced under any ordinance of the City until the complaining party has furnished security for costs, unless the same be commenced by order of the City Manager, the City Commission or City Attorney.

Nominations and Elections.

State Laws to Govern - Party Procedure not to Apply.

SECTION 30. The registration of voters, nominations and elections held under this Charter shall be in accordance with the general laws of the State, except as herein otherwise provided. Nothing in the laws of the State applying to party registration, enrollment or any other party procedure shall apply to registrations, nominations and elections held hereunder. The residence of an elector shall be in the election precinct in which is located his or her regular place of lodging.

Registrations.

SECTION 31. The registration and re-registration of voters shall be made by the City Clerk in accordance with the provisions therefore in the general laws of the State.

Nominations.

- SECTION 32. (a) Candidates for all elective offices in the City shall be nominated from the City at large by petitions only. The name of any elector of the City shall be printed on the ballot whenever a petition, as hereinafter prescribed, shall have been filed in his or her behalf with the City Clerk. The City Clerk shall provide uniform nominating petition blanks.
- (b) Each petition shall contain the name of the candidate, along with the address of his or her residence, and shall specify the office for which the candidate is nominated. Each elector signing such petition shall add to his or her signature the address of his or her residence and the date on which he or she signed. Each elector may sign the nominating petition of no more than seven (7) candidates for City Commission. The signatures to the nominating petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating that each signature appended thereto was made in the circulator's presence, and is the genuine signature of the person whose name it purports to be.
- (c) Each nominating petition to be valid shall contain the names of not less than fifty nor more than seventy-five qualified electors. No such petition shall be circulated more than sixty days prior to the day of election, and all such petitions shall be filed with the City Clerk not less than thirty days prior to the day of said election.

Time of Municipal Elections.

- SECTION 33. (a) A regular municipal election shall be held on the first Tuesday after the first Monday in November of Nineteen Hundred Nineteen (1919), and every two (2) years thereafter.
- (b) At each regular municipal election, there shall be elected from the City at large seven Commissioners. The City Commissioners shall serve for a term of two years, or until their successors are elected and have qualified.
- (c) Special elections may be called by resolutions of the City Commission. Said resolution shall set forth the time, purpose and place of such special election; provided, that not more than two (2) such special elections shall be called in any one (1) year.

Qualifications of Electors.

SECTION 34. The inhabitants of the City having the qualifications of electors under the constitution and general laws of the State shall be electors therein.

Central Election Board

SECTION 35.

Repealed by Section 188 adopted September 12, 1922.

City Election Commission.

SECTION 36. The City Clerk, as chairman, and the City Attorney and City Assessor, shall constitute the City Election Commission. They shall assist the clerk in establishing precincts, preparing ballots, conducting elections, selecting personnel, establishing procedures and settling disputes.

Precinct Election Board.

SECTION 37. The City Commission shall appoint for each precinct a Board of Elections. The inspectors and clerks of elections shall be residents of the City of Kalamazoo. In case of the absence of any member of the Precinct Board at the time for the opening of the polls, the vacancy shall be filled by the members of said Board there present.

City Clerk to Provide Materials.

SECTION 38. Suitable ballot boxes and the necessary supplies and materials for conducting elections shall be provided by the City Clerk.

Cost of Elections.

SECTION 39. The expense of all elections, except as otherwise provided for in this Charter, shall be paid by the city.

Publication of Notice.

SECTION 40. Notice of the time and places of holding any election, and of the officers to be elected and the propositions to be voted upon shall, except as otherwise provided in this Charter, be given by the City Clerk by publishing a copy thereof at least twice in a newspaper published or of general circulation in this city. The first publication shall be at least 10 days prior to such election. In case of a special election, the notice shall set forth the purpose and object of such special election as fully as is required in the resolution or petition calling the same. Posting of such notices may be required by the City Commission if deemed advisable by the City Commission.

Conduct of Elections.

SECTION 41. All cases of contested elections for municipal offices shall be decided by the City Commission as nearly as may be in accordance with the law of the State regulating the proceedings in cases of contested elections of State officers.

The Administrative Service.

City Manager.

SECTION 42. The City Commission shall appoint a City Manager who shall be the administrative head of the municipal government under the direction and supervision of the City Commission, and who shall hold office at the pleasure of the City Commission. The City Manager need not be a resident of the City at the time of his or her appointment. During the absence or disability of the City Manager, the City Commission may designate some properly qualified person to execute the functions of the office.

Powers and Duties of City Manager.

SECTION 43. The powers and duties of the City Manager shall be:

- (a) To see that all laws and ordinances are enforced.
- (b) Except as herein otherwise provided, to have power of appointment and removal over all administrative officials of the City subject to the Civil Service provisions.
- (c) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed.
- (d) To have general supervision over all public improvements, works and undertakings, except as otherwise provided in this Charter.
- (e) To attend all meetings of the City Commission, with the right to take part in the discussions but having no vote.
- (f) To prepare the annual budget, and keep the City Commission fully advised as to the financial condition and needs of the City.
- (g) To recommend to the City Commission for their adoption such measures as he or she may deem necessary or expedient.
- (h) To see that all accidents to City employees are reported to the State Industrial Accident Board.
- (i) To perform such other duties as may be prescribed by this Charter or be required by ordinance or direction of the City Commission.

Administrative Departments and Officers.

SECTION 44. The following administrative departments are hereby established:

1. Department of Law.
2. Department of Finance.
3. Department of Public Works.
4. Department of Public Health and Welfare.
5. Department of Public Utilities.
6. Department of Public Safety.

Directors of Departments.

SECTION 45. (a) Unless and until otherwise provided by ordinance, the City Attorney shall be Director of the Department of Law, the Director of Finance shall be Director of the Department of Finance, the City Engineer shall be Director of the Department of Public Works, and the Health Officer shall be the Director of the Department of Public Health and Welfare. The City Manager shall be the Director of the Department of Public Utilities, the Department of Public Safety, and the Department of Parks and Cemeteries.

(b) Excepting the Director of the Department of Law, who shall be appointed by and be immediately responsible to the City Commission, the director of each Department shall be immediately responsible to the City Manager for the administration of his or her department.

Scope of Departments – How Determined.

SECTION 46. The City Commission shall by ordinance determine and prescribe the functions of each department, and may create new departments, combine existing departments, and establish temporary departments for special work, when in its opinion the proper administration of the business of the City requires.

City Clerk.

SECTION 47 (a) The City Clerk shall be clerk of the City Commission. The City Clerk shall attend all meetings of the City Commission, and shall keep a permanent journal in the English language of its proceedings. The City Clerk shall keep a record of all ordinances, resolutions and regulations of the City Commission.

(b) The City Clerk shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. The City Clerk shall also be custodian of all papers, documents and records pertaining to the City of Kalamazoo the custody of which is not otherwise provided for. The City Clerk shall give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements. The City Clerk may administer all oaths required by this Charter or by the City Commission.

(c) The City Clerk shall certify by his or her signature all ordinances and resolutions enacted or passed by the City Commission and perform any other duties required by this Charter or by the City Commission.

Director of Finance.

SECTION 48. (a) The Director of Finance or other position to which these duties are assigned, shall maintain all accounts and financial records and provide budgetary controls and safeguarding of assets as prescribed by applicable

- regulatory bodies, the State of Michigan and its departments or agencies, the City Commission and the City Manager.
- (b) The Director of Finance shall have an independent audit of the financial records completed for each fiscal year in accordance with generally accepted auditing standards.
 - (c) The Director of Finance shall provide interim financial reports to the City Commission and the City Manager as prescribed by ordinance, or in such manner as the City Commission may prescribe to the City Manager.
 - (d) The Director of Finance shall perform such other duties as may be required of him/her by this Charter, by City ordinance or by the City Manager.

City Attorney.

- SECTION 49. (a) The City Attorney shall act as legal advisor to and attorney and counsel for, the municipality and all its officers in matters relating to their official duties. The City Attorney shall give written opinions to any official or department of the City when requested in writing so to do, and shall file a copy of the same with the City Clerk.
- (b) The City Attorney shall conduct for the City all cases in court whenever the City is a party thereto.
 - (c) The City Attorney shall prepare, or officially pass upon, all contracts, bonds and other instruments in writing, in which the City is concerned, and shall certify before execution as to their legality and correctness of form.
 - (d) The City Attorney shall keep in his or her office copies of all franchises granted by the City, and of all contracts and agreements entered into by or in behalf of the City (the originals of which shall be in the custody of the City Clerk), together with the proper data and information concerning the same.
 - (e) The City Attorney shall perform such other duties as may be prescribed by this Charter or by the City Commission.

City Treasurer.

- SECTION 50. (a) The City Treasurer shall have custody of all moneys, the City Clerk's bond, and all evidences of value belonging to the City, or held in trust by the City.
- (b) The Treasurer shall receive all moneys belonging to and receivable by the City, including license fees, and shall keep a correct account of all receipts and expenditures. The Treasurer shall collect all taxes, assessments and other charges belonging to and payable to the city.
 - (c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the City Commission may determine. The Treasurer shall report in detail to the Director of Finance each day all moneys collected by him.
 - (d) The Treasurer shall pay no moneys out of the treasury except in the manner prescribed in this Charter.
 - (e) The Treasurer shall have such powers and duties in regard to the collection and custody of the taxes and moneys of School District Number

One of the City and Township of Kalamazoo as may be conferred by this Charter or by the laws governing said School District.

