

CHARTER OF THE CITY OF FLUSHING, MICHIGAN*

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* **Editor's note** – This Charter was approved by the voters at an election held on Nov. 2, 1993 and replaces the charter adopted Nov. 3, 1964. Amendments to Charter are indicated by parenthetical history notes following the section(s) amended. Material in brackets [] has been added by the editor for purposes of clarity.

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Sec. 1.2. Form of government.

The municipal government provided for in this Charter shall be the “Council-Manager” form of government. Pursuant to the provisions of this Charter and the general state law and subject only to limitations imposed by the Constitution of the State of Michigan, all powers of the city shall be vested in an elective council except as herein otherwise provided.

Sec. 1.3. Municipal powers.

This Charter provides for the exercise of all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; for any act to advance the interests of the City, the good government and prosperity of the municipality and its inhabitants and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state.

Sec. 1.4. Amendments.

This Charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Sec. 1.5. Article and section headings.

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

Sec. 1.6. Records to be public.

All records of the city shall be public and shall be kept in the city offices except when required for official reasons or for purposes of safe keeping to be elsewhere, and shall be available for inspection at all reasonable times.

Sec. 1.7. Violation of Charter.

Any person found guilty of an act constituting misconduct in office or a violation of this Charter may be punished by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment for a period not to exceed ninety (90) days, or both, in the discretion of the court. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

Sec. 1.8. Severability of charter provisions.

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

Sec. 1.9. City liability.

Any person having a claim against the city by reason of negligence for damages to person or property shall give the city written notice of the claim within one hundred twenty (120) days. This notice shall be served on the city clerk and shall contain the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him/her. The one hundred twenty-day notice requirement corresponds with the current state law. If the statute is amended and the notice requirement is changed then the notice requirement is changed then the notice requirement as outlined in this section shall change to correspond with state law.

Failure to give notice as outlined in this section may be reason to dismiss any claim for such injuries. The standard of review to dismiss the claim for failure to give required notice shall be the same as is outlined in state statute.

Upon receiving notice the city shall respond promptly to each such claim under procedures established by the city council. The claimant may be notified that the City is not liable because of immunity or some other defense. In addition to the defenses outlined in the City's response to the notice of claim the city may allege other defenses if the claim is pursued in a forum such as a court of law.

If the city recognizes the possibility of liability, the response shall specify the appropriate procedure for the resolution of the issue of liability and adjustment of the amount of damages by mediation, arbitration or any other means chosen to protect the public interest. A claimant's failure to follow the reasonable procedures designed to allow the city to fairly investigate the circumstances of the claim, determine liability and fix damage must be brought to the attention of any body or official with discretionary authority over the award of costs.

The provisions of this Charter are not intended to waive any immunity from tort liability provided by statute or common law.

Sec. 1.10. Processes against the city.

All process against the city shall run by statute against the city in the corporate name thereof, and must be served by leaving a true copy with the mayor, city clerk, or city attorney.

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Sec. 1.11. Estoppel.

No estoppel may be created against the city.

Sec. 1.12. Trusts.

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

Sec. 1.13. Definitions and interpretations.

Except as otherwise specifically defined herein or indicated by the context, words used in this Charter shall have their ordinary dictionary meaning:

- (a) *Newspaper*: A publication generally distributed in the Flushing area.
- (b) *City*: The City of Flushing, Michigan, a municipal corporation.
- (c) *Council*: The city council of the city.
- (d) The words *law* or *general laws of the state* shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words “law” or “general laws of the state” is to be applied, and applicable common law.
- (e) *Tax day*: December 31.

Sec. 1.14. Familiarity of city officials with City Charter.

Persons serving on city council, boards, commissions, city administrators, city attorney and city manager are required to read the City Charter and indicate that they have read the City Charter by filing a signed letter with the city clerk indicating that he/she has read the Charter.

ARTICLE II. ELECTIONS

Sec. 2.1. Qualifications of electors.

The residents of the city, having qualifications of an elector in the State of Michigan, shall be eligible to vote in the city by state law.

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Sec. 2.2. Election procedure.

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

Sec. 2.3. Regular elections.

A regular city election shall be held on the first Tuesday after the first Monday of November in each odd numbered year or as may be changed from time to time by state statute.

Sec. 2.4. Special elections.

Special city elections shall be held when called by resolution of the council. The city shall call no more than two (2) special elections in one (1) year.

Sec. 2.5. Notice of election.

Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon shall be given by the clerk in the same manner and at the same time as provided in the general state law for the giving of notice by city clerks.

Sec. 2.6. Voting hours.

The polls of all elections shall open at such time and remain open for the period of time as provided by general state law of the State of Michigan.

Sec. 2.7. Council districts and election precincts.

- (a) For the purpose of electing members of the council the City of Flushing shall be divided into four council districts as herein provided in Article III of this Charter.
- (b) The boundaries of the election precincts may or may not coincide with the boundaries of the districts.
- (c) The clerk shall maintain and keep available in his/her office for public inspection a full description of the current boundaries of each council district and of each voting precinct therein.

Sec. 2.8. Election commission.

There is an election commission consisting of the city clerk, who shall be chairperson and two qualified electors of the city.

Said electors, during their tenure in office, shall not be city officials or employees or candidates for elective office in city elections.

- (a) The council shall make appointments to the election commission;
- (b) Appointment shall be for four-year terms.

The election commission shall establish precincts only after the city council has held a public hearing on the additional precincts requested, following which city council can approve or disapprove the additional precincts.

Sec. 2.9. Nominating petitions.

The persons desiring to qualify as candidates for any elective office under this Charter shall file with the city clerk a petition therefore signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the district or municipality from which they seek to be elected. Such petitions shall be filed with the city clerk's office before 4:00 p.m. on the first Tuesday succeeding the first Monday in August prior to the date of the regular election. At least one (1) week before and not more than three (3) weeks before the last date for filing nominating petitions, the clerk shall publish notice to that effect.

Official blank nominating petitions in substantially the same form designated by the Secretary of State for use in the nomination of non-partisan judicial officers, shall be prepared and furnished by the clerk. Before the clerk shall furnish official blank nominating petitions to any person, he/she shall enter thereon with typewriter or in ink the name of the person who is to be nominated as a candidate. No petition which has been altered with respect to such entry shall be received by the clerk for filing. Nominating petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which they are to be used. No person shall sign his/her name to a greater number of petitions for any one (1) office than there are candidates to be elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted on any petition for that office.

Sec. 2.10. Approval of petitions.

The clerk shall accept only nomination petitions which conform with the forms provided and maintained by him/her, and which considered together contain the required

number of valid signatures for candidates having those qualifications required for the respective elective city

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offices by this Charter. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The clerk shall within five (5) days after the filing of petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. If he/she finds that any petition does not contain the required number of genuine signatures of registered electors of the city or district involved, he/she shall immediately notify the candidate in writing of the insufficiency of his/her petition. No additional signatures on any petition shall be received by the clerk after the final date and time fixed for filing nomination petitions. Within five (5) days after the last date for filing petitions, the clerk shall make his/her final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for the respective city office by this Charter and shall write his/her determinations thereof on the face of the petition and shall notify in writing the candidate whose name appears thereon of his/her determinations.

