

PART I

CHARTER OF THE CITY OF BAY CITY¹

ARTICLE 1. NAME, BOUNDARIES, AND WARDS

Section 1.1. Body corporate.

The inhabitants of the City of Bay City, County of Bay, State of Michigan, shall be a body corporate, under the name and style of "Bay City," having the authority, powers, rights and duties provided in this Charter, the Michigan constitution and state law.

Section 1.2. Corporate boundaries.

The corporate boundaries of the City of Bay City shall be those as established on the date this Charter takes effect, provided that the City shall have the power to change its boundaries in a manner provided by law.

Section 1.3. Wards.

The City shall be divided into nine wards. The wards of the City shall be apportioned as required by law.

ARTICLE 2. POWERS OF THE CITY

Section 2.1. Municipal powers.

The City shall have all of the powers a City may possibly have under the constitution and laws of the State of Michigan, as fully and completely as though those powers are specifically listed in this Charter.

The powers of the City under this Charter shall be construed liberally in favor of the City. The specific mention of particular powers in the Charter shall not be construed as limiting the general power granted in this article.

ARTICLE 3. CITY COMMISSION

¹Editor's note(s)—Printed herein is the city's Charter Editor's note(s)—, as adopted by the electors on November 5, 2019, and effective on January 1, 2020. This Charter supersedes the Charter of August 5, 1997. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. Additions made for clarity are indicated by brackets.

State law reference(s)—Home rule cities generally, MCLA 117.1 et seq.; power to amend or adopt Charter, Mich. Const. 1963, art. VII, § 22.

Section 3.1. Composition of City Commission.

There shall be nine Commissioners, one from each ward of the City, who, together with the Mayor, shall constitute the City Commission.

Section 3.2. Powers of the Commission.

Except as otherwise provided by law or this Charter, all powers of the City and the performance of all duties and obligations imposed on the City shall be vested in the Commission. The Commission may adopt resolutions, bylaws and ordinances on any subject within the scope of the powers of the City.

Section 3.3. Commission meetings.

The Commission shall hold at least two regular meetings each month. The Commission may hold special meetings set in accordance with ordinance or resolution.

Section 3.3.1. Quorum, vote necessary to transact business.

A majority of Commissioners elected and serving shall constitute a quorum. No business of any nature whatsoever shall be transacted except on the affirmative vote of a quorum of the Commission.

Section 3.3.2. Absences from meetings.

The seat of a Commissioner or Mayor shall become vacant due to neglect of duty if the Commissioner or Mayor is absent from four City Commission meetings per fiscal year, unless the Commission moves to excuse the absence for a stated good cause limited to illness, disability, bereavement, or travel. If a Commissioner or the Mayor is absent without good cause as identified herein from more than one City Commission meeting scheduled on the same day, it shall only constitute one unexcused absence.

Section 3.3.3. Commission vacancies.

In the case of the death, resignation, non-residency in the electing ward for a Commissioner, or non-residency in the City for the Mayor, or vacancies from any other cause, except recall, in the offices of the Mayor or any Commissioner, the Commission shall appoint a suitable registered elector of the City to the office of Mayor or Commissioner of the ward in which the vacancy occurs who shall hold office until the next even-year general election at which a successor is elected. The person elected shall hold office for the remainder of the unexpired term. The appointee shall possess all powers and perform all duties of the office to which they are appointed.

Section 3.4. Open meetings and freedom of information.

The business that the Commission may perform shall be conducted in a public meeting held in compliance with applicable state law. Except as provided by state law, all records of the City shall be made available to the general public.

Section 3.4.1. Rules of operation; journal and publication.

The Commission shall establish rules for its operation, keep a journal of its proceedings in the English language, and provide for the publication of its proceedings in a condensed form.

Section 3.5. Ordinances.

To the fullest extent permitted by law, the Commission shall have the power to adopt, revise, continue, amend and repeal any ordinance. The enacting clause for the adoption, revision, continuation, amendment and repeal of every ordinance shall be: "Be It Ordained by the City of Bay City."

Section 3.5.1. Adoption of code by reference.

The Commission may adopt a law, code or rule which has been promulgated and adopted by a department, board or other agency of the state or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code or rule in an adopting ordinance and without publishing the code in full. The code shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance.

Section 3.5.2. Ordinances—Passage.