- (f) The Treasurer shall perform such other duties as may be prescribed by this Charter or by the Director of Finance.

City Assessor.

SECTION 51. (a) The City Assessor shall possess all the powers vested in, and be charged with all the duties imposed upon, assessing officers by the general laws of the State.

- (b) The Assessor shall make and prepare all regular and special assessment rolls in the manner prescribed by ordinance and the general laws of the State.
- (c) The Assessor shall act for the City as one of the members of the Board of Supervisors.
- (d) The Assessor shall perform such other duties as may be prescribed in this Charter or by the Director of Finance.

Purchasing Agent.

SECTION 52. (a) The City Commission shall designate some officer of the City, other than the Director of Finance or Treasurer, to act as its purchasing agent, by whom all purchases of supplies for the City shall be made, and who shall approve all vouchers for the payment of the same. Said purchasing agent shall also conduct all sales of personal property which the City Commission may authorize to be sold as having become unnecessary or unfit for the City's use.

- (b) All purchases and sales shall conform to such regulations, including regulations concerning when an opportunity for competition shall be given, as the City Commission may from time to time prescribe.
- (c) Until the City Commission shall otherwise provide, the City Manager shall act as such Purchasing Agent.

Board of Health.

SECTION 53. The City Commission shall have and exercise for the City all the powers and authority conferred upon boards of health by the general laws of the State or by ordinance, so far as the same are not inconsistent with this Charter, and the City Commission may enact all ordinances deemed necessary for the preservation and protection of the health of the inhabitants of the City for preventing the introduction or spreading of malignant, infectious and contagious diseases within the City or for the removal of persons having such diseases to such proper place within or without the City limits as may be deemed necessary for the public safety. The City Commission may enact such ordinances as it may deem proper or expedient for regulating the proceedings and mode of exercising such powers and authority. The City Commission may establish, maintain and regulate suitable hospitals at places within or without the corporate limits of the city.

Health Officer.

- SECTION 54. (a) The Health Officer shall have and exercise all the powers and authority conferred upon health officers by the general laws of the State or by ordinance, and shall perform all the duties required of such officers, unless otherwise provided in this Charter. It shall be the Health Officer's duty to enforce all laws and ordinances concerning the public health. He shall have all the powers of police officers of the city.
- (b) Subject to the approval of the City Commission, the Health Officer may from time to time deal specifically with any particular problem relating to questions of health, poverty, sanitation, housing, labor, hygiene, unemployment, provident loans and legal aid, and carry on such work as may tend to promote the physical, moral or social welfare of the inhabitants of the City.
- (c) He or she shall perform such other duties as may be required by this Charter or by the City Manager.

Bond and Sinking Fund Trustees.

SECTION 55. The members of the City Commission shall constitute the Bond and Sinking Fund Trustees. They shall be charged with direct supervision and control over the issuance and sale of such bonds as may be issued from time to time for legally authorized municipal purposes, and shall manage and control the sinking funds created for the liquidation of such bonds, subject to the provisions of the general laws of the State. The sinking funds shall in no case be diverted from the purposes for which they were created.

Internal Auditor

- SECTION 56. Until further defined by the City Commission, the duties of the Internal Auditor shall include the following:
- (a) To audit any area of City operations from a financial, operational, i.e., internal control system, and compliance standpoint as he or she may deem appropriate and necessary to support a determination as to whether such operations are being conducted in accordance with established policies and procedures related thereto and in conformance with directions of the City Commission and statutes, rules, and regulations of the State.
- (b) To perform such special audits and to render reports thereon as may be directed by the City Commission.
- (c) To report to the City Commission any findings and recommendations based upon his or her routine and special audits as he or she may deem appropriate or as directed by the City Commission, but not less frequently than at the close of each fiscal year.
- (d) To be prepared to discuss with and make recommendations to the City Commission regarding audit and financial reports rendered by the Director of Finance and outside auditors engaged by the City Commission.
- (e) To perform such other duties as may be assigned or required by the City Commission.

City Planning.

SECTION 57. The City Commission may appoint a City Plan Board, and provide for the making of a comprehensive plan for the city. For such purposes it may appropriate the necessary funds and provide all needful rules, regulations and ordinances for carrying the same into effect.

Initiative, Referendum and Recall.

Initiative – Requirements of Petition for.

SECTION 58. Any proposed ordinance may be submitted to the City Commission by petition filed with the City Clerk and signed by registered voters of the City in number of not less than fifteen percent (15%) of the number of total valid ballots cast for Commissioners at the last preceding regular election, and verified by the person or persons who obtained the signatures thereto. Such verifications shall state that said signatures were obtained by the person or persons verifying the same, that the said signatures are the genuine signatures of the persons purporting to sign the same, and that the person or persons verifying such petition believe that the signers thereof are fully qualified and registered electors of the City. Said petitions shall give the residence of each of said electors signing the same by street and number, precinct and the date of signing the same. Such initiatory petition shall contain said proposed ordinance in full and a request that if said proposed ordinance be not passed by the City Commission the same shall be submitted to a vote of the electors. Said petition shall also contain any existing ordinance which would be altered or abrogated thereby.

Duty of City Clerk and City Commission.

SECTION 59. Upon filing of said petition the City Clerk shall at once ascertain and certify its number of qualified signers. If such certificate shows the required number of qualified signers, the City Commission within twenty (20) days thereafter shall either enact said proposed ordinance without alteration, or submit the proposed ordinance to the electors as hereinafter provided.

If such ordinance shall be enacted by the City Commission it shall be subject to the regulations and restrictions upon the manner of the enactment as though it had originated in the City Commission.

Submission to a Vote.

SECTION 60. If the City Commission shall determine not to enact an ordinance proposed by initiatory petition, it shall by resolution provide for its submission unamended to the electors, and shall fix the time for the

submission thereof and shall call a special election for that purpose not later than three (3) months thereafter unless a general election or a special election for another purpose is to be held in six (6) months. In such case, if a special election has not been called to vote upon such ordinance the same shall be submitted at the first regular election held thereafter. At such election all registered voters having the qualifications of electors shall be entitled to vote. If a majority of the electors voting on the question vote in favor of the proposed ordinance it shall go into effect upon the proper publication or notice as provided in Section 14 of this Charter.

Conflicting Ordinances – Which to Prevail.

SECTION 61. If the provisions of two or more ordinances, both of which were adopted or approved by the electors at the same election, whether by initiatory provision or referendum as provided in this Charter, be inconsistent, then the ordinance receiving the lesser affirmative votes shall be of no force or effect so far as it or any of its provisions are inconsistent with the other ordinance or ordinances adopted or approved.

Manner of Recalling or Amending.

SECTION 62. An ordinance proposed by petition and adopted by a vote of the electors as herein provided, shall not be recalled or amended except by a majority vote of the electors voting thereon at an election called and held under the provisions of the City Charter.

Referendum – Requirements of Petition for.

SECTION 63. If within twenty (20) days from the time of the enactment of any ordinance other than emergency measures by the City Commission, or if at any time before the same shall have been published or posted and due notice of enactment given as provided in section 14 of this Charter, a petition shall be filed with the City Clerk protesting against such ordinance taking effect and signed by registered voters of the City in number of not less than fifteen percent (15%) of the number of total valid ballots cast for Commissioners at the last preceding regular election and verified as required in Section 32 of this Charter and certified by the Clerk as required in this Charter, the same shall thereupon be suspended from taking effect; and the City Commission shall at its next regular session reconsider such ordinance and act thereon; and if the same be not entirely repealed the City Commission shall submit such ordinance by the method hereinbefore provided for referendum or ordinances initiated by petition, to the vote of the qualified electors of the City, either at the next regular municipal election or at a special election which may be called for that purpose at the discretion of the City Commission and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

The Recall of Elective Officials.

SECTION 64. Any elective officer may be removed by the qualified electors of the city, at the time and in the manner provided by the general laws of the State.

Financial Provisions.

Fiscal Year.

SECTION 65. The fiscal year of the City shall begin January 1.

Funds.

SECTION 66. All money and all other forms of personal property, and all real estate belonging to the City shall be carried in the name of the City of Kalamazoo.

The Estimate.

SECTION 67. Not later than December 1 of each year, the City Manager shall submit to the City Commission an estimate of the contemplated expenditures for the ensuing year, together with the estimated revenues for that year, and such other information as the City Commission may require.

Appropriation Resolution.

SECTION 68. On or before February 1 of each year, the City Commission shall take up, consider and pass an annual appropriation resolution to cover the expenditures as determined by the City Commission.

Receipts.

SECTION 69. All moneys shall be received by the City Treasurer regardless of the source.

Transfer of Funds.

SECTION 70. The City Commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department, or between activities.

Unused Balances.

SECTION 71. Any unused balances of appropriations at the end of the year shall revert into the general fund.

Payments.

