

HOME RULE CHARTER

# Proposed Revised CHARTER

OF THE

# CITY OF DETROIT



**\*With Commentary**

**As Adopted by the City of Detroit Charter Revision Commission on September 13, 2011**

**For Submission to Voters on November 8, 2011**

**NOTE: Commentary has not been, nor is required to be, approved by the Governor.**

# HOME RULE CHARTER

## PREAMBLE AND DECLARATION OF RIGHTS

### PREAMBLE

We, the people of Detroit, do ordain and establish this Charter for the governance of our City, as it addresses the needs of all citizens and affirms our commitment to the development and welfare of our youth, our most precious treasure; instituting programs, services and activities addressing the needs of our community; fostering an environment and government structure whereby sound public policy objectives and decisions reflect citizen participation and collective desires; pledging that all our officials, elected and appointed, will be held accountable to fulfill the intent of this Charter and hold sacred the public trust; acknowledging our blessings from God, we pray our efforts will be accepted.

### DECLARATION OF RIGHTS

1. Detroit City government is a service institution that recognizes its subordination to the people of Detroit.

The City shall provide for the public peace, health and safety of persons and property within its jurisdictional limits.

The people have a right to expect aggressive action by the City's officers in seeking to advance, conserve, maintain and protect the integrity of the human, physical and natural resources of this city from encroachment and/or dismantlement.

The people have a right to expect city government to provide for its residents, decent housing; job opportunities; reliable, convenient and comfortable transportation; recreational facilities and activities; cultural enrichment, including libraries and art and historical museums; clean air and waterways, safe drinking water and a sanitary, environmentally sound city.

2. The City has an affirmative duty to secure the equal protection of the law for each person and to insure equality of opportunity for all persons. No person shall be denied the enjoyment of civil or political rights or be discriminated against in the exercise thereof because of race, color, creed, national origin, age, disability, sex, sexual orientation, gender expression or gender identity.
3. A person shall have reasonable access to all files and records of the City in accordance with applicable laws.
4. The people have a right to know the rules and regulations governing dealings between the City and the public and to a means for the review of administrative decisions.
5. The City's police forces are in all cases and at all times in strict subordination to the civil power.
6. The City shall endeavor to require application of the principle of one person-one vote to the policymaking body of any regional or other multi-jurisdictional organization which taxes or provides any service to City residents or takes any action affecting the City's interests.
7. The enumeration of certain rights in this Charter shall not be construed to deny or disparage others retained by the people.
8. The City may enforce this declaration of rights and other rights retained by the people.

*COMMENTARY: The Preamble has been substantively amended to emphasize a commitment to the welfare and development of youth and assert the expectation that public servants will have unswerving fidelity to the public trust. The Declaration of Rights has also been revised. The reference to the City's*

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*obligation to provide "excellence in education" has been removed from numbered paragraph 1, in recognition of the State's sole responsibility in this area. The categories of citizens protected against discrimination in numbered paragraph 2 have been revised. "Handicap" has been replaced with "disability" and "gender expression" and "gender identity" have been added as protected categories.*

*It should be noted that persons with disabilities have a right to enjoy the privileges, rights and access to public facilities and resources as other citizens and all necessary actions should be taken to secure these rights.*

## ARTICLE 1. ESTABLISHMENT of CITY GOVERNMENT

### Sec. 1-101. City Government.

The people of Detroit, by adoption of this Home Rule Charter, create and provide for their continuing control of the municipal government of the City of Detroit.

### Sec. 1-102. General Powers.

The City has the comprehensive home rule power conferred upon it by the Michigan Constitution, subject only to the limitations on the exercise of that power contained in the Constitution or this Charter or imposed by statute. The City also has all other powers which a city may possess under the Constitution and laws of this state.

### Sec. 1-103. Liberal Construction.

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

### Sec. 1-104. Boundaries.

The boundaries of the City existing when this Charter takes effect continue in force until changed in accordance with law.

## ARTICLE 2. GENERAL PROVISIONS

### Sec. 2-101. Qualifications for Elective Officers and Appointive Officers.

A person seeking elective office must be a citizen of

the United States, a resident and a qualified and registered voter of the City of Detroit for one (1) year at the time of filing for office, and retain that status throughout their tenure in any such elective office. In addition, any person seeking office from a non at-large district must be a resident and qualified, registered voter in such district for one (1) year at the time of filing for office, and retain such status throughout their tenure.

For any appointive city office, a person must be qualified to perform the duties of the office at the time of assuming the office and at all times while holding the office. The person's citizenship, residence and voter registration status shall be as required or permitted by this Charter or applicable law.

*COMMENTARY: The 1997 Charter has no stated durational residency requirement for elected officials. In contrast, consistent with state and federal law, this Charter imposes a one (1) year residency requirement for persons seeking elective office. An additional qualification for candidates seeking election from a non at-large district is that they reside in that district for at least one (1) year prior to filing for office. Requiring that candidates for elective office reside for a specified period of time in the community they seek to serve makes it more likely that elected officials will be intimately familiar with the unique issues impacting their communities.*

*Lastly, the residency requirement for appointed officers has been eliminated as inconsistent with state law and modified to reflect the City of Detroit's right to establish residency requirements for employees as currently provided by law. MCL 15.601, et al.. This section now requires that appointed officers be qualified to perform the duties of the office at the time of appointment and throughout their tenure.*

### Sec. 2-102. Term of Office.

The term of every elective city officer is four (4) years and commences at noon on the first (1st) day of January after the regular city general election.

### Sec. 2-103. Oath of Office.

Every elective officer and every appointee before entering on official duties shall take and subscribe the following oath before the Detroit City Clerk: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this state and that I will faithfully discharge the duties of office to the best of my ability." The original

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of the oath shall be filed in the Office of the City Clerk and a copy provided to the elective officer or the appointee.

**COMMENTARY:** *This section has been revised to require that elective officers and appointees give their statutorily required oath of office before the City Clerk and requires that a copy of the oath be provided to the elective officer or appointee.*

## Sec. 2-104. Severability.

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Charter.

## Sec. 2-105. Definitions and Rules of Construction.

A. As used in this Charter:

1. *Agency* means, where appropriate and unless indicated otherwise, one or all of the following: any department, office, multi-member body, subdivision of the Legislative branch of City government or other organization of city government and includes any elective officer, appointee, employee, or person acting or purporting to act in the exercise of official duties.

2. *Appoint* means being named to a position in the exempt service.

3. *Appointee* means a person holding either a compensated or uncompensated position.

4. *Appointive office* or *appointive officer* means compensated positions and appointees holding compensated positions.

5. *City* means the City of Detroit.

6. *City Clerk* means the City Clerk of the City of Detroit.

7. *City Council* means the legislative body of the City of Detroit.

8. *Confidential Information* means information obtained by a Public Servant by reason of his or her official position concerning the property, government or affairs of the City or any office, department or agency thereof, not available to members of the public pursuant to the Michigan

Freedom of Information Act or other applicable laws, regulations or procedures.

9. *Contractor* means a party who, or which, seeks to enter, or enters, into a contract with the City of Detroit for the delivery of goods or services, but does not mean one who seeks to enter, or enters, into a personal services contract, as defined in this section, with the City.

10. *Corrupt Conduct* means the conduct of a Public Servant, in carrying out his duties, that violates applicable laws or the Standards of Conduct articulated in this Charter.

11. *Director* means the administrative head of any department or agency regardless of the title of a particular director.

12. *District* or *ward* means a district drawn on a geographical basis, which constitutes a political unit from which members of the City Council, Board of Police Commissioners and Community Advisory Councils are elected.

13. *Elective officers* means the Mayor, each member of the City Council, elected Board of Police Commissioners and the City Clerk.

14. *Employee* means a person employed by the City of Detroit, whether on a full-time or part-time basis.

15. *Exempt service* means both compensated and uncompensated positions.

16. *Exercises significant authority* means having the ability to influence the outcome of a decision on behalf of the City of Detroit government in the course of the performance of a Public Servant's duties and responsibilities.

17. *Filling of vacancies* means, except as otherwise provided by this Charter, whenever a vacancy occurs in any appointive position, the vacancy shall be filled by appointment (for the unexpired term, if any) in the manner provided for the original appointment.

18. *General election in the city (distinguished from 'city general election')* means a city-wide general election regardless of whether its purpose is to fill national, state, county or City offices.

19. *Hire* means being employed for a position in the classified service as defined in section 6-417 of

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this Charter.