No ordinance, including any revised, amended or repealed ordinance, shall be passed finally on the date of its introduction, except in the case of a public emergency, and then only by the unanimous vote of the Commission. Ordinances so passed shall be declared by the Commission to be immediately necessary for the preservation of the public peace, health and safety, and shall contain an explanation of their necessity. No ordinance making a grant of any franchise or special benefit shall ever be passed as an emergency.

Section 3.6. Authentication and recording.

The City Clerk shall authenticate and record in full all ordinances and resolutions adopted by the Commission.

Section 3.7. Publication of ordinances and resolutions.

The City Clerk shall cause each ordinance, code, resolution and notice, having the force and effect of law as required by law or this Charter, to be published promptly following its adoption.

Section 3.7.1. Publication, effective date and summary of ordinance.

All ordinances shall take effect immediately after publication. The City may publish a summary of the ordinance, including any amended, repealed, revised or rearranged ordinance. Ordinances, codes, resolutions and notices shall be kept in the office of the City Clerk and available for public inspection.

The means of publication and publishing to achieve public notice within this Charter shall include, but is not limited to:

- a. state law requirements;
- b. posting to the City's website;
- c. any other technological means or social media permitted by Michigan law and;
- d. any other method determined by the City Commission to inform the public.

Section 3.8. Salaries of Mayor and Commissioners.

The Commission shall establish a Compensation Commission by ordinance, in conformity with applicable state law to determine the salaries of the City Commission.

Fifty percent of the City Commission's annual compensation shall be paid as a salary and fifty percent shall be paid on a per diem basis for the 24 regularly scheduled meetings as required in Section 3.3 of this Charter.

Section 3.9. Subpoenas and oaths.

The Commission shall have the power to issue subpoenas. The Mayor, Commissioners and City Manager shall have the power to administer oaths. The Commission shall establish by ordinance the penalty for failing to obey a subpoena.

ARTICLE 4. MAYOR

Section 4.1. Mayor.

The Mayor shall be the chief executive officer of the City and shall preside at all meetings of the Commission. The Mayor shall sign all ordinances or resolutions passed by the Commission and shall sign all documents, contracts and other instruments requiring the assent of the City. The Mayor shall perform the duties specified by the Commission, this Charter, ordinance or resolution. The Mayor shall have no City administration duties, but shall be recognized as the head of the City government for all ceremonial purposes and by the governor for purposes of military law.

Section 4.2. Voting by Mayor.

The Mayor shall have all powers of a City Commissioner except the Mayor shall vote only in the case of a tie of the Commissioners.

Section 4.3. Veto of the Mayor.

The Mayor shall have the power to veto any ordinance, resolution, motion, order or other action of the Commission within five business days after its passage. The Mayor shall file the veto in writing with the City Clerk and shall set forth the reasons for the veto. The City Clerk shall promptly communicate and deliver the veto to the Commission. Any vetoed ordinance, resolution, motion, order or other action of the Commission shall not become operative or take effect unless the veto is overridden by six Commissioners at the first meeting of the Commission following the filing of the veto.

ARTICLE 5. CITY MANAGER

Section 5.1. Qualification and appointment of City Manager.

The City Manager shall be a person of good business and executive ability. They shall hold no less than a bachelor's degree from an accredited institution or five (5) years of municipal executive experience.

The City Manager shall be selected by, serve and hold office at the pleasure of the Commission. The action of the Commission in disciplining, suspending or removing the City Manager shall be final, as all authority and responsibility for the discipline, suspension or removal of the City Manager shall be vested in the Commission.

The Commission shall designate a qualified person to perform the duties of an Interim City Manager during a vacancy in the office. The Interim City Manager shall not obtain the City Manager position without possessing the above listed qualifications. The Commission shall make a good faith effort to fill the City Manager position within one year or at the earliest possible date.

Section 5.1.1. Employment contract.

The Commission may enter into an employment contract, reviewed by the City Attorney, with the City Manager which shall be in writing and shall specify the compensation to be paid to the City Manager, including any procedure for changing the compensation, any fringe benefits and any other conditions of employment. The employment contract may extend beyond the terms of the members of the Commission. The contract with the City Manager shall state that the City Manager serves at the pleasure of the Commission.

Section 5.1.2. Acting City Manager.

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

Section 5.2. Powers and duties of the City Manager.

The City Manager shall be the chief administrative officer of the City, responsible to the Commission for the administration of all matters placed in the City Manager's charge by the Commission or by authority of this Charter.