Sec. 2.11. Public inspection of petitions.

All nominating petitions shall be open to public inspection after being filed in the office of the clerk, in accordance with such reasonable rules and regulations as shall be prescribed by him/her.

Sec. 2.12. Form of ballots.

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

Sec. 2.13. Absentee ballots.

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

Sec. 2.14. Tie vote.

If at any city election, there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes then the determination of the election of such candidate, by lot, will be as provided by state statute.

Sec. 2.15. Recount.

The recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

Sec. 2.16. Recall.

Every elective officer of the city is subject to recall by the qualified voters of the city in the manner and at the time provided by the general laws of the State of Michigan. A vacancy created by the recall of any elected official shall be filled in the manner prescribed by law.

ARTICLE III. LEGISLATIVE BODY**Sec. 3.1. Council.**

The legislative affairs of the city shall be vested in a council consisting of seven (7) councilpersons, including a mayor, one (1) to be elected mayor at large, one (1) to be elected from each of four (4) districts and the remaining two (2) to be elected at large. All candidates for the council from districts and all candidates from the city at large shall be voted upon by the qualified voters of the city as if all candidates were candidates at large.

Sec. 3.2. Districts.

The four (4) council districts shall be numbered beginning with the Southeast district and proceeding counterclockwise thus: I, II, III, IV.

- (a) Each district shall have the same boundaries as shall exist on the effective date of this Charter until changed in accordance with law.
- (b) The election commission shall revise the boundaries of the district within sixty (60) days after the figures from a United States decennial census become available.
- (c) If the last decennial United States census figures are inadequate for the purposes of this section, the city council shall have the power to conduct its own census.

- (d) The election commission shall, to the greatest extent possible, establish districts that are compact, contiguous, equal population and as nearly rectangular as practicable.
- (e) New district boundaries created within four (4) months of a city election shall become effective after the city election.

- (f) The council districts shall be in accordance with the map made part of this Charter and adopted by the Charter Commission.

Sec. 3.3. Salaries.

The salaries of all elected officials shall be set by ordinance within thirty (30) days following the effective date of this Charter. Thereafter, no change in compensation of elective officials shall take effect until after the ordinance is amended and the regular council election takes place.

Sec. 3.4. Terms.

Terms of councilmembers shall begin on the first Monday following the election. General municipal election shall be held every two (2) years, with councilmembers being elected for four-year terms, except for the candidate for mayor councilmember at large, shall be elected for a two-year term. At each general municipal election, the voters shall elect three (3) members to serve as city councilpersons, plus a mayor, unless additional members are to be elected to fill a vacancy, in accordance with the following table:

Councilperson Terms of Office

Election Yrs.	I	II	III	At Large IV	Mayor at large Yrs.
1995 2	4		4		4
1997 2		4		4	4
1999 2	4		4		4

All future elections shall conform with the pattern above.

Sec. 3.5. Qualifications for councilpersons.

To be eligible for election to the city council, a person shall be an elector of the city, and shall have been a resident of the city for a period of not less than one (1) year immediately preceding the date of his/her election. To qualify as a candidate for the council from a district, a candidate must be a resident of the district from which he/she seeks election at the time he/she files his/her petitions.

Sec. 3.6. Presiding officer.

The council shall meet for organization on the first Monday following each regular election at the usual place for holding council meetings. The mayor is the presiding officer.

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He/she shall serve for a two-year term. The council shall at this meeting review and update the council rules.

Sec. 3.7. Functional duties of the mayor.

- (a) Insofar as required by law, and for all ceremonial purposes, the mayor shall be recognized as the executive head of the city. He/she shall have an equal voice and vote in the proceedings of the council, but shall have no veto power. He/she shall be the presiding officer of the council.
- (b) He/she shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the city, and to suppress riot and disorderly conduct.
- (c) He/she shall authenticate by his/her signature such instruments as the council, this Charter, or the laws of the State of Michigan or of the United States shall require.

Sec. 3.8. Mayor pro tem.

At the meeting provided for in section 3.6 there shall be elected by ballot a mayor pro tem from the members of the council. The mayor pro tem shall act as mayor during the absence of the mayor.

Sec. 3.9. Oath of office.

Before entering upon the duties of his/her office, every elective and appointive officer shall take, subscribe before, and file with the city clerk, an oath or affirmation that he/she will support the Constitution of the United States, the constitution of the State of Michigan, this Charter and ordinances of the city, and will faithfully perform the duties of the office.

Sec. 3.10. Council meetings.

The council shall meet regularly at the usual meeting place, at least once each month, at a day and hour to be fixed from time to time by the rules and procedures of each council. The council shall determine the rules of procedure governing meetings. All meetings for the transaction of business shall be open to the public, and that the business of the city will be subject to the Open Meetings Act.

Special meetings or change of location of regular meetings of the council may be called in the manner and at the time provided for by the rules of procedure of the council. Such notice shall be in writing and may be delivered to the place of residence or to an address other than the residence if so requested by the councilperson. The notice of such meeting shall be given at least

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eighteen (18) hours prior to the meeting and shall contain the proposed agenda to be considered. No notice need be given if such notice has been provided at a previous meeting at which all councilpersons were present.

Four (4) members of the council shall constitute a quorum.

Sec. 3.11. Vacancies.

A councilperson shall continue to hold his/her office until his/her successor is duly qualified as provided in section 3.5. A vacancy shall occur whenever any councilperson shall become incapacitated, or if a councilperson shall remove from or become a non-resident of the city or of the district in which he/she was nominated, during the term of his/her office. In case of a vacancy, the remaining council shall choose, by majority vote and within thirty (30) days after such vacancy occurs, a duly qualified person as provided in section 3.5 to fill such vacancy. He/she shall serve until his/her successor, elected for the remainder of the term at the next ensuing general (municipal, state or federal) election, has been duly qualified. If three (3) or more such vacancies exist in the council simultaneously, such vacancies shall be filled for the respective unexpired terms at a special election.

Sec. 3.12. Council membership rules.

The council shall be the judge of the election and qualifications of its own members, subject to judicial review.

Sec. 3.13. Powers.

The council shall have all municipal legislative powers as conferred by the laws of the State of Michigan, except as provided by this Charter and except those which may be exercised by the people through direct legislation. The council shall have the power

and authority, within constitutional limitations, to delegate by ordinance to boards and commissions such functions, powers, or authority herein conferred upon the city as the council shall deem proper and advisable within its discretion.

Sec. 3.14. The council not to interfere with administrative service.

Except for the city attorney, the council and its members shall deal with the administrative service of the city solely through the city manager. No elected official shall give orders to any subordinates of the city manager either publicly or privately.

Sec. 3.15. Removals from office.

Officers, or members of boards or commissions, appointed by the council, shall serve at the pleasure of the council.

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Sec. 3.16. Investigations.

- (a) The city council may make investigation into the affairs of the city and the conduct of any city agency.
- (b) The city council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it.
- (c) To enforce a subpoena or order of introduction of evidence or to impose any penalty prescribed for failure to obey a subpoena or order the city council shall apply to the appropriate court.