20. *Immediate family member* means a Public Servant's spouse, domestic partner, individual who lives in the Public Servant's household or an individual claimed by a Public Servant or a Public Servant's spouse as a dependent under the United States Internal Revenue Code at 26 USC 1, *et seq.*

21. *Lobbying* means all communications with a Public Servant for the purpose of influencing legislative or executive action.

22. *Lobbyist* means with respect to lobbying city government: (a) a person whose expenditures for lobbying are more than \$1,000.00 in value in any 12-month period; (b) a person whose expenditures for lobbying are more than \$250.00 in value in any 12-month period, if the amount is expended on lobbying a single public official; or (c) a registered lobbyist under applicable laws, who lobbies Detroit city government.

23. *Multi-Member Body* means any board, commission, or other organization of City government.

24. *Official Act* means any action, omission, decision, recommendation, practice or procedure of any agency.

25. *Personal services contract* means a contract for the retention of an individual to perform services on behalf of the City of Detroit for a fixed period and for fixed compensation.

26. *Proceedings* means, with respect to City Council, any gathering of that body for purposes of conducting the legislative affairs of the City of Detroit. It includes, but is not limited to, hearings, council meetings, committee meetings and other council related activities where the body is required to convene by law or Charter to execute its legislative function, as dictated by law, Charter or ordinance.

27. *Public Servant* means the Mayor, members of City Council, City Clerk, appointive officers, any member of a board, commission or other voting body established by either branch of City government or this Charter and any appointee, employee or individual who provides services to the City within or outside of its offices or facilities pursuant to a personal services contract.

28. *Resident(s)* or *residence* means, in reference to qualification for elective office, service on a multi-member body or other Charter residency

requirement, a person's principal, permanent place of residence. It shall be that place at which a person habitually sleeps, keeps their personal effects, and regularly lodges. If someone has more than one (1) residence, or a residence separate from that of their spouse, the place where the person resides the greater part of the time will be considered their official residence. Any relevant judicial interpretation of these terms shall be applicable.

29. *Retain* (distinguishing legal representation other than the Corporation Counsel) means the temporary hiring of outside legal counsel.

30. *Serving and present* means, when calculating an ordinary or extraordinary majority of:

- a. *City Council members serving*, vacant City Council seats are not included: and
- b. *City Council members present*, neither vacant City Council seats nor those of absent members are included.

31. *Vacancy* means that the position of any elective officer or appointee is deemed vacant upon death, resignation, permanent disability or dismissal from the position in any manner authorized by law or this Charter.

32. *Voter of the city or city voter* means a person who has the qualifications of and is registered as an elector of the City of Detroit under state law.

33. *Willful Neglect of Duty* means the intentional failure of a Public Servant to perform the duties of his office.

### B. Rules of Construction

For purposes of this Charter, the following rules of construction apply:

*Including or included.* Unless the contrary is expressly stated, these are not words of limitation, but mean "including but not by way of limitation" or "included but not by way of limitation."

*Number and gender.* The singular number includes the plural, the plural number includes the singular, and the masculine gender includes the feminine gender and the neuter.

*Tense.* This Charter is to be regarded as speaking in the present and continuously. For example, the phrase "as provided by law" will incorporate the provisions of

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law as they change from time-to-time.

**COMMENTARY:** *The definition section has been revised to include definitions for new words and clarification of several existing words. Several definitions were added to explain terms used in the Ethical Standards of Conduct (Sec. 2-106, et seq.) and Inspector General (Sec. 7.5-301 et seq.) sections of this Charter. Specifically, words that have been clarified include "Agency", "Appoint", "Appointee", "Appointive Office", "Appointive Officer", and "District"; newly defined words include "City", "City Clerk", "City Council", "Confidential information", "Contractor", "Corrupt Conduct", "Director", "Elective Officers", "Employee", "Exercises significant authority", "Immediate family member", "Lobbying", "Lobbyist", "Multi-Member Body", "Official Act", "Personal services contract", "Proceeding", "Public Servant", "Resident(s) or residence", and "Willful Neglect of Duty". It should be noted that "Proceeding" was added to clarify that there are a range of official activities the City Council engages in as a body that require the services of the City Clerk, irrespective of the time during which they may occur or the amount of advance notice that may be reasonably given to the City Clerk. Such definition should be read in conjunction with section 3.5-102(7) (Duties and Powers of City Clerk).*

*The language contained in subsection (B), "Rules of Construction", consists of language formerly incorporated into section 2-105 as definitions and provides rules to assist in reading and understanding the Charter.*

## **Sec. 2-106.1. Ethical Standards of Conduct.**

1. These standards of conduct apply to Public Servants including the Mayor, City Council members, City Clerk, appointive officers, appointees, employees and contractors as defined in this Charter.

The purpose of applying and enforcing these standards is to ensure that governmental decisions are made in the public's best interest by prohibiting city officials and employees from participating in matters that affect their personal or financial interests.

All City ordinances not inconsistent with these sections and that effectuate its operation may be retained. Ordinances may be enacted which are necessary to effectuate the operation of these sections. No ordinance shall be enacted which limits, contradicts or

otherwise conflicts with the intent and purpose of these sections.

2. Except as otherwise provided by applicable law, a Public Servant shall not knowingly:

a. Willfully or grossly neglect the discharge of his or her duties;

b. Use or disclose Confidential Information concerning the property, government or affairs of the City or any office, department or agency thereof, not available to members of the public and gained by reason of his or her official position;

c. Use property of the City except in accordance with policies and procedures of the City;

d. Engage in or accept private employment or render services when such employment or service is in conflict or incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of official duties;

e. Represent a private person, business or organization in any action or proceeding pending before the City or any office, department or agency thereof, except:

i. A Public Servant may represent another person, business or organization before a City agency where such representation is a required part of his or her official duties;

ii. A Public Servant who is an uncompensated member of a City board, commission or other voting body may act as an agent, attorney or representative for another person, business or organization in a matter that is pending before a City agency, other than the board, commission or other voting body on which he or she is a member; or

iii. A Public Servant who is compensated by the City may act as an agent, attorney or representative for another person, business or organization in a matter that is pending before a City board, commission or other voting body, other than the board, commission or other voting body on which he or she serves as an appointee or as an employee or under a personal services contract, as long as he or she does so without compensation and on his or her leave time.

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f. Vote or otherwise participate in the negotiation or the making of any city contract, or any other type of transaction, with any business entity in which he or she or an immediate family member has a financial interest; or

g. Use his or her official position, in violation of applicable law, to improperly influence a decision of the Mayor, City Council members, Clerk, appointees or employees.

A Public Servant who, in the course of his or her duties, exercises significant authority shall not:

a. Solicit or accept a loan or payment from an individual who is providing service to, receiving tax abatements, credits or exemptions from the City; or

b. Unduly influence any decision to fill a position in City government with an immediate family member.

## Sec. 2-106.2. Disclosures.

1. Except as otherwise provided by applicable law, a Public Servant who exercises significant authority shall disclose:

a. Any financial interest, direct or indirect, that he or she or an immediate family member has in any contract or matter pending before City Council.

b. Any financial interest, direct or indirect, that he or she or an immediate family member has in any contract or matter pending before or within any office, department or agency of the City.

c. Any interest that he or she, or an immediate family member has in real and personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement or a development agreement.

d. Campaign contributions and expenditures, in accordance with applicable laws.

e. The identity of any immediate family member employed by the City or who is making application to the City.

2. In addition to compliance with subsection (1) above, contractors and vendors shall disclose:

a. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before City Council.

b. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before or within any office, department, or agency of the City.

3. The above disclosures shall be made in writing and be made by sworn, notarized affidavit, in accordance with City ordinance and applicable laws.

## Sec. 2-106.3. Lobbying Registration and Reporting.

A lobbyist who lobbies within the city government shall be required to register with the City and file a report of his or her lobbying activity. All documents filed by lobbyists shall be filed with the City Clerk, be a public record and additionally published electronically on the World Wide Web or other format as to provide remote or on-line access to the reports. A fee shall be assessed to each lobbyist.

## Sec. 2-106.4. Gifts and Gratuities.

A Public Servant shall not accept gifts, gratuities, honoraria, or other things of value from any person or company doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the Public Servant's official duties, or is registered as a lobbyist under applicable laws.

This prohibition shall not apply to:

1. An award publicly presented to a Public Servant by an individual, governmental body or non-governmental entity or organization in recognition of public service.

2. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials.

3. A gift received from a Public Servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article.

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4. Admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the Public Servant: (i) by the sponsor(s) of an event, appearance or ceremony which is related to official City business in connection with such an event, appearance or ceremony and to which one (1) or more of the public are invited; or (ii) in connection with teaching, a speaking engagement or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the Public Servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity.

## **Sec. 2-106.5. One Year Post-Employment Prohibition.**

Subject to state law, for one (1) year after employment with the City, a Public Servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body or receive compensation for any services in connection with any matter in which he or she was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.

Subject to state law, for a period of one (1) year after employment with the City, a Public Servant shall not accept employment with any person or company that did business with the City during the former Public Servant's tenure if that Public Servant was in any way involved in the award or management of that contract or the employment would require the sharing of confidential information.

## **Sec. 2-106.6. Contracts Voidable and Rescindable.**

The City's Purchasing Department shall amend its standard contract form to include language which provides that City contracts shall be voidable or rescindable at the discretion of the Mayor or Inspector General at any time if a Public Servant who is a party to the contract has an interest in such contract and fails to disclose such interest. Such contract shall also be voidable or rescindable if a lobbyist or employee of the contracting party offers a prohibited gift, gratuity, honoraria or payment to a Public Servant in relation to the contract. A fine shall be assessed to the contractor in the event of a violation of this section of the Charter. If applicable, the actions of the contractor, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.

## **Sec. 2-106.7. Campaign Activities Using City Property Or During Working Hours.**

Appointees, appointive officers and employees are prohibited from engaging in campaign activities using City property or engaging in such activity during working hours.

The Mayor, City Council members and City Clerk are prohibited from soliciting appointees, appointive officers and employees to work on political campaign activities using City property or during working hours.

## **Sec. 2-106.8. Board of Ethics, Application, Appointment, Qualifications and Terms.**

The independent Board of Ethics shall consist of seven (7) members who are City residents and not elective officers, appointees or employees of the City at any time during their board membership.

The members of the Board of Ethics shall be selected as follows:

1. Three (3) who shall be appointed by the City Council;
2. Three (3) who shall be appointed by the Mayor; and
3. One (1) who shall be jointly appointed by the Mayor and City Council.

Such appointments shall be made after applications are received, reviewed and interviews conducted. Members shall serve for a term of five (5) years, up to two (2) consecutive terms not to exceed 10 years. Such terms shall be staggered. Members of the Board of Ethics are subject to removal for cause.

## **Sec. 2-106.9. Powers and Duties.**

The Board of Ethics shall:

1. Issue advisory opinions regarding the meaning and application of provisions of the Charter, city ordinances or other laws or regulations establishing standards of conduct for Public Servants. Advisory opinions shall be rendered upon written request by a Public Servant regarding his or her own actions. The advisory opinions shall not disclose the identity of the Public Servant concerned.

2. Receive and resolve complaints arising under the Ethics Ordinance. The Board of Ethics shall be authorized by ordinance to conduct investigations on its own initiative, subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, appoint independent counsel when necessary, and to



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perform other functions essential to ensure the integrity of City government.

3. Prepare an annual report for submission to the Mayor and City Council. Consistent with state law, the Board of Ethics may recommend improvements in the standards of conduct to ensure the ethical behavior of City elective officers, appointees and employees, or in the organization and procedures related to the administration and enforcement of those standards.

4. Provide mandatory training for the Mayor, City Council, Clerk, appointive officers and appointees and employees who exercise significant authority in the execution of his or her official duties.

5. Provide training for all other appointees and employees including those subject to Article 6, Chapter 4 of this Charter.

6. Issue penalties for violations of this section of the Charter, as consistent with state law.

## **Sec. 2-106.10. Cooperation in Investigations; Obstruction.**

It shall be the duty of every Public Servant, contractor and subcontractor and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the Board of Ethics in any investigation pursuant to this article.

Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Board of Ethics by withholding documents or testimony is subject to forfeiture of office, discipline, debarment or any other applicable penalty.

The requirements under this section shall be incorporated into all City contracts, where legally necessary for application and enforcement.

## **Sec. 2-106.11. Violations and Penalties.**

1. Any intentional, willfully negligent or grossly negligent violation of sections 2-106.1 through 2-106.10 and 2-106.14 of the Charter shall subject the violator to any one or more of the following:

a. Public admonishment issued by Board of Ethics;

b. If an employee, a recommendation that he or she be reviewed for disciplinary action;

c. If an elective or appointive officer, a recommendation to the City Council for removal or forfeiture proceedings;

d. Administrative sanction assessed by the Board of Ethics in an amount and to the extent allowed by law; and

e. Prosecution by the City's Law Department in a court of jurisdiction and, upon conviction, to a fine and/or imprisonment up to the maximum allowed by law, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law.

2. With regard to violations by contractors, in addition to the remedies in paragraph (1), the Board of Ethics may recommend to the City's Purchasing Director one or more of the following:

a. Suspension of a contractor;

b. Disqualification or debarment from contracting or subcontracting with the City;

c. Administrative sanction assessed by the Board of Ethics. Subject to any relevant state law, such fine shall be determined by considering the amount of damages incurred by the City as a result of the subject violation; and/or

d. Prosecution by the City's Law Department in a court of jurisdiction and, upon conviction, a fine for each violation and imprisonment up to the amount and time allowed by law, respectively. Nothing in this section shall be interpreted to conflict with state law.

All penalties associated with this section of the Charter are in addition to the civil and criminal penalties available to the City under applicable law.

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## Sec. 2-106.12. Meetings.

All meetings of the Board of Ethics shall be subject to the Michigan Open Meetings Act MCL 15.261, *et al.*, and open to the public unless an individual involved in the matter to be addressed requests in writing that the meeting be closed, or unless otherwise provided by ordinance and consistent with state law.

## Sec. 2-106.13. Funding.

The City shall annually appropriate funds sufficient to enable the Board of Ethics to perform its duties. Funding shall be in accordance with section 8-214 (*Proportional Funding for Oversight Agencies*).

## Sec. 2-106.14. Campaign Finance Reports.

Every elective officer or candidate for election shall make public their campaign contributions and expenditures by filing a report or reports thereof as required by state law.

**COMMENTARY:** *These new sections 2-106.1 to 2-106.14 replace section 2-106 of the 1997 Charter which: (1) prohibited public officers from using their office for private gain; (2) required "reasonable disclosure of financial interests held by any elective officer, appointee, or employee" under certain circumstance; and (3) generally prohibited actions which create an appearance of impropriety, all of which were to be implemented by ordinance. This new section is a more comprehensive regulation of the ethical behavior expected of elected officials, appointees and employees.*

*Section 2-106.1(2)(b) is intended to prohibit the inappropriate use or disclosure of confidential information. Nothing in this section is intended to prohibit a relevant Public Servant from using such information to perform their job duties.*

## Sec. 2-107. Dismissal Proceedings.

### A. Recall of Elective City Officers.

Any of the elective City officers provided for in section 3-107 of this Charter may be recalled by the voters of the City in the manner provided for by law.

### B. Forfeiture of Office Held by Elective City Officers.

## 1. Grounds for Mandatory Forfeiture.

The office of an elective city officer shall be forfeited for the following:

- a. Lacks at any time any qualifications required by law or by section 2-101 of this Charter;
- b. Plead to, or is convicted of, a felony while holding the office;
- c. Engages in official misconduct;
- d. Willful or gross neglect of duty;
- e. Corrupt conduct in office; or
- f. Any other misfeasance or malfeasance.

## 2. Grounds for Permissive Forfeiture.

The City Council may determine that the office of an elective city officer should be forfeited where the officer:

- a. Based on a recommendation of the Board of Ethics to the City Council, is determined by a three-fourths (3/4) vote of City Council members serving to have violated the Ethics Ordinance or ethics provisions of this Charter;
- b. Refuses to cooperate in an investigation of the Inspector General, Board of Ethics or Ombudsperson;
- c. Neglects or refuses to comply with the provisions of this Charter after being provided an opportunity to comply pursuant to section 7.5-209 (*Enforcement of Charter*); or
- d. Violates any provision of this Charter punishable by forfeiture.