SECTION 72. Payments by the City shall be made only upon vouchers certified to by the head of the appropriate department or other division of the City government, and by means of warrants on the City Treasurer, issued by the Director of Finance and countersigned by the City Manager.

Bonding.

General Procedure.

- SECTION 73. (a) For the purpose of making public improvements, or for any other purpose within the scope of its powers, the City Commission may issue bonds on the credit of the City in such sum or sums as it may deem expedient, subject to the limitations of this Charter and the laws of the State of Michigan at the time of such issue.
- (b) Each bond shall contain on its face a statement specifying the purpose for which the same is issued and the proceeds of any bond issue shall be used for the purpose for which the same was issued, and for no other purpose except as hereinafter specified. All City bonds shall be signed by the Mayor and countersigned by the City Clerk. The attached coupons may be signed with the printed facsimile signature of the City Clerk. The bonds shall be numbered or lettered by the City Clerk consecutively and shall be paid at maturity and cancelled, and shall not be re-issued. All bonds may be registered or unregistered. All proceedings authorizing the issuance of bonds shall be by Resolution, and nothing herein contained shall require the publication of such Resolutions.
- (c) Any bonded indebtedness, except (1) bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made, (2) bonds which the City is authorized by its Charter to issue as a part of its budget system, to an amount which in any year together with the taxes levied for the same year will not exceed the limit of taxation authorized by law, (3) special assessment bonds, (4) bonds for the City's portion of local improvements, (5) refunding bonds, and (6) emergency bonds as defined by the Home Rule Act of the State of Michigan, shall not be authorized unless approved by a majority of the electors voting thereon at any general or special election.
- (d) If necessary to meet the ordinary running expenses of city, as provided for in the budget, the City Commission, by the affirmative vote of five of its members, may anticipate the collection of taxes therefore, by loans

payable not later than August next following due date of the last installment, and such anticipated taxes when collected shall be first used in payment of such loans.

Authority.

SECTION 74. The City Commission shall, subject to the applicable provisions of the general laws of this state, have authority to borrow money for the purposes listed as exceptions in Section 73 (c) above, and to issue bonds therefore. In the case of special assessment bonds, the same may be an obligation of the special assessment district or districts or may be both an obligation of such special assessment district or districts and a general obligation of the City. All collections of special assessments in anticipation of which bonds are issued shall be set apart in a separate fund for the payment of the principal and interest of the bonds so issued, and shall be used for no other purpose except as hereinafter specified. All of the assessment installments shall bear interest at such rate not exceeding six per centum per annum, and from such date as the City Commission shall determine.

After Bonds Paid.

SECTION 75. Whenever the proceeds of any bond issue or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Commission may, by affirmative vote of five (5) members, authorize the use of such unexpended and unencumbered funds for the retirement of any other bonds or obligations of the City or the same may be credited to the general fund of the city.

Sinking Fund.

SECTION 76.

Repealed November 2, 1971. See Michigan Municipal Finance Act

General Taxation.

Subjects of Taxation.

SECTION 77. (a) The subjects of taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law, and the amount annually to be raised shall not exceed 2% (\$20 per \$1000) of the assessed valuation as equalized of all real and personal property in the City. However, during any period in which a City Income Tax is in effect within the City, said amount to be annually raised by real and personal property taxation shall not exceed 1.4% (\$14 per \$1000) of the assessed valuation of said property as equalized.

- (b) During any period in which a City Income Tax is in effect, any revenues from both the property tax and income tax which are in excess of a sum equal to 2% (20 mills, or \$20.00 per \$1,000.00) of the assessed valuation, as equalized, shall be placed in a capital reserve fund and used only for capital outlay and related debt service. Income tax revenues shall be defined as revenues actually collected less the costs of collection and refunds to taxpayers.

Time for Making Assessment Rolls.

SECTION 78. Between January 1 and the first meeting of the Board of Review in each year, the Assessor shall make and complete an assessment roll in the manner and form provided in the general tax law.

Valuing of Real and Personal Property.

SECTION 79. Said Assessor shall estimate, according to his or her best information and judgment, the true cash value of every parcel of real property and set the same down opposite such description. The Assessor shall also estimate the true cash value of all personal property of each person and set the same down opposite the name of such person.

Delivery of Assessment Roll.

SECTION 80. The Assessor shall sign and deliver the assessment roll to the Board of Review at its first meeting.

Board of Review -- Members.

SECTION 81. There shall be a Board of Review, consisting of seven (7) members, to be appointed by resolution of the City Commission, for staggered terms so that not less than two (2) members are appointed in January of each year for three-year terms to commence on the first day of February next following, as provided by general law or by resolution of the City Commission. Vacancies on said board may be filled by the City Commission at any time.

Board of Review – Organization and Procedure.

SECTION 82. The Board of Review shall meet and continue in session until the assessment roll shall have been revised, corrected and approved, as provided by general law. It shall, except as herein otherwise provided, have and exercise the powers and duties of boards of review in townships, and with like effect. It shall elect its chairman, and the City Assessor shall act as secretary. It shall be the duty of such secretary to keep permanent record of all proceedings, and to enter therein all resolutions and decisions of the board.

Notice of Meeting.

SECTION 83. The City Assessor shall give notice to the public of the time and place of meeting of the Board of Review by publication in at least one (1) newspaper published and circulated in the City at least six (6) days immediately preceding such meeting.

Powers and Duties of the Board of Review.

SECTION 84. The Board of Review shall have power and it shall be its duty to amend and correct any assessment or valuation and to place upon the assessment roll of the City any taxable property, real or personal, not already assessed, and to strike from said rolls any property, real or personal, wrongfully thereon. Any person aggrieved by reason of any assessment may complain thereof either verbally or in writing to said Board, and said Board shall review the assessment complained of, and may alter and correct the same and may in its discretion increase or decrease any assessment. The concurrence of a majority of the Board shall be sufficient to decide any question of altering or correcting any assessment complained of.

Report, Budget Review, Confirmation of Roll.

SECTION 85. When the Board of Review shall have completed its review and correction of such assessment roll, the same shall be delivered to the City Commission. The City Commission shall then review the annual appropriation resolution adopted upon the estimated revenues and expenditures as provided in Section 68 hereof, and may, in its sole discretion, revise the same, provided that the property tax revenue required to be raised shall not be increased more than five percentum over the amount thereof appearing in said resolution. The City Commission shall thereupon proceed to fully and finally confirm such assessment roll.

Lien and Persons Liable.

SECTION 86. Upon the completion of said roll and its confirmation in the manner aforesaid, the same shall be conclusively presumed by all courts to be valid and shall not be set aside except for causes in the general tax law mentioned. The City taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed and a lien upon the property against which they are assessed as of the annual tax day as to personal property and as possessors, and parties in interest to any real or personal property shall be liable for the payment thereof. In case any person by agreement or otherwise ought to pay such tax, or any part thereof, the person so named above as liable therefore, upon paying the same, may recover the amount from the person who ought to have paid the same in an action of assumpsit as for moneys paid out and expended

for his benefit, or may deduct the amount from any rent or payment due or to become due to the person who should have paid such tax.

Collection of City Taxes.

SECTION 87. Upon the completion of said rolls they shall be delivered to the City Treasurer, together with a copy of the annual appropriation resolution and a warrant from the City Commission authorizing and directing him or her to collect from the persons named in said rolls the taxes therein set forth. The taxes shall be due and payable on the 1st day of July and may be paid in twelve equal monthly installments, the first of said installments to be due and payable on the 1st day of July and the remaining eleven installments shall be due and payable respectively on the 1st day of each succeeding month thereafter, Three-fourths of one percent per month penalty, together with a collection fee of three per cent, shall be added and collected on all taxes due and remaining unpaid after the last day of the month in which any such installment shall be payable, provided that the total collection fee shall not exceed three per cent of the total tax due and payable on the 1st day of July next preceding, and provided further, that one per cent per month penalty, together with a three per cent collection fee shall be added and collected on all City taxes for the year 1934 and prior years remaining unpaid on July 1st, 1935, and thereafter such penalties on such unpaid taxes shall be added at the rate of three-fourths of one per cent per month together with said collection fee. The City Treasurer shall give notice by publication for three successive days that such taxes are due and payable the Treasurer's office. It shall thereupon be the duty of the City Treasurer to collect the taxes and other charges specified in the warrant.

Procedure Before Sale.