The City Manager shall:

- a. Enforce all laws and ordinances, this Charter, and carry out the policies and resolutions of the Commission.
- b. Except as otherwise provided by this Charter, direct and supervise the administration of all offices and departments of the City.
- c. Appoint, discipline, suspend or terminate all City employees, except those officers appointed by the Commission who shall be terminated only with the consent of the Commission. The City Manager may authorize any officer or head of a department to exercise these powers with respect to subordinates in that department.
- d. Prepare and submit an annual budget and capital program to the Commission for its approved, and administer the budget adopted by the Commission.
- e. At a minimum on a quarterly basis during the City's fiscal year, prepare and provide a financial report to the Commission consisting of a balance sheet and statement of revenues, expenditures/expenses, and changes in fund equity for all funds that were considered "Major Funds" in the most recent Comprehensive Annual Financial Report (CAFR). However the quarterly report requirement for the last quarter of the fiscal year will be satisfied with the presentation of the audited financial statements by the Independent Auditors when they become available.

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- f. Keep the Commission advised of the administrative activities of the City, and make such other reports as the Commission may require concerning the operation of the City.
 - g. Manage and supervise all public works, bridges, buildings, roads, improvements and other undertakings of the City.
 - h. Manage and supervise all City utilities.
 - i. Attend all Commission meetings. The City Manager shall have the right to take part in all discussions, but shall not have a vote.
 - j. Make recommendations to the City Commission concerning the affairs of the City and perform such other duties as are specified in this Charter, ordinance, resolution, or as may be required by the Commission.

ARTICLE 6. OFFICERS, DEPARTMENTS, BOARDS AND COMMISSIONS

Section 6.1. Officers appointed by the Commission.

The Commission shall appoint a City Clerk, Treasurer and Assessor for terms as it may establish. Subject to state law and except as otherwise provided in this Charter, the City Manager shall establish the qualifications and compensation of the City's officers.

Section 6.2. City Clerk.

The City Clerk shall be the ex-officio clerk of the City Commission and shall keep a complete record of the proceedings of the Commission. The City Clerk shall perform all duties required by state law, this Charter and the Commission.

Section 6.2.1. Deputy Clerk.

The City Clerk shall appoint a deputy clerk who in the absence of the City Clerk shall have all of the powers, duties and authority of the City Clerk.

Section 6.3. Treasurer.

The treasurer shall perform all duties set forth in state law, this Charter, ordinance or resolution.

Section 6.3.1. Deputy Treasurer.

The treasurer shall appoint a deputy treasurer who in the absence of the treasurer shall have all of the powers, duties and authority of the treasurer.

Section 6.4. Assessor.

The assessor shall perform all duties set forth in state law, this Charter, ordinance or resolution.

Section 6.5. City Attorney.

The Commission shall appoint a City attorney who shall hold office at the pleasure of the Commission. The City attorney shall serve as chief legal advisor to the City Commission, the City Manager and all City departments,

offices, boards and Commissions. The City attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by state law, this Charter, ordinance or resolution. The City attorney shall be an attorney licensed to practice law in the State of Michigan and shall receive the compensation established by the Commission. The Commission may retain special legal counsel to represent the City or to assist the City attorney.

Section 6.6. Administrative departments.

The City Manager may establish, maintain, or eliminate any department and its functions and responsibilities which the City Manager deems necessary for the general welfare of the City.

Section 6.7. Planning Commission.

The Commission shall appoint a planning Commission and shall establish the number of members, qualifications, terms, rate of compensation, powers and duties by ordinance.

Section 6.8. Board Appointment Applications.

All board or committee appointments shall follow the process outlined below, unless otherwise provided by law.

Section 6.8.1. Application Period for Vacancies.

All vacancies shall be open for application for a minimum of 30 calendar days.

Section 6.8.2. Application Promotion for Vacancies.

All vacancies shall be posted as outlined in Section 3.7.1 of this Charter.

Section 6.8.3. Applications Given for Appointment.

All applications shall be uniformly provided to the member or members of the approving body. This format will be determined by the City Manager.

Section 6.8.4. Extenuating Circumstances.

In instances where a board or committee cannot meet quorum or statutory requirements exist for the position that conflict with Subsections 6.8.1 through 6.8.3, the City Manager may waive the requirements of these subsections.

Section 6.9. Boards, Commissions, Councils and Committees appointments.