## 3. Procedure.

Where the City Council determines that forfeiture under subsections (B)(1) or (B)(2) of this section, or both, is proper, the officer shall be charged through adoption of a resolution, which provides the factual basis for each charge, by a two-thirds (2/3) vote of members serving. Upon adoption of the resolution, the City Clerk shall forward a certified copy of the resolution to the officer by registered mail.

An elective city officer charged with conduct constituting grounds for forfeiture is entitled to a public hearing before the City Council and to outside legal representation, as permitted by law, which shall be paid by the City of Detroit at rates commensurate with the hourly rate normally paid by the City. A City Council member charged with conduct constituting grounds for

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forfeiture may not participate in the resolution of the charge.

Notice of the hearing and the charging resolution shall be published in a daily newspaper of general circulation in the City, and by electronic posting available to the public, at least fourteen (14) days in advance of the hearing. A decision by the City Council for forfeiture of the office of an elective city officer is subject to judicial review in accordance with Michigan law.

#### 4. *Hearing Rules.*

In accordance with section 2-111 of this Charter, the City Council shall promulgate rules for the Body's forfeiture hearings. Such rules shall comport with procedural due process and shall be in effect prior to any resolution charging the elective city officer. The City Council may request that Corporation Counsel retain an outside legal advisor to assist it regarding the interpretation, application and enforcement of the rules for the hearing, admissibility of evidence, objections and other legal issues arising in connection with the proceedings.

#### C. *Removal of City Appointees.*

##### 1. *Grounds.*

A city appointee who serves at the pleasure of his or her appointing authority may be removed by the appointing authority without cause. A city appointee who is subject to removal for cause may be removed by the appointing authority for:

- a. Lack of qualifications;
- b. Incompetence;
- c. Neglect of duties;
- d. Misconduct;
- e. Pleading to or conviction of a felony;
- f. Violation of this Charter;
- g. Violation of federal or state law;
- h. Violation of any city ordinance, rule, or regulation; or
- i. Any reason under subsections (B)(1) and (B)(2) of this section.

In addition, where a person is appointed to a multi-member body, the appointee is subject to removal for cause for habitual non-attendance of meetings as defined in the Body's rules, or as established by review of the minutes from the Body's meetings.

##### 2. *Procedure.*

A city appointee who is removable for cause may not be removed under this subsection without an opportunity for a hearing before the appointing authority. A copy of the charges shall be furnished at least fourteen (14) days in advance of the hearing.

#### 3. *Hearing Rules.*

In accordance with section 2-111 of this Charter, each appointing authority shall promulgate procedural rules for removal hearings. Such rules shall comport with procedural due process and shall be in effect prior to any notice or resolution charging the city appointee.

*COMMENTARY: This section has been reorganized and clarified in addition to providing several substantial changes. The Home Rule City Act, authorizes adoption of charter provisions concerning voter recall of city elective officers and the Michigan Election Law allows cities to provide by charter for removal of such officers. MCL 117.4i(g) and MCL 168.321(1), respectively.*

*The 1997 Charter provides little guidance on the grounds for forfeiture. Although it references violation of any charter provision that is punishable by forfeiture as justification for forfeiture, with the exception of section 4-314 (Obstruction) (section 7.5-414 in this Charter), there were no other Charter provisions that triggered forfeiture.*

*This Charter provides several grounds for forfeiture including many reflected in state law for elected city officials and other state officers. See, e.g., MCL 168.83; MCL 168.327. The addition of specific grounds for forfeiture is intended to clarify the grounds and process for citizens, through their elected City Council, to challenge the conduct of elected officials and their fitness for elective city office.*

*This section has also been revised to clarify its application to appointees and provide additional grounds for the removal of appointees who are subject to removal for cause.*

#### **Sec. 2-108. Pay Plans.**

All city appointive officers and employees, except elective officers and those whose compensation is stated in collective bargaining contracts made effective under section 6-408, employed by the City and paid either in part or in whole from city appropriations shall be compensated in accordance with pay plans which have been initiated by the Mayor and approved by the

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City Council through adoption of a resolution.

Where applicable, the salaries of all city elective officers shall be determined by an Elected Officials Compensation Commission, which shall be created by an ordinance containing provisions as required by state law.

*COMMENTARY: This section has been substantively revised to reflect that the process for pay plan approval is by City Council resolution, which has existed at least since adoption of the 1974 Charter. The 1997 Charter, however, references an ordinance approval process. It is also revised to indicate that only the Mayor can initiate pay plans.*

## Sec. 2-109. Reimbursement.

Except as otherwise expressly provided, the members of every multi-member body created by this Charter or under section 7-103 of this Charter shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

## Sec. 2-110. General Provisions for Multi-Member Bodies.

Any multi-member body created in this Charter or under section 7-103 may select its officers and adopt rules of procedure. A majority of its members constitutes a quorum. The Body's meetings shall be conducted in compliance with the Michigan Open Meetings Act, MCL 15.261, *et seq.*, including making a record of its proceedings. The record shall be made available to the public in accordance with the Michigan Freedom of Information Act, MCL 15.231, *et seq.* Unless otherwise provided for in this Charter or in the Detroit City Code, each term begins on the fifteenth (15<sup>th</sup>) day of February and ends on the final February fourteenth (14<sup>th</sup>) of the term.

*COMMENTARY: References to meetings and records being "public" have been replaced by specific mention of the Open Meetings Act and Freedom of Information Act. This change make clear that these bodies are required to comply with general state laws which regulate public meetings and records.*

*Also, an ending date for the terms of members of these bodies has been added.*

## Sec. 2-111. Promulgation of Administrative Rules.

(1) Where a city ordinance permits or requires a city

department director, agency head or multi-member body to promulgate a rule governing dealings between the City and the public, or establishing hearing procedures for resolving matters in dispute, the city department director, agency head or multi-member body shall comply with this section.

(2) Before adopting any rule governing dealings between the City and the public, or establishing hearing procedures for resolving matters in dispute, a city department director, agency head or multi-member body shall give notice of a hearing by publication in a daily newspaper of general circulation and by electronic posting available to the public, at least four (4) weeks in advance of the scheduled hearing.

The notice of hearing shall:

- a. Contain the proposed rule or procedure, or a statement of its substance;
- b. Specify the department director or agency head or his or her designee, from whom additional information can be obtained;
- c. Specify the location, date, and time for oral presentation of views by interested persons; and
- d. Specify that any written comments and recommendations intended to be considered prior to adopting the rule shall be submitted no later than the conclusion of the public hearing.

(3) No person shall be precluded from submitting written recommendations and comments subsequent to adoption of the administrative rule. All written comments and recommendations shall be kept on file and made available for public inspection by the promulgating department director, agency head, or multi-member body. Written comments and recommendations received up to the date of the hearing or during the hearing shall be read into the hearing record.

(4) After the conclusion of the public hearing and consideration of all comments and recommendations, the proposed rule shall become effective upon publication in a daily newspaper of general circulation. All effective rules and procedures shall be codified to correspond to the chapter of the City Code which authorized adoption of the rules or procedures, and included in the Detroit City Code after city ordinances in a separate part titled "Administrative Rules."

(5) Notwithstanding the preceding subsections, in the case of an emergency declared in writing by the Mayor or the City Council concerning the public health, safety or welfare, a proposed rule may be given effect for a period not to exceed seven (7) days.

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(6) When promulgating a rule or procedure under this section, a city department director, agency head, or multi-member body is limited to proposing rules which establish procedures, and is precluded from promulgating rules or procedures which are substantive in nature and required to be enacted through an ordinance.

(7) Where rules governing hearing procedures for resolving matters in dispute are adopted, those rules shall be consistent with due process of law.

**COMMENTARY:** *Administrative rule making is an important role of city government, especially where the rule impacts the relationship between the public and city government. This section has been revised to strengthen citizen input, further restrict the ability of city officials to adopt rules under emergencies and provide more specific guidance to city officials and employees on the rule making process. This has been accomplished by: (1) clarifying the broad scope of the section's application to include all city departments, agencies and multi-member bodies; (2) explicitly precluding these departments, agencies and bodies from promulgating substantive rules, which is the responsibility of City Council; (3) require that timely submitted comments and recommendations be read into the record at the public hearing on the rule adoption; (4) allow citizens to submit comments and recommendations subsequent to adoption of a rule, which will become part of the official record maintained by the department, agency or multi-member body promulgating the rule; and (5) reduce, from sixty (60) days to seven (7) days, the period during which rules promulgated by City Council or the Mayor during emergencies may remain in effect before following the Charter process for promulgating rules.*

## **Sec. 2-112. Public Records.**

All records of the City shall be made available to the general public in compliance with the Freedom of Information Act, MCL 15.231, *et. seq.*; MSA 4.1801(1), *et. seq.*

## **Sec. 2-113. Prohibition Against Entering Into Contracts or Giving Position to Those in Default.**

The City of Detroit, through its executive branch departments and legislative branch agencies, is prohibited from making a contract with, or giving an official position to, one who is in default to the City.