- SECTION 88. (a) Delinquent Taxes. Failure to pay in full any tax or assessment on real property on or before August 1 of the year following that in which the tax or assessment is due shall subject the property to all of the provisions of this Charter relating to delinquent taxes.
- (b) Preparation of List. As soon as necessary each year before the annual sale of October 15 as hereinafter provided, the City Treasurer shall, in the column provided in the tax rolls, list the amount of the unpaid real estate taxes. The total amount of the tax, together with interest and penalties applicable thereto computed to such sale day, shall be the amount required to be paid upon the sale. In the tax rolls there shall also be a column in which the Treasurer shall enter the name of the purchaser of any description when the same shall have been sold.
- (c) Publication and posting of notices. On completion of the list contained in the real property tax rolls of the unpaid taxes, and on or before September 15 of such year, the City Treasurer shall cause one notice to be published in a newspaper of general circulation in the City of Kalamazoo and posted in three or more public places therein, containing a description of the

property upon which the unpaid tax or assessment constitutes a lien, but such notice need not contain the name of the owner of such property or person obligated to pay such tax or assessment or the amount thereof. Such notice shall be equivalent to personal service, and shall state that if default be made in making such payments, the lien of the City and the claim for such tax or assessment, will be sold to the City of Kalamazoo, or if provided by resolution of the City Commission, at public auction to the highest bidder, but for not less than the amount of said assessment or tax, interest and penalty thereon, on October 15 of that year, which shall be known as "Sale Day", provided that should October 15 fall on a Sunday or legal holiday, then on the next following business day, at such place within said City as shall be designated and continuing daily thereafter until all descriptions are offered. Following the publication of such notice containing a description of the property upon which the unpaid tax or assessment constitutes a lien, a notice shall be published once a week for four consecutive weeks in a daily newspaper of general circulation in the City of Kalamazoo, stating the date of sale of the tax or assessment lien, and advising that a copy of the list of descriptions of property involved may be obtained at the office of the City Treasurer.

- (d) Duty of the Director of Finance at Sale. At every sale, it shall be the duty of the Director of Finance to bid in for the city, at the amount thereof, the tax lien on every parcel of land or premises sold, except those parcels offered for sale at public auction to the highest bidder as may be provided by resolution of the City Commission, which parcels shall also be bid in by the Director of Finance if no person shall make a bid for the same. Upon all such bids by the Director of Finance, certificates of sale may be executed by the Treasurer to the City and acknowledged in the same manner as provided herein in other cases of sale. The City shall have all the rights and remedies given in this Charter to private purchasers of tax liens. All tax liens, bid in by the City, shall be payable at any time before foreclosure thereof upon the payment of the amount of the tax with interest, penalties, costs and expenses of sale, and percentage penalty if any as herein provided.

Procedure at Sale.

SECTION 89. (a) Sale by Treasurer. If the owner or occupant of, or parties in interest in, such real estate do not pay such assessment or tax, with interest and penalties within the period herein prescribed, then the City Treasurer shall, without further notice, cause the lien of the City and the liability for such tax or assessment to be sold to the City of Kalamazoo by bid of the Director of Finance, unless it is provided by resolution of the City Commission that one or more of the same shall be sold at auction to the highest bidder thereof, but in case the sale shall be to a private bidder, it shall be for not less than the amount of said tax, interest and penalties thereon. The purchaser shall be required to pay to the City Treasurer the amount of all previous bids then held by the City, together with such interest and penalty from the time of such previous sale as the

Commission shall direct: Provided, that such interest shall not exceed the amount as provided in Section 87 hereof.

- (b) Disposition of Excess. Should any such tax lien be sold for an amount over and above the tax liability with all interest and penalty thereon such excess shall be returned to the owner of the property on which such tax or assessment by the Treasurer, or in the event of a dispute concerning the person entitled thereto, the same shall be paid by the Treasurer to the person or persons held by a court of competent jurisdiction to be entitled to such excess. If such person cannot be found within two (2) years from such sale date, such excess shall be transferred to the general fund and be subject to the escheats law of the State of Michigan.
- (c) Omitted Property. If any parcel of real estate on which the taxes shall not have been paid shall have been omitted from the list of taxes and shall not have been sold at the time herein specified or such sale, the City Treasurer shall include the same in the list prepared after the discovery of the omission, and shall sell the parcel with the same effect as if included in the list in which it originally belonged.
- (d) Certificate of Sale. The City Treasurer shall execute and deliver to the purchaser (whether City or private) of such lien and liability a certificate and assignment in recordable form setting forth the amount of such lien and liability so sold and the fact of the sale and assignment of such lien and liability to such purchaser. Such certificate shall state that the interest and penalties herein provided shall continue to accrue thereafter. Such certificate shall be regularly numbered and entered in a book kept for that purpose. The certificate may be assigned by the owner thereof, or, in case of his or her death, by the Executor of his will or Administrator of his estate, by an assignment executed with formalities required in the execution of deeds of real estate. No payment shall be made by the City Treasurer on account of any redeemed tax liability except upon delivery of said certificate or the production of satisfactory evidence of its loss and the furnishing of indemnity satisfactory to the City Treasurer. This provision as to such payment shall be stated on each certificate issued as above.
- (e) Lost Certificates. If a certificate of sale shall have been lost or destroyed, the City Treasurer shall upon submission of satisfactory evidence of such loss or destruction, issue a duplicate of the original certificate. The evidence of loss or destruction must be in writing, proved by the oath of one or more persons to the satisfaction of the Treasurer, who shall preserve the same.
- (f) Recording, Cancellations, Discharges. All certificates of sale and all discharges thereof executed as herein provided may be recorded in the same manner as conveyances of land under the laws of this State. Such certificates if not recorded in the office of the Register of Deeds, may be returned to the Treasurer and cancelled at any time. Such cancellation shall terminate all rights of the purchaser thereunder. Upon payment to the City Treasurer of the tax lien and liability on any parcel, the tax lien on which has been sold, the discharge thereof in recordable form, and such discharge shall be conclusive evidence of the payment of said tax lien as against all persons, including the holder of the certificate thereof.

Procedure After Sale.

- SECTION 90. (a) Confirmation of Sale. On the conclusion of the public auction for the sale of real estate for unpaid taxes or assessments, the City Treasurer shall report all sales affected to the City Commission, which shall proceed to examine the same, and shall confirm such as it shall find satisfactory. It shall return all others, whether found unsatisfactory in whole or in part, to the Treasurer for correction, or for re-advertising and re-sale, as may be necessary. No sale which shall have been finally confirmed by the City Commission shall thereafter be disallowed except in case the taxes shall have been paid prior to the sale, or in case the property is exempt from taxation.
- (b) Redemption Period 2 Years. When any lands, tenements and hereditaments shall be sold according to the provisions hereof, if the owners or occupants or parties in interest shall within two years after such sale deposit with the Treasurer, for the use of the purchaser, the full amount of the assessment of tax for which such real estate was sold, all taxes assessed on such property, together with interest in the amount provided in Section 87 hereof in addition thereto, the sale and any certificate issued thereon shall become void. The City Treasurer shall enter upon the tax roll or upon the proper unit card if the item has been transferred thereto, the payment of such tax, together with the date of such payment. This section shall not in any manner extend the two year redemption period.
- (c) After Redemption and Before Decree. If such real estate shall not be redeemed as herein provided, the owner or occupant of, or parties in interest in the real estate described in the certificate, at any time before the entry of the decree of foreclosure of such tax lien, may redeem the same by payment to the purchaser (including the City of Kalamazoo acting by its Director of Finance) of the amount of the original bid and 50% in addition thereto, provided the City Commission may by ordinance enacted prior to the sale increase said penalty up to but not in excess of one hundred per cent or may likewise decrease said penalty; provided, further that the City Commission may by ordinance waive the fifty percent or the one hundred per cent penalty, as the case may be on City bids and authorize the Treasurer to accept in lieu thereof the amount of the original bid together with interest thereon to date of payment as provided in Section 87. Upon such payment the purchaser shall forthwith execute, acknowledge in due form, and give to the person making the payment a release of all interest derived through the certificate held by him or her. On the delivery of the release to the redeンプtor, the certificate shall then become void.

Foreclosure of Lien.

- SECTION 91. (a) Chancery Petition. Should such tax lien and liability be still unpaid two years succeeding the date of its sale, the holder thereof (including the City of Kalamazoo acting by its Director of Finance), in

addition to such other remedies as may exist or be given by law, shall have the right, then or at any time thereafter, to file in the Circuit Court for Kalamazoo County a bill in chancery to foreclose the same. The holder of several tax liens on the same or different parcels of real estate may file a single bill in chancery to foreclose the liens on the parcel or several parcels of real estate subject thereto. Such bill and the procedure thereon shall conform to the law in respect to foreclosure in chancery of liens on real estate other than mortgage or other liens having special statutory provisions applicable thereto. Costs, including attorney fees, against either party, may be fixed in the bill in chancery to foreclose the liens on the several parcels of real estate subject thereto.