The Commission shall appoint members to boards, commissions, councils and committees as created or approved by the Commission, pursuant to applicable law.

The Commission shall utilize a nondiscriminatory method of selecting the best qualified applicants.

ARTICLE 7. STANDARDS OF CONDUCT AND PROHIBITIONS

Section 7.1. Commissioners and Mayor—Holding other offices and limitation on employment with the City at expiration of term.

Except where authorized by law, no Commissioner or Mayor shall hold any other elected public office or any other City office or employment during the terms for which the Commissioner or Mayor was elected. For one year after the termination of their service on the Commission no Commissioner or Mayor shall become an employee or officer of the City or do business with the City, but they may be appointed to any compensated or other board of the City after the expiration of their terms.

Section 7.2. Relationship of Commission to administrative branch.

Except for the purpose of inquiry or for obtaining or furnishing information, no Commissioner or Mayor shall, directly or indirectly, interfere with or give any orders to any City officer, administrative official or employee, either publicly or privately. Any violation of the provisions of this section shall be a misdemeanor and any Commissioner or Mayor shall forfeit their office if convicted.

Section 7.3. Standards of conduct.

The people of Bay City believe that the proper operation of the City requires that its officers and employees be independent, impartial and responsible; that public office and employment shall not be used for personal gain; and that actions not compatible with the best interests of the City be defined and prohibited.

Not later than one year after the effective date of this Charter, the Commission shall establish by ordinance standards of conduct for public officers and employees, including civil and criminal penalties. Public officers and employees shall include all members of the Commission, all officers appointed by the Commission, all City employees, and members of any other boards, Commissions or committees. The ordinance shall at a minimum prohibit:

- a. Any officer or employee from benefiting financially from confidential information which the officer or employee has obtained by reason of their position or authority;
- b. Any officer or employee from divulging to any unauthorized person any confidential information acquired in the course of holding office or employment;
- c. Use of City personnel, property, services or funds under the officer's or employee's official care and control for personal gain or benefit;
- d. Solicitation or acceptance of a gift or loan of money, goods, services or other thing of value which would tend to influence the manner in which the officer or employee performs official duties;
- e. Use of official position or authority by any officer or employee to profit from a business transaction;
- f. Acceptance of employment or rendering of services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer's or employee's official duties and responsibilities;
- g. Participation in the fixing of rates, issuance of permits or certificates, or any other regulation or supervision relating to a business in which the officer or employee has a financial or personal interest.
- h. Making any false or misleading statement, certificate, mark, record or report with respect to any matter in the course of applying for or holding office or employment;

Any officer or employee who has any other conflict between a personal interest and the public interest as defined by state law, this Charter or ordinance shall fully disclose the nature of the conflict. The disclosure must be

made before or concurrently with performance of their duty. If the officer or employee is a member of a decision making or advisory body, they must make disclosure to the chairperson and other members of the body on the official record. Otherwise, a disclosure would be appropriately addressed by an appointed officer or employee to their supervisor, or by an elected officer to the general public.

Any violation of the ordinance enacted under this section shall be punishable to the maximum extent permitted by law, including forfeiture of office or employment.

ARTICLE 8. FINANCE AND BUDGET

Section 8.1. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Section 8.2. Budget.

The City, in accordance with applicable law, this Charter, ordinance or resolution, shall adopt an annual budget for the ensuing fiscal year containing proposed expenditures and estimated revenues covering all of its departments and activities.

Section 8.3. Uniform system of accounts.

The City shall establish and maintain a uniform system of accounts as required by law, this Charter, ordinance or resolution.

Section 8.4. Borrowing and bonds.

To the fullest extent permitted by law, the City shall have the power and authority to borrow money on the credit of the City and to issue bonds for the borrowing of money.

Section 8.5. Loan of credit.

The City shall not loan its credit for any private purpose or except as provided by law for any public purpose.

ARTICLE 9. TAXATION AND BOARD OF REVIEW

Section 9.1. Subjects of taxation.

The subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general laws of the state.

Section 9.2. Taxation procedure.

The levy, collection and return of state, county and school taxes shall be in conformance with the general laws of the state.

Section 9.3. Maximum rate of taxation.

Except as otherwise provided by law the city shall annually lay and collect taxes in a sum not to exceed 1.9% of the taxable value of the real and personal property in the city.

The City shall not levy an administration fee on the collection of taxes.