**COMMENTARY:** *Under the Home Rule City Act,*

*MCL 117.5(f), the City is prohibited from entering into contractual agreements or providing official positions to someone in default to the City. Default may include, but is not limited to, failure to pay income, personal or property taxes, or inspection or license fees.*

## **ARTICLE 3. ELECTIONS**

### **Sec. 3-101. Department of Elections.**

A Department of Elections shall plan, monitor and administer all elections in the City of Detroit.

**COMMENTARY:** *Article 3 (Elections) of the 1997 Charter addressed the Department of Elections, City Clerk and elections generally. This Charter divides these distinct functions into separate articles and sections. This section, establishing the Department of Elections, is an adaptation of language in section 3-102 of the 1997 Charter. It replaces section 3-101(City Elections) of the 1997 Charter, which has been renumbered and renamed as section 3-105 (City Elections and City Council Initiated Ballot Proposals).*

### **Sec. 3-102. Election Commission.**

The Department of Elections is headed by the Election Commission composed of:

1. The City Clerk, who is Chairperson;
2. The President of the City Council; and
3. The Corporation Counsel.

**COMMENTARY:** *Section 3-102, formerly titled "Department of Elections" in the 1997 Charter has been revised. Duties related to the Election Commission (Sec. 3-103) and matters related to the Director and Deputy Director of the Department of Elections (3-104) have been moved to a separate section..*

### **Sec. 3-103. Powers and Duties of Election Commission.**

The Election Commission has general supervision of all elections in the City and may hire assistants, inspectors, and other election personnel. Precinct election officers and temporary employees required from time to time for periods not to exceed thirty (30) business days may be appointed, exempt from Article 6, Chapter 4, of this Charter.

Except as otherwise provided by this Charter or ordinance, the Election Commission shall perform all

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duties required of election commissions by law. The Commission may subpoena witnesses, administer oaths, take testimony and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for the failure to obey a subpoena or order, the Commission shall apply to the appropriate court.

All meetings of the Commission shall be conducted in compliance with the Michigan Open Meetings Act, MCL 15.261, *et seq.*, including making a record of its proceedings.

In case of any doubt concerning election procedure, the Commission shall prescribe the procedure to be followed.

*COMMENTARY: The duties, powers and functions of the Election Commission set forth in section 3-102 of the 1997 Charter have been removed to this new section. Also, references to meetings and records being "public" have been replaced by specific reference to the Open Meeting Act. This change makes clear that the Election Commission is required to comply with general state laws which regulate public meetings and records.*

### **Sec. 3-104. Director and Deputy Director.**

The City Clerk shall appoint a Director and Deputy Director of the Department of Elections, who are skilled and experienced in municipal election administration. Under the direction of the City Clerk and in accordance with general policies of the Election Commission, the Director shall supervise, plan and monitor all activities and operations incidental to the conduct of elections and voter registration. The Director or Deputy Director of Elections may be removed by the Clerk for cause.

*COMMENTARY: This new section substantially contains the language in paragraph four (4), section 3-102 of the 1997 Charter. However, it has been revised to reflect the current status of Michigan law which gives authority to the City Clerk, and not the Election Commission, to hire and terminate the Director and Deputy Director. MCL 168.29.*

### **Sec. 3-105. City Elections and City Council Initiated Ballot Proposals.**

A regular city general election to fill the elective offices of the City shall be held on the Tuesday after the first Monday of November of 2013 and every fourth year thereafter.

A regular city primary election to nominate candidates for city offices shall be held on the Tuesday after the first Monday of August before the general election.

If a vacancy occurs in the office of Mayor it shall be filled by succession under section 5-109. The unexpired term shall be filled at the next general election in the City held not sooner than one hundred eighty (180) days after occurrence of the vacancy.

If a vacancy occurs on City Council it shall be filled by appointment, based on a two-thirds (2/3) vote of members. The person appointed shall serve until an elected member takes office. The election to fill the vacant position shall occur at the next general election to be held not sooner than one hundred eighty (180) days after occurrence of the vacancy.

If a vacancy occurs in an elective office of the Board of Police Commissioners it shall be filled by the Mayor with a resident from the relevant district, subject to City Council approval. If City Council does not disapprove the appointment within thirty (30) days of the appointment it will be deemed confirmed. The appointed person shall serve until an elected member takes office. The election to fill the vacant position shall occur at the next general election to be held not sooner than one hundred eighty (180) days after occurrence of the vacancy.

The City Council may submit, by resolution adopted not less than seventy (70) days before any election or special election, any proposal to the voters of the city.

*COMMENTARY: Several revisions have been made in section 3-105, which is comprised of provisions of section 3-101 (City Elections) of the 1997 Charter. The date for primary elections for city office has been changed, adopting the date currently used by the City and required by the Michigan Election Law, MCL 168.641. The year for holding the next general election for city office has been added as a point of information, and as a reference in determining future elections based on the four (4) year city election cycle.*

*The current procedure for filling vacancies in the offices of Mayor and City Council has been replaced. The intent behind this revision is to eliminate the potential need for costly special elections, while at the same time honoring citizen choice in filling a vacancy at the earliest possible election date, subject to relevant provisions of the Michigan Election Law, MCL 168.1 et seq. A procedure for filling vacancies in the newly created office of elected Board of Police*

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*Commissioners has also been added to this section.*

## **Sec. 3-106. State Law to Apply.**

Except as otherwise provided by this Charter or ordinance, state law applies to the qualifications and registration of voters, the filing for office by candidates, the filing of petitions for initiative and referendum, and the conduct and canvass of city elections.

***COMMENTARY:** Section 3-104 of the 1997 Charter explains that certain aspects of the city election process are regulated by state law. Section 3-104 has been renumbered as section 3-106 and includes additional language explaining that state law also applies to filing petitions for initiative and referendum.*

## **Sec. 3-107. Elective Officers of the City.**

The elective officers of the city are the Mayor, the nine (9) members comprising the City Council, the City Clerk and seven (7) elected Board of Police Commissioners.

***COMMENTARY:** This section was formerly section 3-105 in the 1997 Charter. The Charter has been revised to allow for the election of seven (7) Board of Police Commissioners from City Council districts. This section reflects that change by identifying non at-large district elected Board of Police Commissioners as elective city officers.*

## **Sec. 3-108. Geographical Basis for Electing Council Members.**

There shall be seven (7) non at-large districts and one (1) at-large district established in the City and one (1) member shall be elected from each non at-large district and two (2) members shall be elected from the at-large district.

New district boundaries created within one hundred twenty (120) days of a City Primary Election shall become effective after the General Election.

City Council shall establish district wards that are as nearly of equal population as practicable, contiguous, compact and in accordance with any other criteria permitted by law.

District wards shall be apportioned in subsequent years as required by, and in accordance with, the Home Rule City Act, MCL 117.27a, and other applicable law.

***COMMENTARY:** The Home Rule City Act regulates the drawing of district wards within a city. MCL 117.27a. Pursuant to the Act the legislative branch is responsible for drawing district boundaries and this section has been revised to reflect this legal mandate.*

*According to the Home Rule City Act, districts must be drawn based on a specific set of criteria which includes, equal population, compactness and contiguous boundaries. MCL 117.27a(5). Additional language has been inserted to allow for consideration and use of factors not necessarily prohibited by law (e.g. keeping intact precinct boundaries).*

*Lastly, pursuant to the Home Rule City Act, district boundaries are required to be redrawn after every decennial census. MCL 117.27a(4). This section includes this legal requirement.*

## **Sec. 3-109. Nominating Petitions.**

A candidate for nomination to an elective city office shall file with the City Clerk a non-partisan nominating petition consisting of one (1) or more petition forms.

The candidate's petition shall be signed by a number of voters of the City equal to not more than one percent (1%) nor less than one-fourth percent (1/4%) of the total number of votes cast in the preceding Regular City General Election for the office which the candidate seeks.