- (b) Notice. Upon the filing of such bill the court shall issue summons or other process for appearance as in other chancery cases or, in lieu thereof, either or both, may make and enter an order for appearance against all defendants or several orders for appearances against different groups of defendants arranged as may be convenient and such order or orders shall be published or served (if there shall be more than one order or more may be served and one or more published), as provided by law in case of absent defendants, and if published, a copy thereof shall, in addition, be sent by registered mail with postage fully prepaid thereon to (1) the last known address of the person or persons appearing by the records in the office of the Register of Deeds of the County of Kalamazoo to be the latest grantee or grantees in the regular chain of title of such lands or of any interest therein at the date of the filing of such bill of complaint, and (2) to the person or persons, if any there be, in the actual open possession of such parcel of land at the date aforesaid, and (3) to the holder of record of any tax lien for the latest year's taxes therein appearing of record in the office of the City Treasurer or latest deed conveying title derived from such tax lien appearing of record in the office of the Register of Deeds, and (4) to the mortgagee or mortgagees named in all undischarged recorded mortgages or to any assignee or assignees thereof or record at the date aforesaid, and (5) to the holder of record of all undischarged record liens.
- (c) Decree. The decree in such suit, if in favor of the holder of the tax lien, shall provide that possession of the premises subject thereto, shall forthwith be given to him or her, unless the amount of the decree and all costs be paid within 60 days from its date, and shall award to the plaintiff a writ of assistance and nay other process requisite to obtain possession. The decree shall not be entered before the expiration of one hundred twenty (120) days from the filing of the bill. There shall be no redemption period under such decree beyond sixty (60) days. Appeal may be taken on such decree in the same manner as an appeal is taken in other chancery cases, but an appeal as to the lien on any parcel or by any defendant shall not affect the proceedings on any other parcel or defendant as to which there has been no appeal.
- (d) Director of Finance's Deed. The decree, if in favor of the plaintiff, and if it is not paid within 60 days and if there is no appeal, shall be conclusive as to the title and right of possession of the plaintiff, and shall direct the Director of Finance to execute and deliver a deed in appropriate form to the plaintiff which shall vest in plaintiff absolute title in fee as against all

persons claiming estate or interest whether arising or existing prior to the time such tax first became a lien or subsequent thereto: Provided, that any State or County taxes or assessments that have been bid to the State or remain unpaid in the office of the Auditor General or County Treasurer, whether the lien for such taxes or assessments became a lien prior to or subsequent to the tax lien under foreclosure, estates or interests arising from taxes or assessments becoming a lien subsequent to the lien under foreclosure on the property described in such deed, and any restrictions I respect to building or use in common with other property in the immediate neighborhood, shall not be affected by such sale foreclosure and deed.

- (e) Void Taxes. If the court in such procedure to foreclose the tax or assessment lien shall find or if appeal is taken and it is determined that the sale of the same to the purchaser (other than the City of Kalamazoo by bid of the Director of Finance) was void, the City of Kalamazoo shall refund to the purchaser thereof the amount of his or her bid together with interest thereon at the rate of five per cent per annum.
- (f) City's Title. The real estate decreed to the City under a foreclosure of its tax lien may be used by the City for municipal purposes or may be leased, sold, conveyed, transferred or disposed of by the City Commission under such terms and conditions as it may prescribe.
- (g) Saving Clause. Should a court of competent jurisdiction declare any section, part or clause of the amendment invalid for any reason, then such decision shall affect only the section, part or clause so declared to be invalid, and shall not affect any other section, part or clause of this amendment. Upon the effective date of this amendment the same shall become fully applicable to all land and premises upon which any tax liens and assessment liabilities then remain or thereafter become uncollected, but the adoption thereof shall not be deemed to affect the validity of any collection procedure commenced under previous charter provisions, which procedures may be continued and completed thereunder as though this amendment had not been adopted.

Collection of State, County and School Taxes.

SECTION 92. The levy, collection and return of taxes for State, County and school purposes shall be the same, as near as may be, and with like effect, as the general tax law in regard to such matters in townships, and the powers and duties of Township Supervisors, Treasurers and Clerks, vested in them or imposed by the general laws of the State, so far as they be applicable under this Charter, are hereby vested in and imposed upon the Assessor, the Treasurer and the Clerk of the City, respectively.

Certificate of Payment of Taxes.

SECTION 93. No conveyance, mortgage or contract of real estate located within the limits of the City of Kalamazoo shall be received or recorded by the Register of Deeds of the County of Kalamazoo, unless all City taxes and assessments thereon, then due and payable, shall have been paid; and it shall be the duty of the Treasurer or such other agency as the City

Commission may designate, upon request, after the payment of all such taxes and assessments, to furnish a certificate that all such taxes and assessments have been paid, which certificate shall be filed with said Register of Deeds at the time of the delivery of such conveyance, mortgage or contract for record. The City Commission, by resolution, shall determine the fee charged for each such certificate, and disposition thereof.

Additional City Treasurer's Bonds.

SECTION 94. Before any tax rolls are delivered to the City Treasurer, the City Commission shall require the Treasurer to give additional bonds in such form and amount and with such conditions and surety or sureties as it shall order and approve. The City Treasurer shall give such additional bonds to the County of Kalamazoo as are required by law of Township Treasurers.

When Tax Assessment Becomes a Charge and Lien.

SECTION 95.
Repealed August 7, 1956.

When Personal Property is Subject to Lien for Tax

SECTION 96.
Repealed August 7, 1956.

Public Improvements, Assessment, Contracts.

Power of City to Acquire and Dispose of Property.

SECTION 97. The City shall have, and is hereby given, the power to purchase or condemn private property, within or without the City, for any public use within the scope of its power. To that end the City Commission, subject to the general laws of the State, whenever it deems the same essential for the welfare of the inhabitants of the City, may acquire by gift, purchase, condemnation or otherwise, the necessary property for the purpose in view. The City Commission, subject to the general laws of the State, shall have the power to hold and improve such property, and to convey or dispose of the same. Provided, however, any purchase, conveyance, or disposal of real property by the City Commission shall require the affirmative vote of a majority of the members elected to the City Commission, and shall not be acted upon at the same meeting at which it is introduced.

Plans of Streets and Alleys.

SECTION 98. The City Commission shall have and it is hereby given the power to adopt a plan of the streets and alleys within the City limits and for such distance beyond the City limits as is now or may be hereafter authorized by law; and to that end all plats showing such streets and alleys shall be submitted to and approved by the City Commission before they are filed for record.

Power of the City in Regard to Water Courses.

SECTION 99. The City Commission shall have and it is hereby given the power to control and regulate the streams, waters and watercourses within its boundaries.

Separation of Grade Crossings.

SECTION 100. The City Commission by ordinance may provide for a general plan of separation of streets from the railroads and street railways at grade crossings within said City and for the execution of the same under the direction of the City Manager.

Power and Duties of City Commission as to Public Works.

SECTION 101. The City Commission shall determine the character of, necessity for and order all public work and public or special improvements, and make the requisite appropriations and provide for securing the necessary funds therefore.

Street Intersection Improvements.

SECTION 102. The cost of grading, paving or improving of that portion of the public streets and alleys included within the intersecting lines of the same, shall be paid by the City at large from the proper fund, excepting, however, any part of the same chargeable to any public utility.

Estimating Cost, Etc.

SECTION 103. The estimating of the cost, advertising for bids, supervision and approval of the work upon or for any public work or public or special improvement are vested in the City Manager.

Public Improvement by Direct Labor.

SECTION 104. The City Commission shall have power to do any public work or make any public improvement by the employment of the necessary labor

and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding.

Contracts.

- SECTION 105. (a) The City shall have, and it is hereby given the power to enter into contracts with a second party for any legal purpose whatsoever. The letting and making of such contracts shall conform to such regulations as the City Commission may from time to time prescribe. When deemed necessary, the City Attorney shall prepare or approve as to form the contract instrument, and sufficiency of funds shall be certified by the City Auditor.
- (b) The City is hereby empowered to enter into installment purchases and sales of personal and real property by means of contracts, mortgages, consignments or other common business arrangements.
- (c) When it becomes necessary to make alteration or modification to such contract, such alterations or modifications shall be made in conformance to such regulations as the City Commission may from time to time prescribe.

Modification in Contracts.

SECTION 106.

Repealed November 3, 1998.

Notice of Special Improvement.

SECTION 107.

Repealed by Section 188 adopted September 12, 1922.

Special Assessments.

Power to Assess.

SECTION 108. The City Commission shall have the 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 assessments upon the parcels of 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 and period in which assessments may be paid, the interest to be charged, and designate the districts or land and premises upon which special assessments shall be levied. This Charter shall not be deemed to require the holding of any public hearing prior to the authorization or construction of the improvement. Such special

assessments may be levied before, during, or after the making of the improvement.

Procedure Ordinance.

SECTION 109. The City Commission 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 correction and confirmation of the special assessment roll, the collection of special assessments, the assessment of single lots or parcels, apportionment of assessments if land is divided, and any other matters concerning the making of improvements by the special assessment method. Said ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the whole or in part, and it shall also provide for the refund of excessive assessments, provided that if the excess is less than 5% of the total cost it may be placed in the general fund of the city.

Assessment Lien.

SECTION 110. From the date of confirmation of any assessment or reassessment roll the same shall constitute a lien upon the respective lots or 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 the City tax roll or by suit against such person.

Contest of Assessment.

SECTION 111. No suit or action of any kind shall be instituted or maintained for the purpose of contesting the validity of enjoining the collection of any special assessment or reassessment (a) unless, within 30 days after the confirmation of the special assessment roll, written notice is given to the City Clerk for attention of the City Commission indicating an intention to file such suit or action and stating all of the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within 60 days after the confirmation of the roll. If the City Attorney submits a written opinion finding said roll illegal, in whole or in part, the City Commission may revoke its confirmation, correct the illegality if possible, and re-confirm the same, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

Levy, Before Improvement.