ARTICLE IV. LEGISLATION

Sec. 4.1. Prior legislation.

All valid ordinances of the City of Flushing which are not inconsistent with this Charter, and which are in full force and effect at the time of the effective date of this Charter, shall continue in full force and effect until repealed or amended. If any such ordinance provides for the appointment of any officers or any members of any boards or commissions by the council, such officers or members of any boards or commissions shall, after the effective date of this Charter, be appointed in accordance with the provisions of this Charter.

The zoning regulations in effect at the date of this charter of the City of Flushing shall remain in full force and effect unless the council shall lawfully adopt other zoning regulations or ordinances.

Those provisions of any effective ordinance which are inconsistent with this Charter are hereby repealed.

Sec. 4.2. Ordinances and resolutions.

All official action of the council shall be by ordinance, resolution, or order. Action by resolution or order shall be limited to matters required or permitted to be so done by this Charter or by state or federal law or pertaining to the internal affairs or concerns of the city government. All other acts of the council and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number, and by a code section number.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of Flushing ordains."

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Sec. 4.3. Enactment, amendment, repeal and effective date of ordinances.

Subject to the exceptions which follow hereafter:

- (a) Ordinances may be enacted by the affirmative vote of not less than four (4) members of the council;
- (b) No ordinance shall be amended or repealed except by an ordinance adopted as aforesaid;
- (c) No ordinance shall be enacted at the meeting at which it is introduced nor shall an ordinance become effective until after publication of the proposed ordinance or summary thereof; and
- (d) The effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than twenty (20) days after enactment nor before publication thereof.
- (e) It is provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health or safety or to provide for the usual daily operation of a department or division of government may be enacted at the meeting at

which it is introduced but not having an effective date before publication, and may be given earlier effect than twenty (20) days after its enactment by the affirmative votes of six (6) members of the council if seven (7) members are present at the meeting at which it is enacted, or by the affirmative votes of five (5) members if five (5) or six (6) members of the council are present at the meeting at which it is enacted.

- (f) In case an ordinance is given effect earlier than twenty (20) days after its enactment, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three (3) public places in the city, other provisions of this Charter notwithstanding, and the clerk shall, immediately after such posting, enter in the ordinance book under the record of the ordinance, a certificate under his/her hand stating the time and place of such publication by posting, which certificate shall be prima facie evidence of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it nor suspend its operation. Such ordinance shall also be published in accordance with section 4.4 but not as a requirement for the effectiveness thereof.
- (g) No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of Article IX of this Charter.

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- (h) No ordinance shall be amended by reference to the title only, but the amended section or sections of the ordinance as amended shall be re-enacted and published. However, an ordinance or section thereof may be repealed by references to its title and ordinance or code number only.

Sec. 4.4. Publication and recording of ordinances.

Each ordinance shall be published with fifteen (15) days after its enactment in one of the following methods:

- (a) The full text thereof may be published in a local newspaper, or
- (b) In those cases where authorized by law a digest, summary or statement of purpose of the ordinance, approved by the council may be published in a local newspaper either separately or as part of the published council proceedings or summary thereof. When so done, copies of the full text of the ordinance shall be made available for inspection at the office of the city clerk.

All ordinances shall be recorded by the clerk in a book to be called "The Ordinance Book," and it shall be the duty of the mayor and the clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate any such ordinance shall not invalidate it or suspend its operation.

Sec. 4.5. Penalties for violating of ordinances.

The council may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed the maximum allowed by state law.

Sec. 4.6. Special procedure on vote on certain council actions.

- (a) Action to vacate, discontinue or abolish any highway, street, lane, alley, or other public place or part thereof shall be by resolution. After the introduction of such resolution and before its final adoption the council shall hold a public hearing thereon and shall publish notice of such hearing at least one (1) week prior thereto.
- (b) The following actions shall require the affirmative vote of four (4) members of the council for the effectiveness thereof:
 - (1) Vacating, discontinuing or abolishing any highway, street, lane, alley or other public place or part thereof;

- (2) Leasing, selling or disposing of any city owned real estate or interest therein;
- (3) Authorizing the condemnation of private property for public use;
- (4) Creating or abolishing any office;
- (5) Appropriating any money;
- (6) Imposing any tax or assessment;
- (7) Reconsidering or rescinding any vote of the council.

Sec. 4.7. Technical codes adopted by reference.

In accordance with statute, the council may enact technical codes by reference thereto in an enacting ordinance and without publishing such codes in full.

Sec. 4.8. Severability of ordinances.

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

Sec. 4.9. Compilation.

- (a) Copies of this Charter and all ordinances and amendments to the Charter shall be prepared and kept on hand in the office of the clerk, available for public distribution at a reasonable charge.
- (b) After the effective date of this Charter and at least every ten (10) years thereafter, the city council shall provide for and adopt a codification of all city ordinances. In case the compilation or codification of the ordinances of the city shall have been maintained current and up to date during any ten-year period no recompilation or re-codification of the ordinances of the city shall be required during or at the end of each period.

Sec. 4.10. Initiative and referendum.

The electors of the city may initiate any ordinance or secure a referendum on any ordinance, except annual tax levy ordinances, by petition as hereinafter provided, subject to limitations of state law.

Sec. 4.11. Initiative or referendary petitions.

An initiatory or a referendary petition shall be signed by registered electors of the city equal to not less than four (4) percent of the number of registered electors of the city according to the records of the clerk on the date the petition is filed. No referendum shall be permitted respecting any ordinance required to be passed by the council by any law, except in the manner provided by such law. Such petition may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his/her name and shall, himself/herself, place thereon after his/her name, the date and his/her place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be and that it was signed in the presence of the affiant. Such petition shall be filed with the clerk who shall, within ten (10) days, canvass the signatures thereon to determine the sufficiency thereof. Any signatures obtained more than sixty (60) days before the filing of such petition with the clerk shall not be counted. If found to contain an insufficient number of signatures of registered electors, or to be improper as to form or compliance with the requirements of this section, the clerk shall notify, forthwith, the person filing such petition, and ten (10) days from such notification shall be allowed for the filing of supplemental petition papers. If found sufficient and proper, the clerk shall present the petition to the council at its next regular meeting. If found insufficient, the clerk shall report to the council and no further action shall be held.

Sec. 4.12. Council procedure.

Upon receiving an initiatory or referendary petition from the clerk, the council shall:

- (a) If it be an initiatory petition, adopt the ordinance as submitted in the petition within thirty (30) days after the receipt thereof, or submit the proposal to the electors within a period of ninety (90) days after the receipt thereof.
- (b) If it be a referendary petition, the council shall repeal the ordinance or submit the proposal to the electors within a period of ninety (90) days after the receipt thereof.

Sec. 4.13. Submission to electors.

Should the council decide to submit the proposal to the electors, it shall be submitted at a special election or a general election insofar as it shall comply with section 4.12 of this Charter.

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The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

Sec. 4.14. Status of ordinances adopted.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the council for a period of two (2) years after the date of the election at which it was adopted. Should two (2) or more ordinances be adopted at the same election which have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Sec. 4.15. Ordinance suspended.