Where a candidate is seeking nomination to the office of City Council at-large member, the candidate's petition shall be signed by a number of voters of the City equal to not more than one percent (1%) nor less than one-fourth percent (1/4%) of the number resulting when the total number of votes cast at the preceding Regular City General Election for all offices of City Council members is divided by nine (9).

Where a candidate is seeking nomination to the office of City Council non at-large district member, the candidate's petition shall be signed by a number of voters of the district equal to not more than one percent (1%) nor less than one-fourth percent (1/4%) of the number resulting when the total number of votes cast at the preceding Regular City General Election for all offices of the City Council members is divided by nine (9).

In the initial election, where a candidate is seeking nomination to the office of district elected Police Commissioner, the candidate's petition shall be signed

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by a number of voters of the district equal to not more than one percent (1%) nor less than one-fourth percent (1/4%) of the number resulting when the total number of votes cast at the preceding Regular City General Election for all offices of the City Council members is divided by nine (9). In succeeding elections the candidate's petitions shall be signed by a number of voters of the district equal to not more than one percent (1%) nor less than one-fourth percent (1/4%) of the number resulting when the total number of votes cast at the preceding Regular City General Election for all offices of elected Board of Police Commissioners is divided by seven (7).

**COMMENTARY:** *The 1997 Charter requires that candidate petitions for elective City office be signed by a number of voters equal to between 1/4% and 1% “of the total number of votes cast in the preceding City general election for the office which the candidate seeks.” Candidates for City Council were required to have petitions signatures in an amount equal to between 1/4% and 1% “of the number resulting when the total number of votes cast at the preceding regular city general election for all offices of City Council members is divided by nine (9).” The substantive revision to this section was the addition of the word “percent” after the word “one-fourth” in the third and fourth paragraphs, which is consistent with the intent of the original language as indicated by the numerical description of “1/4%” in the parentheses following the word “one-fourth” in both paragraphs. It is also consistent with the original 1997 Charter’s language which was amended November 3, 2009 to add the Charter’s current language, which is being revised here.*

*The language of Proposal D adopted by voters in 2009, which allowed for seven (7) City Council non at-large seats and two (2) at-large seats, made an ostensibly inadvertent deletion of the word “percent” after the word “one-fourth” in the third and fourth paragraphs of the new language of section 3-107, but accurately retained “(1/4%)”. Adding the word “percent” restores the integrity, meaning and intent of the language. This has been corrected along with a grammatical change to the fourth paragraph. This section was formerly section 3-107. It has been re-numbered and placed in Article 3 (Elections).*

*Lastly, a nominating petition process for candidates for the newly created elected seats of the Board of Police Commissioners has been added to this section.*

### **Sec. 3-110. Nominees.**

The number of nominees for each elective city office selected at each primary election may not exceed twice the number of openings in the office to be filled. The nominees are entitled to have their names printed on the general election ballot.

### **Sec. 3-111. Residency Requirement for Elective Officers.**

#### *1. Elected Officials Generally.*

All candidates for elective office and elected officials shall be bona fide residents of the City of Detroit and must maintain their principal residence in the City of Detroit for one (1) year at the time of filing for office or appointment to office, and throughout their tenure in office.

#### *2. City Council and Board of Police Commissioners.*

In addition to being a resident for one (1) year, as required above, candidates for City Council and the Board of Police Commissioners shall be bona fide residents of their districts and must maintain their principal residence in their districts for one (1) year immediately preceding election or appointment and throughout their tenure in that office.

**COMMENTARY:** *This new section reflects standard language which can be found in many Charters both locally and nationally. Establishing a general durational residency requirement of one (1) year for elective officers is a significant means of assuring that they have a demonstrable commitment to the City of Detroit and first-hand familiarity with issues confronting the City.*

*Adopting a district model for electing City Council and seven (7) Board of Police Commissioners, with a district durational residency requirement, emphasizes neighborhood level accountability and requires more than superficial contacts with a particular community. An elected official’s ability to understand the unique aspects of their communities is a necessary component of effective leadership.*

*Although some citizens called for a much longer residency period, the period chosen was done in consideration of the current state of the law on the permissible length of residency requirements for local officials.*

## **ARTICLE 3.5. OFFICE OF THE CITY CLERK**



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## Sec. 3.5-101. Office of City Clerk.

There shall be an Office of the City Clerk, which is headed by the City Clerk.

*COMMENTARY: The 1997 Charter combines in one article the functions of the City Clerk and Elections Commission. (Article 3) Although there is some relationship between these two offices, this Charter divides their duties and operations into separate articles. There are no substantive changes to the language in the various sections that make up this new article.*

## Sec. 3.5-102. Duties and Powers of City Clerk.

The City Clerk shall:

1. Keep all papers filed in or pertaining to the Office of the City Clerk;
2. Keep the Corporation seal of the City;
3. When requested, certify, under the corporate seal, copies of all papers and records for the office;
4. Administer oaths;
5. Take affidavits;
6. Maintain reasonably accessible voter registration sites throughout the City on a year-round basis;
7. Serve as City Council's clerk and keep a record of all its ordinances, resolutions, and other proceedings and perform other such duties as it may provide; and
8. Exercise other powers and duties as provided by law, this Charter, or ordinance.

*COMMENTARY: This new section 3.5-102 contains substantially the same language in the 1997 Charter regarding the duties and functions of the City Clerk. All duties of the City Clerk set forth in separate sections of the 1997 Charter, specifically sections 3-103 and 4-111, have been incorporated into this one section and placed under the new Article 3.5, which exclusively deals with the office and function of the City Clerk.*

## Sec. 3.5-103. Deputy City Clerk.

The City Clerk shall appoint a Deputy City Clerk who shall serve at the pleasure of the City Clerk. In the absence or disability of the City Clerk, or while the position is vacant, the Deputy City Clerk shall exercise all the powers and perform all the duties of the City Clerk to the full extent permitted by law.

*COMMENTARY: This new section 3.5-103 is substantially the same as the former section 3-103(2) in regard to the duties and powers of the Deputy City Clerk.*

## Sec. 3.5-104. Vacancy in Office of City Clerk.

Where a vacancy occurs in the Office of City Clerk, the City Council shall appoint a successor who shall serve until an elected City Clerk takes office. A City Clerk shall be elected for the unexpired term, if any, at the next general election in the City held not sooner than one hundred eighty (180) days after the occurrence of the vacancy.

*COMMENTARY: This new section 3.5-104 is substantially the same as the former section 3-103(3).*

## ARTICLE 4. THE LEGISLATIVE BRANCH CHAPTER 1. CITY COUNCIL

### Sec. 4-101. City Council.

The City Council is the City's legislative body. It has the powers and duties provided by law or this Charter.

### Sec. 4-102. Meetings.

The City Council shall hold its first (1st) meeting in the first (1st) week of January after the regular city general election and, during ten (10) months of the year, shall meet every business day unless otherwise provided by resolution at such times and places as it may provide.

On at least eight (8) occasions during each calendar year, the City Council shall hold meetings in areas of the city, to be determined by the City Council. Those meetings shall begin between the hours of seven (7) o'clock P.M. and eight (8) o'clock P.M.

Special meetings may be held at the call of the Mayor or four (4) or more City Council members and, whenever practicable, upon no less than twenty-four (24) hours notice to each member and to the public.

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All business which the City Council may perform shall be conducted at a public meeting held in compliance with the Michigan Open Meetings Act, 1976 PA267, MCL 15.261, *et. seq.*; MSA 4.1800, *et. seq.*

### **Sec. 4-103. Selection of Council President and President Pro-Tempore.**

City Council shall select its President and President Pro-Tempore from among its members by majority vote of the members serving at its first regular session in 2014. The term for City Council President and President Pro-Tempore shall be four (4) years. Selection of the President and President Pro-Tempore shall be every four years.

Members serving in the offices of President or President Pro-Tempore may be removed from their office by a unanimous vote of all members serving, exclusive of the officer being removed. If an officer is removed, the basis and vote for removal shall be publicly recorded in the minutes of City Council at a public meeting.

In the event of a vacancy in the office of President, including by removal or temporary absence, the President Pro-Tempore shall serve as President for the unexpired term in the case of vacancy or removal, or until the return of the President in the case of absence due to succession under section 5-109 or otherwise. Any vacancy in the office of President Pro-Tempore shall be filled by majority vote of members serving on the City Council for the unexpired term. However, if the office of President Pro-Tempore becomes available because of succession under section 5-109, City Council shall select a President Pro-Tempore to serve until the return of the President and resulting resumption of the office by the President Pro-Tempore.