Section 9.4. Assessments.

Unless provided by state law, the Commission shall adopt an ordinance establishing the times for the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll.

Section 9.5. Board of Review.

The Commission shall adopt an ordinance establishing a board of review, including its size, composition, manner of appointment, duties and responsibilities.

ARTICLE 10. SPECIAL ASSESSMENTS

Section 10.1. Special assessments.

To the fullest extent permitted by law, the Commission shall have the power by a two-thirds vote to determine, with or without a petition, that the whole or any part of the cost of any public improvement or repair shall be defrayed by special assessment upon the parcels or property especially benefitted and shall so declare by resolution. Except as otherwise provided in this Charter or ordinance, the City shall have all the rights and powers established by state law for the collection and enforcement of special assessments. The Commission shall prescribe by ordinance the complete special assessment procedure to be used, the preparation and confirmation of the assessment roll, for the contest of the assessment, and collection of the assessment.

From the date of confirmation of any assessment or reassessment roll, the special assessment shall constitute a lien upon the respective parcels or property assessed and shall also be a charge against the person or entity to whom assessed until paid, and in the case of delinquency, may be enforced by addition to any later return to the county treasurer of regular taxes or by suit against the person or entity.

ARTICLE 11. ELECTIONS

Section 11.1. Elections.

Except where contrary to state law, this Charter governs the qualifications and registration of voters, the filing for office by candidates, and the conduct of City elections.

Section 11.1.1. Election of Commissioners.

Commissioners shall be nominated and elected to four-year terms by the wards in which they respectively reside. The terms of the Commissioners shall be staggered with Commissioners from the odd-numbered wards being elected at the same time and Commissioners from the even-numbered wards being elected at the same

time. The newly elected Commissioners shall assume the duties of their offices at the first regular Commission meeting in January of the year immediately following their election.

Section 11.1.2. Election of Mayor.

The mayor shall be nominated and elected at large to four-year terms. The election of the mayor shall be held at the same time as the election of commissioners from the even-numbered wards. The newly elected mayor shall assume the office of mayor at the first regular commission meeting in January of the year immediately following their election.

Section 11.1.3. Term limits.

No mayor or commissioner shall serve more than two consecutive terms in the same office. For the purpose of this section, a term shall not include any part of a term that is less than two years.

Section 11.1.4. Qualifications of Mayor and Commissioners.

The Mayor and Commissioners shall be registered electors at the time of filing their nominating petitions and residents of Bay City for one year immediately preceding their election. Commissioners must reside in the ward from which they seek election at the time of filing their nominating petitions.

Section 11.2. Even-year general November election.

The Mayor and Commissioners shall be elected at the even-year general City election. All candidates shall be non-partisan.

Section 11.2.1. Even-year August primary election.

An even-year primary election shall be held in August for the purpose of nominating candidates for the offices of Mayor and Commissioner.

Section 11.2.2. Primary election nominating petitions.

All candidates for the offices of Mayor and Commissioner shall file nominating petitions for the primary election in the form and within the time frames established by state election law. The nominating petition for any office shall be filed with the City Clerk and signed by not less than 50 nor more than 75 registered electors residing in the ward for the office of City Commissioner or residing in the City for the office of Mayor.

Section 11.3. Recall.

A commissioner or mayor may be recalled as provided by state law.

Section 11.4. Initiative and referendum.

The electors of the City shall have the powers of initiative and referendum on all matters within the scope of the powers of the City.

Section 11.4.1. Form of petitions.

Petitions for initiative or referendum, including the certificate of the circulator, shall be substantially in the form required by state law for initiation of constitutional amendments or legislation, or referendum of legislation. The petition shall contain the full text of the proposed initiative and shall specifically identify any existing ordinance, resolution or other action of the Commission which would be altered or abrogated if the proposal is adopted. The petition for referendum shall clearly state the reason or reasons for the referendum. A separate petition shall be circulated for each initiative or referendum.

Section 11.4.2. Review of petitions.

Before being circulated, a petition for initiative shall be submitted to the City Clerk who shall submit the petition to the City attorney for an opinion on the proposal's compliance with law. The City attorney shall file a written opinion with the City Clerk within 30 days. The opinion of the City attorney, shall be available for public review and may be appealed by the sponsors of the initiative petition to the Bay County Circuit Court. The appeal shall be filed not more than 21 days after the determination of the City attorney.