SECTION 112.
Repealed November 2, 1965

Assessments, How Made.

SECTION 113.
Repealed November 2, 1965

Assessors, Duties of in Making Assessments.

SECTION 114.
Repealed November 2, 1965

Assessors, Duties of in Making Assessments

SECTION 115.
Repealed November 2, 1965

Assessments on Single Lots.

SECTION 116.
Repealed November 2, 1965

Amount, Commission to Determine.

SECTION 117.
Repealed November 2, 1965

Assessors, Duties of in Making Assessments.

SECTION 118.
Repealed November 2, 1965

Assessments, Filing, Numbering, Review.

SECTION 119.
Repealed November 2, 1965

Commission to Review, Confirmation.

SECTION 120.
Repealed November 2, 1965

Confirmation, Final.

SECTION 121.
Repealed November 2, 1965

Special Assessment, Lien on.

SECTION 122.
Repealed November 2, 1965

May be Paid in Installments.

SECTION 123.
Repealed November 2, 1965

First Installment, when Due.

SECTION 124.
Repealed November 2, 1965

Roll for Installments.

SECTION 125.
Repealed November 2, 1965

Division of Lands After Confirmation of Roll.

SECTION 126.
Repealed November 2, 1965

Insufficient and Excessive Assessment.

SECTION 127.
Repealed November 2, 1965

Irregular and Invalid Assessments.

SECTION 128.
Repealed November 2, 1965

Vacating Special Assessments.

SECTION 129.
Repealed November 2, 1965

When Levied on General Tax Roll.

SECTION 130.
Repealed November 2, 1965

When Collected Directly.

SECTION 131.
Repealed November 2, 1965

Collection, How Made.

SECTION 132.
Repealed November 2, 1965

Return by Treasurer.

SECTION 133.
Repealed November 2, 1965

Renewal of Warrant, Re-Assessment.

SECTION 134.
Repealed November 2, 1965

Collection by Suit.

SECTION 135.
Repealed November 2, 1965

Irregularities No Bar.

SECTION 136.
Repealed November 2, 1965

Previous Assessments Included.

SECTION 137.
Repealed November 2, 1965

Condemnation.

SECTION 138. The City Commission shall by resolution provide for acquiring by condemnation or otherwise such property and rights as may be required for any public use or property within the scope of its powers in the manner prescribed by the statutes of the State of Michigan.

Cost of Condemned Property Added.

SECTION 139. Whenever any property is acquired by condemnation or otherwise for the purpose of any special improvement, the cost thereof

may be added to the cost of such special improvement, levied upon the property benefited thereby and collected accordingly.

Liability of Common Carriers for Public Improvements.

SECTION 140. All freight houses, roadbeds, rights of way and other premises belonging to any railroad or railroad corporation or company within the corporate limits of the City of Kalamazoo, which are necessarily used in the operating of the respective franchises of the owners of said railroads, and the person, company or corporation owning the same are liable for all valid unpaid assessments for public improvements hereafter made within the City of Kalamazoo and assessed against the same, but no lien shall attach thereon on account of such assessments and the payment of such assessments shall not be enforced and collected by sale of said property. Assessment of such classes of property shall be made in the same manner as the assessments of other property under the charter of said City for special improvements, and the assessment roll for such special improvement taxes shall be prima facie evidence in any court of the regularity of all proceedings leading up to the assessment and the making of said roll. All special assessments made as aforesaid against the property of said railroad companies, and the owners thereof, for public improvements, and all installments thereof, together with the interest, cost and charges thereon for enforcing the collection of the same, are hereby made and declared legal demands against each and every of said railway corporations or companies against whose property such assessments are made in favor of the City of Kalamazoo, and if any of the railroad or railway corporations or companies shall fail to make payment thereof within the time payment is required of such special assessments under the role on which they are extended, then the City of Kalamazoo may institute an action in assumpsit or other proper legal action in any court of competent jurisdiction against the owners of said properties, and if judgment be rendered thereon in favor of said City of Kalamazoo, the same may be collected on execution out of any property of said railroad or railway corporations or companies liable to levy and sale on execution.

Cost of Improvements to Include Certain Costs.

SECTION 141. The cost of public and special improvements for which a special assessment roll shall be made shall include the cost and expense of making estimates, plans and assessments incidental thereto.

Acceptance of Plats.

SECTION 142. (a) The City Commission shall not accept any plat or subdivision of any lands or premises either within or without the corporate limits of Kalamazoo, having thereon streets, lanes or alleys which are intended to be or are dedicated to public use by such plat or subdivision until such

streets, lanes or alleys so intended to be dedicated to public use are brought to a grade to be established by the City Commission.

- (b) The City Commission shall not accept any plat or subdivision of any lands or premises, either within or without the corporate limits of Kalamazoo until streets have been platted and dedicated thereby to public use in continuance of any streets which have been dedicated to public use prior thereto, and terminating at the boundary lines of such lands or premises so platted or subdivided and are of the same width, nor until all streets intended thereby to be dedicated to public use, and which are intended to be continuations of streets terminating at the boundary lines thereof, are so platted as to be exact continuations of, and of the same width of such streets terminating at the boundary lines thereof.

Recording of Plats.

SECTION 143. The Register of Deeds of Kalamazoo County, or his or her deputy, shall not receive for record, or record any plat or subdivision of any lands or premises within the corporate limits or for a distance of three miles outside the corporate limits, unless the same shall have endorsed thereon a certificate signed by the City Clerk of said City under the seal of said City showing that such plat or subdivision has been accepted and approved by the City Commission of the City of Kalamazoo.

Franchises and Public Utilities.

Power to Grant Franchises.

SECTION 144. The power to grant irrevocable franchises for any public utility, enterprise or service, and to renew, amend and extend the same shall be exercised by ordinance only, which ordinance shall not become effective until it shall have:

- (a) Been passed by the City Commission.
- (b) Been unconditionally accepted in writing by the grantee.
- (c) Been published in full, together with the grantee's acceptance, in a daily newspaper of the city, at least once a week for five consecutive weeks, the last insertion to be made within the week immediately preceding the date of the popular vote.
- (d) Received the affirmative vote of three-fifths of the electors of said city, voting thereon at a regular or special election.

Revocable Permits.

SECTION 145. Permits, revocable at the will of the City Commission for such minor or temporary public utility privileges as may be specified by general ordinance, may be granted and revoked by the City Commission from time to time in accordance with the terms and conditions to be prescribed

thereby; and such permits shall not be deemed to be franchises as the term is used in this Charter. Such general ordinance, however, shall be subject to referendum as provided in section 58 of this Charter and shall not be passed as an emergency measure.

Time Limitations and Term.

SECTION 146. No ordinance granting or renewing a franchise shall be adopted by the City Commission within sixty days after application therefore has been filed, nor shall a franchise ordinance be submitted to the electors of the City until after the expiration of sixty days after its preparation and adoption by the City Commission and the grantee has filed with the City Commission its unconditional acceptance of the proposed franchise or renewal if granted by the electorate. No franchise shall be renewed before three years prior to its expiration. No franchise shall be granted for a longer term than thirty years, and every amendment and alteration thereof, and all rights thereunder, shall expire at the same time as the original grant, unless a shorter term has been prescribed in the amendment or alteration.

Right of City to Purchase or Condemn.

SECTION 147. Every franchise or renewal thereof shall reserve to the City the right to purchase or lease all the property of the utility, enterprise or service used in or useful for the operation of such utility, enterprise or service at a price either fixed in the ordinance or to be fixed in the manner provided by the ordinance granting the franchise or renewal, which price shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible element. Nothing in such ordinance shall prevent the City from acquiring the property of any such utility, enterprise or service by condemnation proceedings, or in any other lawful mode; and all such methods of acquisition shall be alternative to the power of purchase reserved in the franchise or renewal as herein provided. Upon the acquisition by the City of property of any utility, enterprise or service by purchase, condemnation or otherwise, all franchises or renewals, and all rights thereunder, shall at once terminate. The power of the City to purchase or condemn the franchises and property of any utility, enterprise or service, as hereinbefore provided, shall apply to existing franchises.

Rights of the City.

SECTION 148. All grants, renewals or amendments of the franchises of any public utility, enterprise or service shall contain a clause subjecting them to all the provisions of this Charter, and, whether so provided in the ordinance or not, shall be subject to the right of the city:

- (a) To repeal the same by resolution at any time for misuse, non-use, or failure to begin construction within the time prescribed or otherwise to comply with the terms prescribed.
- (b) To require proper and adequate extensions of plant and service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency.
- (c) To fix the maximum rate of charge to the public for the service furnished, and to readjust such rate of charge at intervals to be fixed by said ordinance, but not oftener than once in five years; and to establish and enforce reasonable standards of service and quality of products: Provided, that no rate of charge shall ever be fixed above the maximum named in the franchise.
- (d) To prescribe the form of accounts for, and at any time to examine and audit the accounts and records of, any such utility, and to require annual and other reports by each such utility, covering whatever subjects or items (relating to its ownership, conduct, operation, debts or profits) which the City Commission shall specify. The City Commission shall have access to the plants, works or other property of any such utility.
- (e) To impose such other regulations as may be conducive to the safety, welfare and accommodation of the public.