The certification by the clerk of the sufficiency of a referendary petition within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question, pending repeal by the council or the final determination of the electors thereon.

Sec. 4.16. Health and safety.

The council may enact such ordinances as necessary for the preservation and protection of the health and safety of the city inhabitants to the extent permitted by state law.

ARTICLE V. ADMINISTRATIVE SERVICE

Sec. 5.1. Administrative officers.

The administrative officers of the city shall be the city manager, city attorney, city clerk, city treasurer, city assessor and department heads. The council may, by ordinance, upon the recommendation of the city manager, create additional administrative offices, or combine any administrative offices in any manner, not inconsistent with law, and prescribe the duties thereof as it may deem necessary for the proper operation of the city

government. No creation of any administrative office, nor any combination thereof, shall abolish the office of city manager, nor diminish the duties or responsibilities of that office, as set forth in this Charter.

- (a) In making appointments of administrative officers, the appointing authority shall consider only the good of the public service and the fitness of the appointee for his/her ability to discharge the duties of the office to which he/she is appointed.
- (b) In making appointments of administrative officers, the appointing authority shall give primary consideration to electors of the city.

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- (c) All persons employed by the city, who are not elective or administrative officers, or members of a board created by this Charter, or declared to be administrative officers by or under authority of this section, shall be deemed to be employees of the city, excepting independent contractors and employees thereof.

Sec. 5.2. Appointments.

The city manager and the city attorney shall be appointed by and hold office at the pleasure of the council, which body shall also set their compensation.

- (a) All other administrative officers shall be appointed by the city manager, subject to confirmation of the council before any such appointment shall be final. The compensation of all administrative officers, other than the city manager and the city attorney, shall be set by the city manager in accordance with budget appropriations.
- (b) The term of office of each such officer appointed by the city manager shall be indefinite. Officers appointed by the city manager shall be subject to removal by the city manager upon approval of such action by the council.

Sec. 5.3. The city manager.

Part I – Qualifications

- (a) No member of the council may be appointed to the position of city manager during the term of office for which he/she was elected, and one (1) year thereafter.

- (b) To be eligible for appointment as a city manager, a person must have had training for, or previous experience in city, public, or business administration.

Part II – Function

The city manager shall be the administrative agent of the council, and shall be vested with all administrative powers of the city, except as otherwise provided by this Charter, and shall perform the duties of his/her office under the authority of, and be accountable to the council. Except as otherwise provided in this Charter, or required by law, all administrative officers, other than the city attorney and members of city boards, shall be responsible to him/her for the performance of their duties.

Part III – Duties

It shall be the duty of the city manager to:

- (a) Supervise and coordinate the work of the administrative officers and departments of the city, except as otherwise provided in this Charter.
- (b) Supervise and coordinate the personnel policies and practices of the city.
- (c) Keep informed and report to the council concerning the work of the several administrative offices and departments of the city, and to that end, he/she may secure from the administrative officers and department heads such information and periodic or special reports as he/she, or the council, may deem necessary.
- (d) In case of conflict of authority between officers and administrative departments, or in absence of administrative authority, occasioned by inadequacy of Charter or ordinance provisions, resolve the conflict or supply the necessary authority so far as may be consistent with law, Charter, and the ordinances of the city, and direct the necessary action to be taken in conformance therewith, making a full report to the council at the next regular or special meeting thereof.
- (e) Attend all meetings of the council, with the right to be heard in all administrative matters before the council, but without the right to vote.
- (f) Recommend to the council, from time to time, such measures as he/she deems necessary or appropriate for the improvement of the city administration or its services.
- (g) Prepare and maintain an administrative code, which, when adopted by the council, shall supplement this Charter in establishing the duties and functions of each officer and department of the city.
- (h) Furnish the council with information concerning city affairs and prepare and submit such reports as may be required, or which shall consolidate the reports of the several officers and departments of the city.
- (i) Possess such further powers and perform such additional duties as may be granted to or required of him/her from time to time by the council, so far as may be consistent with the provisions of law, Charter, and the ordinances of the city.

Sec. 5.4. City attorney.

The city attorney shall be appointed by the council and shall act as the legal advisor of and be responsible to the council in all respects concerning the performance of

his/her official duties as indicated. The council shall, after an election, reappoint or appoint the city attorney.

- (a) He/she shall advise the city manager concerning legal problems affecting the city administration, the city clerk, the treasurer, and the assessor, concerning their statutory and Charter duties, when so requested, and shall file with the clerk a copy of all written opinions given by him/her.
- (b) He/she shall prosecute ordinance violations and shall represent the city in cases before courts and other tribunals.
- (c) He/she shall prepare, or review, all ordinances, regulations, contracts, bonds, and such other instruments that may be required by this Charter, or by the council, and shall promptly give his/her opinion as to the legality thereof.
- (d) He/she shall attend the meetings of the council when requested.
- (e) He/she shall perform such other duties as may be prescribed for him/her by this Charter or by the council.
- (f) Upon the attorney's recommendation, or upon its own initiative, the council may provide for an assistant to the city attorney, and may retain special legal counsel to handle any matter in which the city has an interest, or to assist the city attorney in connection therewith.

Sec. 5.5. The city clerk.

The city clerk shall be clerk of the council.

- (a) He/she, or his/her deputy, shall attend all meetings of the council and shall keep a permanent journal of its proceedings in the English language. The journal shall be open to the public at all times.
- (b) He/she shall be custodian of the city seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He/she shall also be custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided by law. He/she shall give to the proper officials ample notice of the expiration or termination of their terms of office and of any official bonds, and of franchises, contracts, or agreements to which the city is a party.
- (c) He/she shall keep a record of all ordinances, resolutions and actions of the council, and shall keep the city manager informed with respect thereto.
- (d) He/she shall have power to administer all oaths required by law and the ordinances of the city.

- (e) He/she shall certify all ordinances and resolutions enacted or passed by the council.
- (f) He/she shall perform such other duties in connection with his/her office as may be required of him/her by administrative order of the city manager, with the approval of the council and by law and the ordinances or resolutions of the council.
- (g) He/she shall maintain a system of accounts which shall conform to the Uniform System of Accounts as may be required by law.
- (h) The records of the city shall be made available to the general public in compliance with the Freedom of Information Act.

Sec. 5.6. The city treasurer.

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

- (a) He/she shall keep and deposit all moneys or funds in such manner and only in such places as the council may determine, or as may be required by law or ordinances of the city.
- (b) He/she shall have such power, duties, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and moneys as are conferred by law.
- (c) He/she shall perform such other duties as may be prescribed by law or by the city manager with the approval of the council.

Sec. 5.7. The city assessor.

The city assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by law.

- (a) He/she shall make and prepare all regular and special assessment rolls in the manner prescribed by or under authority of law.
- (b) He/she shall perform such other duties as may be prescribed by law or by the city manager with the approval of the council.

Sec. 5.8. Deputies.

The clerk, the treasurer, and the assessor may appoint their own deputies, subject to the written confirmation of the city manager, and may terminate the status of their deputies upon

written approval of the city manager. Such deputies shall, in each case, possess all the powers and authority of their superior officers, except as the same may be from time to time, limited by their superiors or by the city manager.