Before being circulated, a petition for referendum shall be submitted by the City Clerk to the City election Commissioners, who shall within 20 days after the submission determine whether the reasons for referendum stated in the petition are or are not of sufficient clarity to enable the electors to identify the ordinance, resolution or conduct of the Commission which is the basis for the referendum. The decision of the City election Commissioners may be appealed by the sponsors of the referendum or by the Commission to the Bay County Circuit Court. The appeal shall be filed not more than 21 days after the determination of the City election Commissioners.

Section 11.4.3. Circulation and signing of petitions.

The petitions for initiative or referendum shall be signed by registered electors equal to not less than 8% of the number of the votes cast within the City for candidates for the office of governor at the last preceding general election. A person circulating a petition for initiative or referendum shall be a registered elector in the City.

All petitions for referendum shall be filed with the City Clerk no later than 30 days after the determination of the City election Commissioners that the petition is of sufficient clarity or decision of a court having jurisdiction. All petitions for initiative shall be filed with the City Clerk no later than 30 days after the determination of the City attorney or decision of a court having jurisdiction.

Section 11.4.4. Filing of petitions, determination of compliance and comparison of signatures by clerk.

Petitions for initiative or referendum shall be filed with the City Clerk who shall give a receipt showing the date of the filing, the number of petition sheets filed, and the number of signatures claimed by the filer. This shall constitute the total filing and additional petition sheets shall not be accepted by the City Clerk. The City Clerk shall determine if the petition is in proper form and shall determine the number and validity of the signatures on the petition in accordance with applicable state law.

The City Clerk shall determine the sufficiency of the petition within 10 days of the filing of the petition. If the petition is found to be insufficient the City Clerk shall notify the person or organization sponsoring the petition of the insufficiency of the petition. If the petition is determined to be sufficient, the City Clerk shall present the petition to the Commission at its next regular meeting.

Section 11.4.5. Ordinance, resolution or action not suspended.

The filing of a petition for referendum shall not operate to suspend the ordinance, resolution or other action of the Commission which is the subject of the petition.

Section 11.4.6. Commission procedure.

Within 30 days of the Commission receiving the petition for initiative or referendum, it shall:

- a. Adopt the ordinance, resolution or take other action in the petition for initiative, including altering and abrogating any existing ordinance, resolution or other action of the Commission which is identified in the petition; or
- b. Repeal the ordinance, resolution or other action of the Commission to which the petition for referendum referred; or
- c. Submit the proposal to the electors at the next election held in the City or, in the discretion of the Commission, at a special election. The result shall be determined by a majority vote of the electors voting at the election, except where a greater number is required by constitution, this Charter or law.

Section 11.4.7. Form of ballot.

The City Clerk shall prepare and certify the form of ballot on which shall be printed a statement of the proposed ordinance, resolution, or other proposition in 100 words or less, exclusive of caption, and under which shall be printed the words "Yes ()" and "No ()". All questions submitted to the electors shall be in the form required by law.

Section 11.4.8. Number of questions and notice.

Any number of proposed questions emanating from petitions for initiative or referendum may be voted on at the same election.

The full text of the petition shall be published in the notice of election. The means of publication and publishing to achieve public notice within this Charter shall include, but is not limited to:

- a. state law requirements;
- b. posting to the City's website;
- c. any other technological means or social media permitted by Michigan law and;
- d. any other method determined by the City Commission to inform the public.

Section 11.4.9. Effectiveness of initiative or referendum.

Upon certification of the board of canvassers to the City Clerk of the approval of the initiative or referendum, the City Clerk shall promptly publish each ordinance, resolution or other action passed by the electorate, each of which shall take effect immediately after their publication. Should two or more ordinances, resolutions or other actions adopted at the same election have conflicting provisions, the one receiving the greatest number of votes shall prevail as to those provisions.

Section 11.4.10. Repeal or amendment of ordinance, resolution or other action adopted by initiative or referendum.

Once an ordinance, resolution or other action is adopted or repealed by electoral vote, it cannot be changed or repealed again except by electoral vote 2 years or more after the original repeal or adoption.

If an electoral vote adopts, repeals, or amends any action, the action cannot be repealed or amended except by another electoral vote held no sooner than two years later.

Section 11.5. Mandatory election for Charter revision.

The question of a general Charter revision shall be submitted to the electors at every tenth even- year City election after the effective date of this Charter.