Assignment of Franchises.

SECTION 149. No franchise granted by the City Commission shall ever be leased, assigned or otherwise alienated except in accordance with the express provisions of said franchise, and all franchises granted by the City Commission shall provide how and in what manner and under what conditions said franchise may be leased, assigned or alienated.

City to Control and Regulate Use of Streets.

SECTION 150. The right is hereby reserved to the City to use, control and regulate the use of its streets, alleys, bridges and public places, and the space above and beneath them. Every franchise for the operation of a public utility, enterprise or service occupying the streets, alleys, bridges or public places of the city, or the space above or beneath them, shall be subject to the limitation that the City may permit the joint use of the property of such public utility, enterprise or service located in the streets, alleys, bridges, or public places of the City by any other public utility, enterprise or service, of the city, on such reasonable terms as it may impose, and upon payment of a reasonable compensation to the owner thereof. If the owner of such property and the one desiring such joint use are not able to agree on such terms and compensation for the use thereof within sixty days from the time of opening negotiations therefor, then the City Commission shall, by ordinance, after a fair hearing, fix the terms and conditions of such joint use and compensation, which award of the City Commission when so made shall be binding and final and observed by all parties concerned.

Pavement of Streets by Street Railway.

SECTION 151. No franchise shall be granted or renewed for street railway purposes except the same shall contain a condition that the grantee, its successors and assigns, shall, as the City Commission may direct, pave and keep in repair the street or streets on which its tracks are located, or shall be located, between the outer rails of the track or tracks, and for a space outside of said rails of eighteen inches, in such manner and with such materials as the City Commission may order and shall re-pave any such parts of streets as often as the City Commission shall deem necessary and so order; and every such franchise or renewal shall contain a requirement that every pavement torn up or damaged by the grantee, its successors or assigns, in the work of constructing or repairing such tracks shall be replaced at the sole expense of such grantee, its successors or assigns, in as good condition and with the same kind of material.

Value to be Fixed and Determined.

SECTION 152. Every franchise hereafter granted or renewed shall provide that before the franchise becomes operative the value of the property of the utility, enterprise or service within the city, and of such portion of the property beyond the City limits as is actually or necessarily used in, belonging to and a part of the local service, and which the City may own and operate under the constitution and general laws of the State, shall be fixed and determined; Provided, that such value shall not include or be affected by the value of the franchise, or good will, or profits to be earned on pending contracts, or any other intangible element.

Payment for Public Improvements.

SECTION 153. All utility grantees, their successors or assigns, using the streets, alleys, bridges or public grounds, or the space over or under the same, shall pay such part of the improvements, repairs, rebuilding and maintenance of the streets, alleys, bridges and public grounds, on, over or under which its wires, pipes, conduits or poles are located as the City Commission shall by resolution in each case determine.

Cost of Special Franchise Election.

SECTION 154. No franchise shall be submitted to the electors of the City at a special election unless the expense of holding the election, as determined by the City Commission, shall be paid in advance to the City Treasurer by the grantee of said franchise.

Power of City to Compel Resumption of Service.

SECTION 155. Whenever any public service corporation operating in the City shall fail in the opinion of the City Commission to render adequate service

it shall be the duty of the City Attorney, when so instructed by the City Commission, at the expense and in the name of the city, to forthwith institute mandamus or other appropriate proceedings to compel resumption of service.

Power of City Commission to Regulate Rates.

SECTION 156. The City Commission shall have the power and authority to regulate the rates of all public utility companies using the streets, alleys or public places of the City of Kalamazoo in all cases in which the franchise rights of such utility companies have expired or at the expiration of any franchise hereafter.

Power of City to Acquire and Operate Utilities.

SECTION 157. The City of Kalamazoo shall have and it is hereby given the right and power to acquire, construct, own, operate and maintain, either within or without its corporate limits, any public utility, enterprise or service, as the City Commission may from time to time determine and designate, and to acquire all property, real and personal, necessary therefor, and to maintain and operate the same, or to lease the same, or any part thereof, to other corporations or individuals for the purpose of maintenance and operation. Said City may also sell and deliver the products or service of any such utility or enterprise as it is now or may be hereafter authorized to do by the laws of the State.

SECTION 157A. The City is hereby empowered to acquire, own, operate, construct, and maintain transportation facilities within its limits and its adjacent and adjoining suburbs to a distance of 10 miles from any portion of its City limits and to encumber, replace, sell or dispose of the same as permitted by law. Such acquisition in whole or in part may be by purchase, gift, deferred payment contracts, mortgages, condemnation, lease, federal or state grants, revenue bonds or other valid means or combination thereof.

City May Issue Its Mortgage Bonds.

SECTION 158. To acquire, construct, own, operate or maintain any public utility, enterprise or service, the City may issue its mortgage bonds therefore beyond the limit of general bonded indebtedness prescribed by law, and subject only to the conditions and limitations now or hereafter contained in the constitution and the laws of the State.

Procedure to Acquire Utilities.

SECTION 159. The City Commission by ordinance may prescribe, or the people by ordinance duly initiated and approved under the provisions of this

Charter, may prescribe the procedure to acquire any public utility, enterprise or service.

Accounts of Municipally Owned Utilities.

SECTION 160. Accounts shall be kept for each public utility owned or operated by the city, distinct from other City accounts, and in such manner as to show the true and complete financial results of such ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. Such accounts shall show the actual cost to the City of each public utility owned; all expenses of maintenance; the cost of all extensions, additions and improvements; the amounts set aside for sinking fund purposes, and in the case of City operation, all operating expenses of every description. The accounts shall show as nearly as possible the value of any service furnished to or rendered by any such public utility by or to any other City or governmental department. The accounts shall also show a proper allowance for depreciation, insurance and interest on the investment on other than invested profits of the utility and estimates of the amount of taxes that would be chargeable against the property if privately owned. The City Commission shall annually cause to be made and printed for public distribution a report showing the financial results of such City ownership, or ownership and operation, which report shall give the information specified in this section and such other information as the City Commission shall direct.

Claims.

SECTION 161. The City Commission shall have authority to adjust and settle all accounts and claims against the City and no suit or action shall be maintained against the City on any account or claim until the same shall have been presented to the City Commission and said Commission shall have an opportunity to pass upon the same. The City of Kalamazoo shall not be liable to respond in any action or proceeding to collect any account or claim of any kind against the City for any greater amount than that named and set forth in the account or claim presented as herein provided. In all cases of claims against said City for personal injuries or otherwise, the party having the claim shall present the claim to the Commission in detailed form, giving all the substantial facts upon which the same is based, and shall present to the Commission, at such time and place as shall be convenient for the Commission, and not exceeding thirty days from the time of presentation of the claim, all the evidence in his or her possession, or of which he or she or his or her attorney has knowledge, tending to prove the facts in the case, and submit the same to the full and complete examination of said Commission. Provided, that said hearing may be adjourned from time to time to suit the convenience of the parties, not exceeding thirty days more than herein provided; and it shall be a sufficient and complete defense to any action or proceeding for the collection of any such claim or demand against the city, that such claim or

demand and the evidence upon which the same is based, has not been presented as hereinbefore provided. All claims for damages against the City growing out of the negligence or default of said city, or any officer or employee thereof, shall be presented to said City Commission in the manner above provided, within sixty days after such claims shall arise and in default thereof, such claims shall thereafter be forever barred: Provided, in all cases of damages sustained by any person either by bodily injuries or to his property, because of the defective condition of any highway, street, bridge, sidewalk, crosswalk or culvert in said city, where provision for notice and production of witnesses is otherwise made by the general laws of the State, this section shall not apply.

Civil Service.

SECTION 162. The City Commission shall provide by ordinance for a system of civil service for the city, which shall observe the principles and spirit set forth in this section. Such system shall:

- (a) Provide for a non-salaried Board of three members to administer the civil service.
- (b) Exempt from the civil service the following officers:
 - (1) The City Manager.
 - (2) All officials elected by the people.
 - (3) The directors of departments, members of appointive boards, the City Supervisors, the City Clerk and the City Assessor.
- (c) The Civil Service Board shall formulate rules and regulations covering the selection and promotion of municipal employees. Where competitive tests are used and eligible lists created, appointments shall be made from the three candidates standing highest on such lists. Such rules and regulations shall forbid appointment on any other grounds than those of fitness for the position to be filled, and shall prevent favoring or discriminating against any applicant or employee because of his political, religious or industrial opinions or affiliations.
- (d) The City Manager, or other official or Board in whom is vested disciplinary or removal power, shall be allowed full freedom in his or her or its actions on such matters: it being the intent and spirit of this section to provide a fair and honest approach to municipal employment for every inhabitant of the city, but, in no sense, to handicap or curtail the responsible administrative officers in securing efficient service.

Municipal Court.

SECTION 163.

Repealed November 2, 1971. Municipal Court replaced by District Court, Act 154, 1968.

Miscellaneous Provisions

Investigations.