Sec. 5.9. Police Department.

The chief of police shall be in charge of the police department. To be eligible for appointment as chief of police, a person must be qualified for such office by education, training or experience. Such qualifications shall be determined by the city council. Police officers shall have all the powers, immunities and privileges granted to peace officers by law for the making of arrests, the preservation of order, and for protecting the safety of persons in the city and on any lands and premises owned by the city outside its corporate limits.

Sec. 5.10. Fire department.

The fire chief shall be the administrative head of the fire department and shall be accountable and responsible to the city manager for performance of duty. The chief shall perform all duties as may be prescribed by law, this Charter, the city manager and/or ordinances and resolutions of the city.

Sec. 5.11. Department of public works.

The public works director shall be the administrative head of the department of public works and shall be accountable and responsible to the city manager for the performance of his/her duties.

The director shall perform all duties as prescribed by law, this Charter, the city manager and/or ordinances or resolutions of the council.

Sec. 5.12. Employee welfare benefits.

The council shall have the power to make available to the administrative officers and employees of the city, other than members of city boards or commissions, any recognized standard plan of group life, hospital, health and accident insurance, pension plan, or any of them.

Sec. 5.13. Surety bonds.

The council shall require appropriate surety bonds of officers and employees in such amounts as determined by resolution and the premiums therefor shall be paid by the city.

Sec. 5.14. Delivery of office.

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he/she shall within five (5) days, or sooner, on demand, deliver to his/her successor in office or to his/her superior all the books, papers, moneys and effects in his/her custody as such officer or employee. Any officer violating this provision may be proceeded against in the manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed ninety (90) days, or both, in the discretion of the court.

**ARTICLE VI. BOARDS AND COMMISSIONS;
GENERAL PROVISIONS FOR BOARDS****Sec. 6.1. Citizen involvement in government.**

- (a) The people of the City of Flushing have placed the basic responsibility for the management of this city in their elected officials. This Charter recognizes the important role that individual citizens play in reviewing and evaluating the needs of the city through the structure of boards and commissions. For this reason, boards, commissions and advisory committees shall be encouraged by the city of Flushing.
- (b) Citizen involvement for the operation of the city shall be provided through review boards and advisory boards.

Sec. 6.2. Types of boards.

- (a) Review boards include those boards which are not administrative or advisory and whose recommendations or decisions have legal significance. The city may create review boards by ordinance.
- (b) Advisory boards include boards, commissions and committees established by ordinance or this Charter and composed of citizens sharing the common goal of improving the general welfare through their advice and assistance to the elected and appointed full time city officials.

Sec. 6.3. Appointment of board members.

- (a) Every member of a board, commission or committee established by Charter or ordinance shall be an officer of the city and shall possess the qualifications required by this Charter for holding office.

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- (b) Except as otherwise specifically provided in this Charter or State law, the city council shall appoint persons to all such boards, commissions, and committees with council rules set up so that each member of the council on a rotating basis shall appoint a member of the city boards as they become available. All districts within the city should be represented. No such appointment shall be effective until it has been confirmed by the council.
- (c) The terms of the boards established in this Charter shall be set by the council's ordinance.
- (d) The city clerk shall report to the city council, prior to the first council meeting in January, a list of the terms on city boards and commissions which shall end on January 31.
- (e) The city council shall establish and make public a procedure which will provide for receiving either applications or recommendations of individuals for membership on city boards, commissions or committees.
- (f) Appointments to fill vacancies shall be made upon the occurrence of the vacancy and each person so appointed shall take office immediately upon the confirmation of the council to serve for the remainder of the unexpired term.
- (g) Appointments to each board, commission and committee shall be made with regard to the diversity of Flushing citizens, their variety of interest and the experience and expertise that each can contribute to the common good of the city.
- (h) An ordinance creating a board, commission or committee may set forth a different size for the body or a different length of term for the members than required in this section if the council finds that the change is appropriate.

ARTICLE VII. GENERAL FINANCE AND TAXATION

Sec. 7.1. Fiscal year.

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

Sec. 7.2. Budget procedures.

The city manager of the city, or some other designated person appointed by the council shall be the budget officer. Not later than the first day of February of each year, each officer, department, and board of the city shall submit to the budget officer an itemized estimate of its

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expected income and expenditures during the next fiscal year for the department or activities under its control.

The budget officer shall prepare and submit to the council on or before its first regular April meeting, a budget document covering the next fiscal year tabulating the recommendations of the several department heads and officials, and shall include therein at least the following information:

- (a) Detailed estimates, with supporting explanations, of all proposed expenditures, for each department or office of the city together with the expenditures, for corresponding items for the last fiscal year in full and for the current fiscal year to January 1, and estimated expenditures for the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full and for the current fiscal year to January first and estimated revenues for the balance of the current fiscal year;
- (d) A statement of the estimated balance for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bonds issued which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting documents as the council may request.

Sec. 7.3. Budget hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the council shall direct. Notice of such public hearing shall be published at least one (1) week in advance of the hearing, which shall also include notice that the proposed budget and the three preceding fiscal budgets are on file in the office of the clerk and the city library. The complete proposed budget and the three preceding fiscal budgets shall be on file for public inspection during office hours at such office for a period of not less than one (1) week prior to such hearing.

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Sec. 7.4. Adoption of budget; tax limit.

Not later than the third Monday of May, the council shall by resolution, adopt the budget for the next fiscal year and shall in such resolution, make an appropriation for the money needed for municipal purposes during the ensuing fiscal year of the city and provide for a levy of the amount necessary to be raised by taxes upon real and personal property, and by rents, tolls or excises for municipal purposes, which levy as to real and personal property ad valorem taxes shall not exceed one and one-half (1 ½) percent (15 mills) of the assessed valuation of all real and personal property, subject to taxation in the city, unless the proposition to approve and increase above the tax rate so limited is first approved by a majority vote of the electors of the city voting on the proposition. No such increase shall be for a period of more than three (3) years. Nor shall it or any combination of such increases cause the total tax rate in any one (1) year, for municipal purposes, to exceed that permitted by law.

Failure to adapt such resolution within the time herein set, shall not invalidate either the budget, or the tax levy therefore.

Sec. 7.5. budget control.

No money shall be drawn from the treasury of the city without an appropriation thereof, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The council may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund or agency to another. In the case of emergency arising from a pressing need other than a regular or recurring requirement and necessary to protect the public health, welfare or safety, the council may make additional appropriations to cover unanticipated expenditures required of the city because of such emergency.

At the beginning of each quarterly period during the fiscal year, and at such additional times as requested by the council, the officer responsible for maintenance of the city accounting system shall submit to the council data showing the relation between the estimated and actual revenues and expenditures to date, and if it shall appear that the revenues are less than anticipated, the council may reduce appropriations. The city may not operate at a deficit.

Sec. 7.6. Special account.

- (a) The council may, by ordinance, establish and maintain accounts for accumulating moneys to be used for acquiring, extending, altering, constructing, or repairing specific item or items or for future unspecified public improvements or equipment, or both.
- (b) Appropriations to such accounts may be made by the council either in the annual appropriation resolution or, from time to time during the fiscal year, from available

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funds, from whatever source derived. Such accounts shall be continuing accounts and the balances therein at the end of each fiscal year shall remain a part thereof.