ARTICLE 12. MUNICIPAL UTILITIES

Section 12.1. Public utilities.

To the fullest extent permitted by law, the City shall have the right to establish; acquire by purchase, gift, condemnation, lease or construction; own; extend; expand; maintain; operate or continue to operate, within or without its corporate limits, any utility maintained as a public service within or without its limits at rates and charges which are established by ordinance or otherwise.

The City shall not acquire any public utility without approval of three-fifths (3/5) of the electors voting in an election and shall not sell any public utility unless the proposition is approved by a majority of the electors voting in an election.

ARTICLE 13. ACQUISITION AND DISPOSAL OF PROPERTY

Section 13.1. Acquisition of property and facilities.

The City may acquire works, buildings, parks, roadways, facilities and improvements of all kinds, including the necessary lands, for any public use or purpose within the scope of its powers, by purchase, gift, condemnation, lease, construction or otherwise, whether located within or outside of its corporate limits.

Section 13.1.1. Ownership and disposal of property.

The City may own, develop, maintain and operate its property, including all buildings and improvements, for any purpose within the scope of the powers of the City, and upon the discontinuance of public use may lease, sell or otherwise dispose of its property subject to any restrictions imposed by law or this Charter.

Section 13.2. Condemnation proceedings.

To the fullest extent permitted by law, the City shall have the power to condemn private property, whether located within or outside of its corporate limits, for any public use or purpose within the scope of its powers.

ARTICLE 14. CONTRACTS, FRANCHISES, PERMITS AND CLAIMS

Section 14.1. Contracts with City.

Except as provided by law, ordinance or resolution, all contracts with the City shall be approved by the Commission. No Commissioner, Mayor, officer, official, employee, agent or representative of the City shall have, or shall have been deemed to have had, the authority or power to bind the City, except upon approval of the Commission.

Section 14.1.1. Contracts for local improvements.

All contracts for public works, public bridges, public buildings, public streets and highways, and all public improvements, shall be in the corporate name of the City, signed by the Mayor and countersigned by the clerk.

Section 14.1.2. Contracts with persons in default.

The City shall not have the power to make a contract with, or give an official position to, one who is in default to the City.

Section 14.2. Contracts for the public peace, health and safety.

In providing for the public peace, health and safety, the City may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, township, or another City for services considered necessary by the City Commission.

Section 14.3. Control and use of highways, streets, alleys and public places by public utilities.

To the fullest extent permitted by law, the City shall have the reasonable control of its highways, streets, alleys and public places. No person or entity, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of the City, and of the space above and beneath them, for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the Commission, and upon the payment of a reasonable compensation to the City as established by ordinance or resolution.

Section 14.4. Franchises.

The City shall have all right, power and authority to grant, revoke, modify, purchase or condemn any franchise. No public utility shall transact business in the City without first obtaining a franchise from the City. No exclusive franchise shall ever be granted and no franchise shall ever be granted for longer than thirty years.

ARTICLE 15. PUBLIC SAFETY AND FIRE PENSION PLAN AND RETIREMENT SYSTEM

Section 15.1. Continuation of existing plans.

Subject to the state constitution and law, the Public Safety Officer and Firemen Retirement System of the City existing on the date this Charter takes effect, including the existing board of trustees, the benefit schedules for the plan, and the provisions for accruing rights to and receiving benefits under the plan, shall, in all respects, continue in existence unless changed by this Charter or an ordinance adopted in accordance with this article. The continued pension plan and retirement system shall be known as the Public Safety and Fire Pension Plan and Retirement System.

Section 15.2. Ordinance amendment.

The Commission, by ordinance, may amend the pension plan and retirement system provisions only in the following circumstances:

- a. To adopt provisions which are required to maintain the qualified status of the pension plan and retirement system under the Internal Revenue Code.
- b. To adopt provisions which may be required by federal or state law.
- c. To provide benefit increases to members of the pension plan and retirement system which are consistent with benefits afforded through collective bargaining.
- d. To adopt post-retirement benefit programs for retirees.

Section 15.3. Board of trustees.

There is hereby created a board of trustees in whom is vested the authority and responsibility for the administration, management and operation of the pension plan and retirement system. The board of trustees shall consist of five trustees, as follows:

- a. The City Manager.
- b. Two duly-registered electors of the City of Bay City, holding no other City positions or offices, who shall be appointed by the City Commission.
- c. A Fire Fighter member of the pension plan and retirement system to be elected by the Fire Fighter members, and a Public Safety Officer member of the pension plan and retirement system to be elected by the Public Safety Officer members pursuant to rules and procedures adopted by the board of trustees.