*COMMENTARY: Under the 1997 Charter the President and President Pro Tempore of City Council were determined by which Council members received the highest and second highest number of popular votes, respectively. This is but one way that local legislative bodies select their leadership. An alternative approach, adopted by this revised Charter, is to allow the legislative body to periodically determine its own leadership. By allowing City Council to select its leaders there is the opportunity for its members to give due consideration to the qualities and characteristics of leadership deemed important and necessary to guide it as an elected body. It is expected that a unity of purpose and cooperative governance will be encouraged and facilitated by this method of leadership selection.*

### **Sec. 4-104. Duties of the Council President.**

The president of the City Council shall preside at all regular session meetings of the City Council. The president shall have administrative responsibility on behalf of the City Council.

The City Council shall provide in its rules for the duties and responsibilities of the council president.

### **Sec. 4-105. Rules and Journal.**

The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings in the English language. The journal shall be a public record.

### **Sec. 4-106. Standing Committee Structure.**

The City Council shall provide for a standing committee structure by its rules which committees may include, but not be limited to the following areas:

1. *Budget and Finance;*
2. *Neighborhood and Community Services;*
3. *Human Resources;*
4. *Law and Public Safety;*
5. *Planning and Economic Development; and*
6. *Such committees as it deems necessary.*

The president of the council shall appoint the chairpersons of such standing committees, with the approval of a majority of the City Council. However, the number of committees and the number of members per committee may be set by the City Council. Only members of committees may vote on matters before the committee. The president shall be an ex-officio member of all committees, but shall be a voting member only as provided for any other council person.

### **Sec. 4-107. Quorum.**

A majority of City Council members serving constitutes a quorum, but a smaller number may adjourn from time to time and may compel attendance of absent members in the manner and subject to the penalties provided by rule of the City Council.

### **Sec. 4-108. Voting.**

Except as otherwise provided by this Charter, no action of the City Council shall be effective unless adopted by at least a majority of City Council members present.

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Every City Council member present shall vote on all questions, except as provided by state law, a City Council member must promptly disclose any pecuniary interest in a contract which the City Council has the power to approve, and no City Council member may vote upon any matter related to the approval of the contract in which the City Council member has a pecuniary interest.

On all ordinances, and in all other matters on the demand of one (1) or more members of the City Council, the yeas and nays shall be taken and entered in its journal.

### **Sec. 4-109. Investigations.**

The City Council may make investigations into the affairs of the City and the conduct of any city agency.

### **Sec. 4-110. Investigative Powers.**

The City Council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it or any of its committees. To enforce a subpoena or order for production 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.

### **Sec. 4-111. Confirmation Authority.**

Except as otherwise provided in this Charter or as may be required by law, Mayoral appointment of the Chief of Police, Fire Commissioner, Director of Planning and Development, Director of Human Resources and Corporation Counsel, is subject to approval by City Council. However, if the City Council does not disapprove the appointment within thirty (30) days after submission by the Mayor, the appointment is confirmed.

**COMMENTARY:** *This new section seeks to balance the power between the executive and legislative branches of government. It provides a greater role for the legislative branch in the selection of certain executive level city officials, requiring that these several positions receive the input and approval of the City Council. With the exception of the Corporation Counsel, who under the 1997 Charter is appointed by the Mayor and approved by the City Council, the Chief of Police, Fire Commissioner, Director of Planning and Development and Director of Human Resources will now be approved by City Council upon appointment by the Mayor.*

### **Sec. 4-112. Control of Property.**

Except as otherwise provided by this Charter, the City may not sell or in any way dispose of any property without the approval by resolution of the City Council.

The City Council shall adopt an ordinance within one-hundred and eighty (180) days after the effective date of this Charter to provide for the acceptance of gifts or real and personal property and services to the City of Detroit.

### **Sec. 4-113. Prohibition on Interference in Administration.**

Except for the purposes of inquiries and investigations, the City Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither City Council or its members shall give orders to such officer or employee, either publicly or privately.

### **Sec. 4-114. Ordinances and Resolutions in General.**

In accordance with state law, an ordinance shall be enacted to provide a permanent rule for the conduct of government, while a resolution shall be adopted to express a determination, to direct a particular action, or to approve a singular event. In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City shall be by ordinance which:

1. Amend or repeal any language in, or add any language to, the Detroit City Code;
2. Establish a prohibition for violation of which a penalty is imposed based upon a finding that a person committed a misdemeanor, civil infraction, or blight violation; or
3. Provide for the laying and collecting of rents, tolls, excises and taxes, except as otherwise provided in section 8-209 of this Charter concerning property taxes levied by the budget.

**COMMENTARY:** *Sections 4-114 through 4-119 of the 1997 Charter addresses the roles of City Council and the Mayor in the passage of ordinances and the City Council's procedure for adoption of resolutions. These sections have been rearranged and clarified to provide a chronological order for execution of these procedures.*

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*Also, these sections have been changed to make the sections commensurate with state law regarding the difference between ordinances and resolutions (See Kalamazoo Municipal Utilities Association v City of Kalamazoo, 345 Mich 318 (1956)). This difference has been set forth in section 4-114, which now explains the distinction between ordinances and resolutions and their intended uses and functions. Generally, ordinances involve more long term rules for the conduct of government, such as establishment of regulatory schemes for licensing businesses, comprehensive ethical standards for employees and prohibitions on activity by issuance of a civil infraction, misdemeanor or blight violation, while resolutions relate to singular events, direct a particular action or express a determination.*

*This section has also been revised to clarify that an ordinance is required where the City Council establishes a prohibition, the violation of which imposes a penalty based upon a finding that a person committed a blight violation, civil infraction or misdemeanor. MCL 117.4l.*

*Section 4-114 has also been renamed to accurately reflect the subjects covered by this section.*

### **Sec. 4-115. Ordinance Procedure.**

1. Every proposed ordinance shall be in writing. No ordinance may contain more than one (1) subject, and the ordinance's title must clearly express this subject. The enacting clause shall be "It is Hereby Ordained by the People of the City of Detroit . . ."

Any ordinance which repeals or amends an existing chapter, article, division, or section of the Detroit City Code shall set out in full the chapter, article, or division, or section to be repealed or amended, and shall clearly indicate language to be omitted and language to be added.

2. Upon the filing of any ordinance, the City Clerk shall distribute a copy to each City Council member and to the Mayor, shall file a reasonable number of copies in the Office of the City Clerk and such other public places as the City Council may designate, and shall publish a summary of the proposed ordinance in a daily newspaper of general circulation in the City together with a notice establishing the time and place for a public hearing thereon and for its consideration by the City Council.

The public hearing may not be held earlier than five (5)

days after the publication. The public hearing may be held separately or with a regular or special City Council meeting and may be adjourned from time to time. All interested persons shall have an opportunity to be heard.

After the public hearing, the City Council shall vote on the proposed ordinance in accordance with section 4-108 of this Charter.

**COMMENTARY:** *This section sets forth the City Council's ordinance procedure. Except for grammatical and other non-substantive changes that provide clarity, the only substantive changes involve the addition of language referencing section 4-108 (Voting), deletion of language regarding publication of the enacted ordinances and adoption of notices in paragraph two (2), and the deletion of paragraph three (3) which dealt with the effective date of ordinances. The deleted publication language and effective date of ordinances are now addressed in the new section 4-118 (Publication of Ordinance and Effective Date).*

### **Sec. 4-116. Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, one (1) or more emergency ordinances may be enacted. However, an emergency ordinance may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its service.

An emergency ordinance shall be introduced in the form and manner required for ordinances under section 4-115 of this Charter, except that the ordinance shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms.

An emergency ordinance may be passed and given immediate effect at the meeting at which the ordinance is introduced, by a two-thirds (2/3) majority of City Council Members present.

An emergency ordinance shall become effective upon publication or at any later date specified therein.

Every emergency ordinance is repealed automatically on the sixty-first (61st) day after its enactment, unless re-enacted as an emergency ordinance.

**COMMENTARY:** *Section 4-116, formerly section 4-117 in the 1997 Charter, sets forth the procedure for emergency ordinances. Several grammatical changes*

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have been made to this section. In addition, the manner and form for introducing emergency ordinances is the same for ordinary ordinances and section 4-115, which sets forth the form and manner for introducing ordinances, has been specifically referenced as applicable to both types of ordinances.