- (c) At the end of each fiscal year, the council may transfer any unencumbered balance or any part thereof into one (1) or more of the accounts authorized to be created by this section.
- (d) Moneys which are accumulated for the purpose of public improvements, as set forth in subsection (a) hereof, shall be used only at the direction of the council, and only for capital improvements, unless their use for some other municipal purpose be authorized by a majority vote of the electors of the city who vote on the proposition to amend such ordinance to provide for a change in the use of the moneys in such account. After the purpose of any such account has been fulfilled, any balance remaining therein may be transferred by the council to any other special account or to the general fund of the city.
- (e) Moneys which are accumulated for the purpose of purchasing equipment, as set forth in subsection (a) hereof, shall be expended only for the purpose provided in the ordinance establishing any such account, or as such ordinance may be amended from time to time, and when no longer required for such purpose, such moneys or any part thereof, may be transferred to the general fund by an ordinance of the council.

Sec. 7.7. Purchasing agent.

The city manager or his/her designee shall act as purchasing agent, and he/she shall be responsible for the purchase of city personal property within budget limitation. The city council shall by ordinance designate the purchasing power of the purchasing agent without sealed bids.

The council shall establish by ordinance the bidding procedures to be followed for all purchases in excess of the purchasing limitations granted the purchasing agent.

The purchasing agent shall also be responsible for the sale of all city property except real estate.

Sec. 7.8. Independent audit.

An independent audit shall be made annually of all city accounts, and more frequent audits may be made if deemed necessary by the council. Such audits shall be made by certified public accountants selected by the council.

The results of such audits shall be made public in such manner as the council shall determine, but as a minimum it shall be available for inspection at the office of the clerk, and city library.

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Sec. 7.9. Power to tax.

The city shall have the power to assess taxes and levy and collect rents, tolls, and excises, excepting a flat rate on income, which to be imposed must be first approved by a majority vote of the electors of the city voting on the proposition.

Sec. 7.10. Taxable property.

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this Charter, city taxes shall be levied, collected and returned in the manner provided by statute.

Sec. 7.11. Preparation of the assessment roll.

- (a) On or before the first Monday in March in each year the assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with the statute and this Charter.

Values shall be estimated according to recognized methods of systematic assessment. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of the personal property; and the method of estimating all such values shall be as nearly uniform as possible.

- (b) Not later than one (1) week prior to his/her certification of the assessment roll, the assessor shall (1) complete to the best of his/her ability a tentative assessment roll and make it available for public inspection in his/her office for a period of at least one (1) week, and (2) give a notice of any change, as compared with the previous year, in the assessed value of any property on, or of the addition of any property to the roll. Such notice shall be sent by first class mail with postage thereon fully prepaid and addressed to the owner thereof according to the records of the assessor. Such notice shall advise the person to whom it is addressed that the change in valuation or addition of property to the roll may be discussed with the assessor at his/her office prior to the meeting of the board of review. The failure of any owner of property to receive any such notice shall not invalidate any assessment roll or any assessment thereon.

Sec. 7.12. Board of review.

- (a) A board of review shall be composed of three members, who have the qualifications for holding elective city office, as set forth in this Charter. No member of the board of review shall hold any city office.
- (b) The members of the board of review shall be appointed by the council, and may be removed for reasons of nonfeasance or misfeasance by the vote of four (4) members

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of the council. One member is to be appointed during the month of January of each year, for a period of three (3) years, commencing on February first following.

- (c) The board shall, annually, on the first day of its meeting, select one of its members chairperson for the ensuing year. The assessor shall be the clerk of the board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

Sec. 7.13. Duties and function of board of review.

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

Sec. 7.14. Meetings of board of review.

- (a) The board of review shall convene on the second Monday in March in each year at a place designated by the council, or on such other date as may subsequently be required by law for the meeting of boards of review in cities, and continue in session from day to day for not less than six (6) hours on each day for not less than three (3) days for the purpose of considering the assessment roll of the city.
- (b) The board of review may examine on oath any person appearing before it respecting the assessment of property on the assessment roll. Any member of the board may administer the oath.

Sec. 7.15. Notice of meeting.

Notice of the time and place of the annual meeting of the board of review shall be published by the assessor not less than one (1) week nor more than three (3) weeks prior thereto.

Sec. 7.16. Certification of roll.

After the board of review has completed its review of the assessment roll, and not later than the first Monday in April, or such other date as may subsequently be required by law, the

majority of its members shall sign a certificate to the effect that the same is the assessment roll of the city for the year in which it has been prepared, as approved by the board of review, which certificate, when attached to any volume of the roll shall constitute a conclusive presumption of the validity of the entire roll, as provided in

section 7.11 of this article. Omission of such endorsement shall not affect the validity of such assessment roll.

Sec. 7.17. City tax roll.

After the board of review has completed its review of the assessment roll, the assessor shall prepare a tax roll, or a combined assessment and tax roll, to be known as the "City Tax Roll." Upon receiving the certification of the several amounts to be raised, assessed, and charged for city taxes, as provided in the preceding sections, the assessor shall proceed forthwith, (1) to spread the amounts of the general ad valorem tax according to and in proportion to the several valuations set forth in said assessment roll, and (2) to place such other assessments and charges upon the roll as are required and authorized by the council. For convenience, the city tax roll may be divided into two (2) or more volumes.

Sec. 7.18. Taxes lien.

On July 1 the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges therein and all personal taxes shall become a first lien on all personal property of such persons so assessed.

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

Sec. 7.19. Taxes due; notification.

City taxes shall be due on the first day of July of the year when levied. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he/she shall give written notice by first class mail to the taxpayers of the city made prior to the first day of July in each year to the owners of the property upon which taxes are assessed according to the names of such owners and their addresses as indicated on the tax roll, which notice shall be deemed sufficient for the payment of all taxes on said roll. Failure on the part of the treasurer to give said notice shall not invalidate the taxes on said tax roll nor release any person or property assessed from the penalty provided in this Charter in case of non-payment of the same.

Sec. 7.20. Collection of city taxes.

City taxes shall be due and payable on the first day of July of each year. From and after the 30th day of September, there shall be added one-half (1/2) of one (1) percent per month, or fraction thereof, to taxes remaining unpaid, together with a collection fee of four (4) percent.

The added penalties and interest herein provided shall belong to the city and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

Sec. 7.21. Failure or refusal to pay personal property tax.

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

Sec. 7.22. Disposition of real property held by city.

When the city has acquired any interest in property to protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract shall have the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, fees, penalties, interest, and costs, paid by the city to protect its title in such property. After the lapse of ninety (90) days after the date that the city acquired title to any such property, the council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the council by the assessor.

Sec. 7.23. General powers relative to special assessment.

The council shall have the power to make public improvements within the city. As to public improvements which are of such a nature as to benefit especially any property or properties with a district, the council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon such property, in proportion to the benefits derived or to be derived. The cost of no improvement shall be defrayed by the special assessment method, unless a petition be first filed with the clerk, requesting that such improvement be made and the cost thereof defrayed by special assessment upon the property benefited, and signed by fifty (50) percent of the owners of the property to be assessed for such improvement. Two (2) or more owners of a single parcel shall be counted as one (1) owner.