Section 15.4. Officers of the pension plan and retirement system.

The board shall elect from its members a chairperson, who shall preside over its meetings, and a chairperson pro-tem, who shall assume the duties of the chairperson in their absence. In addition:

- a. The City Manager shall designate an officer of the City to serve as secretary of the board and administrative officer of the pension plan and retirement system who shall keep, or cause to be kept, the minutes of all board meetings and proceedings.
- b. The board shall appoint such actuaries, investment managers, legal advisors, or other professional consultants as it shall deem necessary for the operation and administration of the affairs of the pension plan and retirement system and may pay reasonable compensation for those services.

Section 15.5. Pension funds.

1. The Pension Savings Fund is the fund in which shall be accumulated at a market-related rate of interest as determined by the board of trustees, the contributions deducted from the salaries of members and from which shall be paid refunds of accumulated contributions in the pension plan and retirement system.
2. The Pension Fund is the fund in which shall be accumulated reserves for pensions payable and to be payable from funds provided by the City, and from which shall be paid all pensions provided by the pension plan and retirement system.

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3. The Expense Fund is the fund which shall be credited from the investment earnings of the pension plan and retirement system all money budgeted for and appropriated by the board of trustees for the exclusive purpose of paying the administrative expenses of the pension plan and retirement system and from which shall be paid all expenses necessary in the administration and operation of the pension plan and retirement system. The Expense Fund shall be administered by the secretary of the board, on behalf of the board.

Section 15.6. Management of funds.

The board of trustees shall be the trustees of the funds of the pension plan and retirement system and shall have full power to invest and reinvest such funds subject to the conditions imposed by state and federal law in the making and disposing of the investments.

ARTICLE 16. TRANSITION PROVISIONS

Section 16.1. Effective Date.

The effective date of this Charter shall be January 1, 2020.

Section 16.2. Transition schedule.

The purpose of this transition schedule is to inaugurate the government under this Charter. It shall constitute a part of this Charter only to the extent and for the time required to accomplish the transition to this Charter.

Section 16.2.1. Continuation of City government.

The present Commission shall govern the City until their successors are elected and take the oath of office.

Section 16.2.2. First election.

The first election of the Mayor and Commissioners under this charter shall be as follows: The first election for the Commissioners in the odd numbered wards shall be on the same date as the general election held in November 2022 and shall be for a four year term. The first election for the Mayor and Commissioners in the even numbered wards shall be on the same date as the general election in November 2024 and shall be for a four year term. Thereafter, all Mayoral and Commissioner elections shall continue in the same manner in even years for a four year term.

Section 16.2.3. Applicability of term limits.

For purposes of term limits under Section 11.1.3, no Commissioner or Mayor shall serve more than two consecutive terms, including terms served under this or the preceding Charter.

Section 16.2.4. Transition of operations.

The Commission and City Manager shall provide for the continuation and transition of the operations of City government to comply with this Charter.

Section 16.3. Repealer.

To the extent inconsistent with this Charter, all ordinances, resolutions, orders, appointments or any other actions of the Commission are repealed.

Section 16.4. Continuance of offices and departments.

Except as provided in this Charter, all officers, offices and departments are abolished.

Section 16.4.1. Abolishment of boards, Commissions and committees.

All boards, Commissions and Committees which are not authorized or retained in this Charter or in any valid ordinance or resolution are abolished.

Section 16.4.2. Preservation of rights and privileges.

Except as provided in this Charter, the rights or privileges of any City employee or officer shall not be affected by the adoption of this Charter.

Section 16.5. Pending matters.

Except as provided in this Charter, all rights, claims, actions, resolutions, orders, powers, contracts, and legal or administrative proceedings shall be enforced.

Section 16.6. Review of existing ordinances.

The Commission shall review, adopt, revise, continue, amend or repeal ordinances to comply with this Charter.

Section 16.7. Severability.

If any provision or application of this chapter is held invalid, the validity of the other provisions or applications of this chapter shall not be affected.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Date	Section this Charter
8- 5-97 Added	Arts. 1—16
11- 5-19 Rpld	Arts. 1—16
Added	Arts. 1—16