- SECTION 164. (a) The City Commission shall have power to investigate charges against any elected or appointed officer of the city, and such other municipal matters as it may deem proper to investigate. To enable said Commission so to do the Municipal Justice of the City of Kalamazoo is authorized, at the request of the City Commission, or the chairman of any investigating committee, to issue subpoenas, or process by warrant, to compel the attendance of persons and the production of documents, books and papers before said Commission or committee; and the Mayor of the City shall have like power to issue such subpoenas and process.
- (b) Whenever the City Commission or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before such Commission or committee, the presiding officer of the Commission or chairman of such committee, for the time being, shall have power to administer the necessary oaths, and such Commission or committee shall have the same power to compel witnesses to testify as is conferred on justice courts.

Licenses.

SECTION 165. The City Commission may prescribe the terms, conditions and time, not exceeding one year, upon which licenses may be granted and revoked. The City Commission may provide for punishment by fine or imprisonment, or both, of any person, who without a license, shall exercise any occupation or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of said City Commission or this Charter.

Oath of Office.

SECTION 166. Every elective officer before taking office shall take the oath of office prescribed by law, but the oath of office of each City Commissioner shall be in writing and be filed with the City Clerk, and contain the statement that in his or her candidacy for nomination and election he or she has not violated any provisions of the general elections laws of the State.

Official Bonds.

SECTION 167. The City Commission, in fixing the salary of any officer, clerk or employee, shall determine whether such officer, clerk or employee shall give a bond, and the amount thereof, which bond shall be procured from a surety company authorized to do business under the laws of Michigan. Premiums on such bonds shall be paid by the city. It shall be the duty of the City Commission to procure such bonds.

Salaries.

SECTION 168. The City Commission shall fix by resolution the salary or rate of compensation of all officers and employees of the City, except their own. The City Commission may provide for the employees of the City such group hospital, medical, surgical, accident and health insurance, and the City may pay all or any portion of the premiums therefore, as the City Commission in its discretion may determine.

City Not Required to Give Bond.

SECTION 169. The City shall not be required to give security in any proceedings in any court of this State.

Jurors.

SECTION 170.

Repealed November 2, 1971. Juror selection now controlled by State law.

City to Control Use of Streets.

SECTION 171. The City reserves to itself the use and control of all streets and alleys, both above and below ground, and no grants for the use or occupancy of any portion thereof, except such as are granted in public utility franchises, shall be made for a longer period than one year, and any revenue derived from such occupancy shall belong, and be paid, to the city.

Hours of Labor.

SECTION 172. The legal working time for persons engaged in work for or sub-let by the City may be fixed by the City Commission.

Power of City to Receive Bequests, etc.

SECTION 173. The City of Kalamazoo shall have and it is hereby given the power and right to receive bequests, gifts and devises of all kinds of property, both personal and real, absolute or in trust, for public, charitable or other purposes; and to do all things and acts necessary to carry out the purposes of such bequests, gifts and devises, with power to manage, sell, lease or otherwise handle or dispose of the same, in accordance with the terms of the bequest, gift or devise.

Saving Clause.

SECTION 174. If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or

impair the validity, force or effect of any other section or part of a section of this Charter unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.

Amendments.

SECTION 175. This Charter may be amended at any time in the manner provided in Act 279 of the Public Acts of 1909, and amendments thereto.

Schedule.

That no inconvenience may arise from the changes hereby made in the charter of the City, and in order to carry the same into complete operation, it is hereby declared that:

Ordinances Continued in Force.

SECTION 176. All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in full force and effect until amended, repealed, or until they expire by limitation.

Continuance of Contracts and Vested Rights.

SECTION 177. All vested rights of the City shall continue to be vested and shall not in any manner be affected by the adoption of this Charter; nor shall any right or liability, or pending suit or prosecution, either in behalf of or against the City, be in any manner affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter may be continued and perfected hereunder. Public improvements for which legislative steps have been taken under laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

Officers to Continue.

SECTION 178. All officers now holding any office or appointment shall continue to hold the same until removed by competent authority or superseded under the laws now in force or under this Charter.

Charter Election.

SECTION 179. (a) This Charter shall be submitted for adoption or rejection to a vote of the qualified electors of the City at a special election to be held, Monday, February 4, in the year 1918. Notice of such election shall be given in the same manner and for the same length of time as is provided in the existing charter for special elections, and the votes shall be counted and canvassed and the returns made and the result determined as near as may be, as provided by the existing Charter for counting, canvassing and returning of votes, and the determining of the results thereof.

(b) The form of the ballot on submission of this Charter shall be as follows:

Instructions – A cross [X] in the square [] before the word “Yes” is in favor of the proposed charter, and before the word “No” is against the proposed charter.

“Shall the proposed charter, drafted by the Charter Commission elected on April 2, 1917, be adopted?”

[] YES.

[] NO.

(c) If this proposed Charter is adopted, the City Clerk within thirty days thereafter, shall certify the adoption of this Charter upon his journal, and six printed copies of this Charter shall be duly certified by the City Clerk and two such certified copies shall be filed with the Secretary of State, the County Clerk and in his own office, respectively.

When Charter Takes Effect.

SECTION 180. For the purpose of nominating and electing officers this Charter shall take effect from the time of its approval by the electors of the city. For the purpose of establishing departments, divisions and offices, and distributing the functions thereof, and for all other purposes, it shall take effect on the second Monday in April, 1918.

First Election Under this Schedule.

SECTION 181. The first election of officers under this schedule shall be held on the first Monday in April, 1918; at which time there shall be elected seven City Commissioners and four Constables. Thereafter, election shall be held at the time specified in this Charter. The officers elected in this first election under this schedule shall hold office until their successors, to be elected at the regular municipal election in November, 1919, shall have been elected and qualified.

Rules for First Election.

SECTION 182.
Repealed by Section 188 adopted September 12, 1922.

Rules for Counting Ballots.

SECTION 183.
Repealed by Section 188 adopted September 12, 1922.

City Commission to Pass Ordinances.

SECTION 184. The City Commission shall as soon as possible pass ordinances and measures necessary to make the several provisions of this Charter effective, and shall provide proper penalties for the violation of the charter and ordinances.

Repealing Clause.

SECTION 185. The existing Charter, being Act Number 475 of the Local Acts of Michigan of 1897, and all acts amendatory thereof or forming a part thereof, are hereby repealed; except Section 63 of Chapter 22 of said Act, as amended by Act Number 443 of the Local Acts of Michigan of 1901, and except Act Number 648 of the Local Acts of Michigan of 1907, which said Section 63 of Chapter 22 of said Act Number 475 of the Local Acts of Michigan of 1897, as amended by Act Number 443 of the Local Acts of Michigan of 1901, and said Act Number 648 of the Local Acts of Michigan of 1907, shall remain in full force and effect and shall not be repealed by this Charter.

Zoning.

SECTION 186. The City Commission shall have the power to provide by ordinance for the establishment of districts or zones within which the use of lands and structures, the height, the area, the size and location of the buildings, and the density of population may be regulated, provided, that such regulations in one or more districts may differ from those in other districts.

Health Officer – Director of Department of Public Health and Welfare.

SECTION 187. The City Commission is hereby authorized to consider, negotiate, determine and agree to the terms and conditions under which this City joins in the organization and maintenance of a county health department. It may, as it deems appropriate or necessary, (1) delegate thereto part or all of the powers, functions and duties relating to health (including those of the Board of Health and Health Officer) set forth in this Charter or, if permissible, the statutes of this State; (2) contract therewith for extra

services; and (3) appropriate thereto money, services, or both. The power to adopt ordinances relating to health as set forth in this Charter is expressly reserved to the City of Kalamazoo.

Sections Repealed.

SECTION 188. Section thirty-five (35), one hundred seven (107), and one hundred eighty-two (182) one hundred eighty-three (183) and sub-division (a) of section forty-one (41) of the City Charter are hereby repealed.

Retirement System Established.

SECTION 189.
Repealed by Section 197 adopted November 6, 1951

City Contributions to Retirement Annuity and Pension Fund.

SECTION 190.
Repealed by Section 197 adopted November 6, 1951

Employee Contributions to the Retirement Annuity and Pension Fund

SECTION 191.
Repealed by Section 197 adopted November 6, 1951

Retirement System Eligibility.

SECTION 192.
Repealed by Section 197 adopted November 6, 1951

Prior Service Pension Fund Established.

SECTION 193.
Repealed by Section 197 adopted November 6, 1951

Terms of Disbursement from Pension Funds.

SECTION 194.
Repealed by Section 197 adopted November 6, 1951

City Commissioners as Pension Funds Trustees.

SECTION 195.
Repealed by Section 197 adopted November 6, 1951

Retirement System Terms Defined.

SECTION 196.

Repealed by Section 197 adopted November 6, 1951

Retirement System Redefined.

SECTION 197. The City Commission shall, by ordinance provide for and maintain a retirement benefit system on an actuarial basis for the administrative officers and employees of the City, either by means of its own plan, or by means of any plan now or hereafter legally authorized with the State or Federal Governments, or by means of a combination thereof, and may provide for contributions thereto by said officers, employees and the City; provided, that benefits being paid to retired members, as of the day preceding the effective date of any such ordinance, shall be continued and assumed by any revised retirement system.