Sec. 7.24. Detailed procedure to be fixed by ordinance.

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

Sec. 7.25. Disposition of excessive special assessments.

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

Sec. 7.26. Lien and collection of special assessments.

Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as that created by this Charter for city taxes.

Sec. 7.27. Special assessment accounts.

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

Sec. 7.28. Deferred payments on special assessments.

The commission may provide for the deferred payment of special assessments from persons who, in the opinion of the council and assessor, by reason of poverty are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the city shall require mortgage security on the real

property of the beneficiary payable on or before his/her death or in any event on the sale or transfer of the property.

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Sec. 7.29. Municipal borrowing power.

Subject to the applicable provisions of law and this Charter, the council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law and may authorize the issuance of bonds or other evidence of indebtedness therefore. Such bonds or other evidence of indebtedness shall include but not be limited to the following types:

- (a) General obligations, which pledge the full faith, credit and resources of the city for the payment of such obligations, when authorized by a three-fifths (3/5) vote of the electors voting thereon at any general or special election;
- (b) Notes issued in anticipation of the collection of taxes;
- (c) In case of fire, flood or other calamity, emergency loans due in not more than five (5) years for the relief of the inhabitants of the city and for the preservation of municipal property;
- (d) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the city;
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by this Charter to acquire or operate, provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty (20) years from the date or the sale of such utility and franchise on foreclosure; such bonds shall be authorized by a three-fifths (3/5) vote of the electors voting thereon at any general or special election; a sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required;

- (f) Bonds issued at a rate of interest not to exceed that provided by law to refund money advanced or paid on special assessments imposed for water main extensions;
- (g) Bonds for the refunding of the funded indebtedness of the city;

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- (h) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

ARTICLE VIII. GENERAL PROVISIONS

Sec. 8.1. Conflicts of interest; board of ethics.

The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official, the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. This ordinance shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations. The provisions of state law shall control.

Sec. 8.2. Business dealings with city.

An officer or employee of the city who intends to have business dealings with the city, whereby he/she may derive any income or benefits, other than such as are provided as remuneration for his/her official duties or employment shall file with the clerk a statement, under oath, setting forth the nature of such business dealings, and his/her interest therein. The statement shall be filed with the clerk not less than ten (10) days before the date when action may be taken by the council or any other agency of the city upon the matter involved. The statement shall be spread upon the proceedings of the council for the meeting at which it is received and published in full therewith. In each case where the type of dealings with the city is on a continuing basis, involving more than one (1), or a sequence of transactions, described in the statement, each such statement shall stand for and apply to such transactions for a period of one (1) year and may be renewed at the end of each one (1) year's period for so long as such transactions

continue. Each such renewal shall be spread upon the proceedings of the council and published as in the case of the original statement.

In the event that the interest of any officer or employee of the city in any business dealings with the city changes at any time, he/she shall file a statement thereof, which shall be spread upon the proceedings of the council and published as herein required. Approval of any such business dealings shall require a concurring vote of four (4) members of the council. No member of the council may vote on any question upon which he/she has a direct or indirect financial interest. Any business dealings made in violation of this section shall be void. The provisions of state law shall control.

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Sec. 8.3. Prohibitions.

(a) *Activities prohibited.*

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, handicap, religion, country of origin or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- (4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election for elected office from any city employee.

(5) No elected official or persons running for elected office shall directly or indirectly solicit contributions from city employees.

(b) *Penalties.* Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his or her office or position. The city council shall establish by ordinance such further penalties as it may deem appropriate.

Sec. 8.4. Absence from office.

Whenever an elective officer of the city has failed to perform the duties of the office for three (3) consecutive regularly scheduled meetings, the council shall vote to excuse or not to excuse the inability at each council meeting until the officer resumes the duties of the office. If

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the council does not excuse the inability at any meeting, after the second meeting, the office shall be forfeited at the close of the meeting.

Sec. 8.5. Forfeiture and removal for cause.

(a) The city council shall declare the forfeiture of the office of any elective officer or appointee and may remove for cause any person appointed to an office for a fixed term. In every case there shall be a public hearing before the city council with notice to the individual involved and to the public. A council member charged with conduct constituting grounds for forfeiture may not participate in the resolution of the charge.

(b) The position of an elective city officer or an appointee shall be forfeited if he/she:

- (1) Lacks at any time any qualifications required by this Charter;
- (2) Is convicted of a felony while holding the office or appointment;
- (3) Violates a provision of this Charter punishable by forfeiture.

- (c) Decisions made by the city council under this section are subject to judicial review in a hearing de novo. Any resident of the city may petition an appropriate court to require the city council to hold a public hearing on the forfeiture of an office if the city council has unreasonably refused to proceed. It is the intent of this Charter that the decision of the city council under this section shall be subject to the review of a court of law.

Sec. 8.6. Non-discrimination and civil rights.

- (a) In the exercise of its powers or in the performance of its duties the city and all of its agencies shall ensure that no person or group engaged in the conduct of official business or seeking to do business with the city is discriminated against because of race, creed, political orientation, color, national origin, marital status, sex, age, handicap or for any cause not reasonably related to the accomplishment of a legitimate governmental purpose, and shall take whatever action is necessary to accomplish this purpose.
- (b) The city and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.

Sec. 8.7. Anti-nepotism.

Unless the council shall, by an affirmative vote of four (4) or more members, determine that the best interests of the city shall be served and the party considered by such a vote has met

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requirements for such a classified position as are specified by council, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: child, parent, grandchild, grandparent, brother, sister, half brother, half sister. This shall in no way disqualify such relatives who are bona fide appointive officers or employees for the city at the time of the election or appointment of said official.

Sec. 8.8. Intergovernmental cooperation.

- (a) The city shall, whenever it is feasible and beneficial, adopt a cooperative intergovernmental approach to the solution of urban problems. For this purpose the city shall have the power to join with any unit of government whether local, state, or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the financing, ownership, operation or performance, jointly or by one (1) or more on behalf

of all, of any property, facility or service which each would have the power to own, operate or perform separately.

- (b) The city may participate in organizations, both governmental and nongovernmental in or beyond the corporate limits of the city. The participation of the city in those organizations is not subject to any limitations of this Charter. The city appointees to such organization shall file a report on their activities with the city or as requested by council.

ARTICLE IX. UTILITY FRANCHISES, MUNICIPAL OWNERSHIP AND CONTRACTS

Sec. 9.1. Public utility franchises.

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

- (a) To repeal the same of misuse, or non-use, or for failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service maintenance thereof at the highest practical standard of efficiency;
- (c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

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- (e) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public;
- (f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located on the streets, alleys, and public places of the city by the city and other utilities insofar as such joint use may be reasonably practicable and upon payment or reasonable rental therefor; provided, that, in the absence of agreement, upon application by each or either public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;

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

Sec. 9.2. Limitations on the granting of franchises.

An irrevocable franchise and any extension or amendment of such franchise may not be granted by the city, unless the ordinance granting such franchise has first received the affirmative vote of at least three-fifths (3/5) of the electors of the city voting thereon at a regular or special city election. No franchise shall exceed thirty (30) years. An irrevocable franchise ordinance may be approved by the council, for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with the clerk his/her unconditional acceptance of all the terms of the franchise. Each franchise shall include a provision requiring the franchise to take effect within one (1) year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of an existing franchise. No special election for such purpose may be ordered by the council, unless the expense of holding such election has first been paid to the treasurer by the grantee.

Sec. 9.3. Procedure for granting franchises.

Every ordinance granting a franchise, or right to occupy or use streets, alleys, bridges, or public places shall remain on file with the clerk for public inspection in its final form for at least thirty (30) days before the final adoption thereof, or the approval thereof for referral to the electorate.

Sec. 9.4. Sale or assignment of franchises.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the council gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall restrict the rights of

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the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this article.

Sec. 9.5. Plans of facilities in streets and public places.

The council may, by ordinance, require, as a condition to the placing or installment thereof, that each public utility conducting a business in the city file with the

city a duplicate copy of layout plans of pipes, conduits, and other facilities which are to be placed on, under, or above the surfaces of the city's streets, alleys, bridges, and public places.

Sec. 9.6. General powers respecting municipal utilities and services.

The city shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain either within or without its corporate limits, public utilities and services, including, but not by way of limitation, public utilities for treating and supplying water, and for supplying light, heat, power, gas and other public utilities and services without its corporate limits to an amount not exceeding the limitations set by or in accordance with law. The power to supply, as herein possessed and reserved, shall include the power to extract and process water, electricity, or gas from natural sources, to manufacture the same, or to purchase the same from others.

Sec. 9.7. Administration and operation of municipal utilities.

The council shall be responsible for the care, protection, preservation, control, improvement, and extension of the utility plants and facilities of the city, and shall adopt such ordinances and resolutions as are required therefore. Such utility plants and facilities shall each be a department of the city, and the management thereof shall be the duty of the city manager. Such public utility department shall be subject to the provisions of this Charter relating to departments of the city, including such as relate to annual budgets and financial accounting, and to the provisions of this article.

Sec. 9.8. Utility charges; collections.

The council shall fix the rates to be charged for all public utility services of the city. The council shall provide, by ordinance, for the collection of public utility charges, and for such purpose shall have all the power granted to cities by state law.

Sec. 9.9. Annual audit.

The cost of making annual audit of the accounts of each public utility of the city shall be defrayed from the funds of the utility.

Sec. 9.10. Annual reports.

The annual audit of each public utility of the city shall show, as nearly as possible, the financial results of the city ownership and operation of the public service works of the city.

Sec. 9.11. Purchase of electricity, water, sewage disposal service.

The city may purchase and resell electricity, water, and sewage disposal services, or any one or more of them, from any person, municipal or private, if such purchase may be deemed by the council to be in the best interests of the city and its inhabitants.

Sec. 9.12. Disposal of plants.

The city shall not sell, exchange, lease, or in any other way alien or dispose of the property, easements, income, or other equipment, privileges or assets belonging to and appertaining to any utility which it may own or acquire, unless and except such proposition shall first have been submitted at an election held for that purpose in the manner provided in this Charter, to the electors of the city and approved by them at any regular or special city election by a three-fifths (3/5) majority vote of the electors voting thereon. All contracts, negotiations, leases, grants, or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any article of equipment that is obsolete, worn out, or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment, nor to real property no longer used for public utility purposes.

Sec. 9.13. Contracting authority of council.

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

All contracts, except as otherwise provided by ordinance in accordance with the provisions of section 9.14 hereof, shall be authorized by the council and shall be signed on behalf of the city by the mayor and the clerk.

Sec. 9.14. Purchase and sale of personal property.

The council shall establish by ordinance the procedure for the purchase and sale of personal property. Such ordinance shall provide for centralized purchasing on behalf of the city. The ordinance shall provide the dollar limit within which purchases and sales of personal property may be made without the necessity of competitive bidding and the dollar limit and conditions within which purchases and sales of personal property may be made without the necessity of council approval. No purchase of personal property shall be made unless a

sufficient unencumbered appropriation is available therefor. Moneys received from the sale of personal property shall be placed in the general fund.

Sec. 9.15. Limitations of contractual power.

The city shall not have the power to sell, lease, or otherwise dispose of any real estate unless:

- (a) The resolution authorizing the sale, lease or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the clerk for public inspection for twenty-five (25) days before the final adoption or passage thereof, and unless
- (b) Such action is approved by the affirmative roll call vote of four (4) or more members of the council, and unless
- (c) It has been determined that such sale, lease or disposal of said property will not be made to any person who is in default to the city.
- (d) A majority vote of the electors voting on the question is required to sell any park or cemetery or part(s) of parks or cemeteries except where a park is not required under the official master plan of the city.

ARTICLE X. [TRANSITION SCHEDULE]

Sec. 10.1. Purpose and status of schedule article.

The purpose of this schedule article is to provide the transition from the government of the city under the previous Charter to that under this Charter. It shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

Sec. 10.2. Election to adopt Charter.

The Charter shall be submitted to a vote of the qualified electors of the territory comprising the City of Flushing at a general election to be held on Tuesday, November 2, 1993, between the hours of 7:00 a.m. and 8:00 p.m. All provisions for the submission of the question of adopting this Charter at such election shall be made in the manner provided by law. If, at said election, a majority of the electors voting thereon shall vote in favor of the adoption of this Charter, then the city clerk shall perform all other acts required by law to carry this Charter into effect.

Sec. 10.3. Form of ballot.

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

“Shall the proposed Charter of the City of Flushing drafted by the Charter Commission elected November 6, 1992 be adopted?”

Yes ()

No ()

Sec. 10.4. Officers of the city.

- (a) The elected officers of the city, who hold office on the effective date of this Charter, shall continue to hold the offices to which they were elected for the balance of the terms for which they were elected and shall conduct their several offices subject to the provisions of this Charter. When the terms of the present elected officials expire, they shall be selected in accordance with the provisions of this Charter.
- (b) At the election upon the adoption of this Charter, the city clerk for the City of Flushing shall perform the duties required by law respecting such elections. The election commission of the city as presently constituted will choose the election inspectors for said election.
- (c) The board of canvassers of the County of Genesee, as established by law, shall canvass the votes cast at such elections.

Sec. 10.5. Effective date of charter.

If the canvass of votes upon the adoption of this Charter shows it to have been adopted, it shall take effect and become law as the Charter of the City of Flushing for all purposes on November 8, 1993 at 8:00 a.m. local time.

Sec. 10.6. Council action.

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

Sec. 10.7. Continuation of appointive officers.

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the city shall continue in the city office or employment which they held prior to the effective date of this Charter and they shall be subject in all respects to the provisions of this Charter.

Sec. 10.8. Boards and commissions.

The present boards and commissions now established shall continue under the terms of the ordinance or resolution establishing them. The terms of office of the members shall continue as established; and they shall continue in office until their successors are appointed in accordance with the terms of office established in the ordinance or resolution creating them.