### **Sec. 4-117. Procedure for Approval or Veto by Mayor and City Council's Override of Veto.**

Every ordinance or resolution of the City Council, except quasi-judicial acts of the City Council, including any under section 9-302, appointments by the City Council or action taken under sections 2-107(B) and (C), 4-102, 4-105, 4-108, 4-109, 4-120, 4-121, 7-706, or 12-110 of this Charter, shall be presented by the City Clerk to the Mayor within four (4) business days after adjournment of the meeting at which the ordinance is passed or the resolution is adopted.

Within seven (7) days of its receipt, the Mayor shall return the ordinance or resolution to the City Clerk with or without approval, or with a veto and a written statement explaining the veto. However, with respect to an emergency ordinance, the Mayor shall notify the City Clerk of a veto in any reasonable manner within twenty-four (24) hours after the Mayor's Office receives written notice from the City Clerk that the emergency ordinance has been passed.

An ordinance approved by the Mayor shall be deemed enacted thereupon. An ordinance returned to the City Clerk neither approved nor vetoed by the Mayor shall be deemed enacted upon receipt by the City Clerk. The Mayor shall return any resolution neither approved nor vetoed to the City Clerk with a written statement explaining the reason that the resolution was neither approved nor vetoed. An ordinance or resolution not returned to the City Clerk within seven (7) days of receipt by the Mayor shall be deemed enacted upon expiration of the seven (7) day period, provided, that, where the Mayor fails to notify the City Clerk of a veto within twenty-four (24) hours of receipt by the Mayor's Office of notice that an emergency ordinance has been passed, the emergency ordinance shall be deemed enacted upon expiration of the twenty-four (24) hour period.

An ordinance or resolution vetoed by the Mayor can be reconsidered by the City Council only at a regular or special meeting within one (1) week after receipt of the Mayor's veto. A two-thirds (2/3) majority of City Council Members serving may pass the ordinance or adopt the resolution over the Mayor's veto.

*COMMENTARY: Section 4-117 was formerly section 4-119 (Veto) in the 1997 Charter, and has been renamed to better reflect the subjects covered by this section. It has been revised to include several grammatical changes which provide clarity. Also, substantive language has been added to allow City Council to reconsider the Mayor's veto of an ordinance or resolution at a special meeting.*

### **Sec. 4-118. Publication of Ordinances and Effective Date.**

An ordinance shall become effective only upon publication by the City Clerk. The effective date of an ordinance shall be determined as specified in this section.

As soon as practicable after enactment of any ordinance in accordance with section 4-117, the City Clerk shall have the law published in a daily newspaper of general circulation in the City together with a notice of its enactment, which shall include the effective date. After publication, each ordinance shall be printed in a form for codification within the Detroit City Code.

Except as provided by law, the effective date of the ordinance shall be determined as follows:

1. Where the ordinance is passed by a two-thirds (2/3) majority of the City Council Members serving, it shall be given immediate effect and become effective upon publication;
2. Where the ordinance is passed by less than two-thirds (2/3) majority of the City Council Members serving, it shall become effective no later than thirty (30) days after publication; or
3. Where the ordinance specifies a certain date to become effective, it shall become effective in accordance with the date specified therein, subject to the publication requirement in this section.

*COMMENTARY: This new section consolidates into one section the 1997 Charter provisions regarding the effective date of city ordinances including the former sections 4-115 (Ordinance Procedure) and 4-116 (Immediate Effect). Section 4-116 (Immediate Effect) has been eliminated.*

### **Sec. 4-119. Ordinances After Enactment and Resolutions After Adoption.**

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1. The City Clerk shall authenticate by signature and record all ordinances and resolutions in a properly indexed book kept for that purpose. After enactment, the City Clerk shall cause each ordinance to be printed in a loose-leaf format for distribution to the public prior to codification of the ordinance in the Detroit City Code. At the end of each calendar year, or more frequently if possible, the City Clerk shall cause loose-leaf ordinances to be codified within the Detroit City Code.

2. Within ten (10) years after the effective date of this Charter and at least every ten (10) years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances.

The general codification shall be enacted by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, the 1963 Michigan Constitution, the Michigan Home Rule City Act and rules promulgated under section 2-111 of this Charter. This compilation shall be designated as the Detroit City Code with the designation preceded by the year that the Code became effective.

A copy of the Code shall be provided to City elective officers, appointees and necessary employees, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the City Council Clerk.

Each ordinance and each amendment to this Charter shall be printed promptly after enactment, and the printed ordinances and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the City Council Clerk.

**COMMENTARY:** Section 4-119, formerly section 4-118 of the 1997 Charter, addresses the codification and recording of resolutions and ordinances. It has been renamed with the addition of several substantive changes. The role of the City Clerk in the process of ordinance codification after enactment of ordinances is clarified in this section. Also, within ten (10) years after the effective date of this revised Charter (replacing the three (3) year requirement), the City Clerk will prepare a general codification of all City ordinances.

*Under the proposed revisions to this section, the full text of the Michigan Constitution and Home Rule City Act and all rules promulgated pursuant to section 2-111 will be placed in the Detroit City Code. This*

*section has been revised to allow the City Clerk, who maintains and compiles the Detroit City Code, to fix a reasonable price for public purchase of the Code.*

*Because the Detroit City Code is a valuable guide which includes instructions for the operation of the City of Detroit, this Charter directs that copies be provided to all appointees and other employees whose duties and functions require a thorough understanding of the document.*

### **Sec. 4-120. Council Personnel.**

The City Council may appoint a staff, exempt from Article 6, Chapter 4 of this Charter.

### **Sec. 4-121. Special Counsel.**

The City Council may obtain the opinion or advice of an outside law firm or outside attorney in any matter pending before it. Where there exists a conflict of interest between the City Council and another branch of government, the City Council has the authority to retain an outside law firm or outside attorney who shall represent the City Council in legal proceedings, in accordance with section 7.5-208 (*Intra-Government Dispute Resolution*). The attorney must be licensed to practice law in Michigan and shall not represent the city as a municipal corporation in any legal proceeding.

**COMMENTARY:** *The City of Detroit is a corporate body legally referred to as a municipal corporation. MCL 117.1. The Corporation Counsel is the sole legal representative of the corporate body. He or she takes legal direction from and provides legal services to the agents of the corporate body, which includes the Mayor, City Council and the City Clerk. See Sec. 7.5-201(1) (Law Department). Being a co-equal branch and agent of city government, City Council's legal interests and needs are served by the Corporation Counsel, who is the official attorney for all branches and units of city government. See Sec. 7.5-205 (Advice and Opinion). However, there are occasions where City Council is justified in seeking legal representation or legal advice and opinions of lawyers and legal experts outside of the municipal corporation. This right has been retained, subject to the revised section 7.5-208 (Intra-Government Dispute Resolution).*

### **Sec. 4-122. Approval of Contracts and Disclosure.**

The City may not purchase or in any way procure property or the services of independent contractors without approval by resolution of the City Council except as provided by ordinance.

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Within one hundred eighty (180) days of the effective date of this Charter, the City Clerk shall post on the City's website a list of all contracts that have been approved by City Council and which are then in effect. The list shall be updated upon the initial approval, amendment or renewal of a contract, as provided herein. The list shall contain: (1) the name of the contractor; (2) a brief description of the goods and/or services being provided; (3) the total dollar amount of the contract; (4) the amount and date of all amendments that result in a change in the contract amount, including change orders; and (5) the purchase order number.

For purposes of conflicts of interest, the City shall require in all of its contractual agreements, including, but not limited to, leases, service and equipment agreements and including contract renewals, that the contractor provide a statement listing all political contributions and expenditures ("Statement of Political Contributions and Expenditures"), as defined by the Michigan Campaign Finance Act, MCL 169.201, *et seq.*, made by the contractor, its affiliates, subsidiaries, principals, officers, owners, directors, agents or assigns to elective city officials within the previous four (4) years. Individuals shall also list any contributions or expenditures from their spouses.

The contract shall reflect that filing the Statement of Political Contributions and Expenditures shall be a yearly obligation of the contractor for the duration of the contract and shall be filed with all contract renewals and change orders. Each submitted Statement of Political Contributions and Expenditures shall be current up to and including the date of its filing.

The contractual agreement shall also state that the contract is not valid unless and until the Statement of Political Contributions and Expenditures is provided, which shall be attached as an exhibit to the contract and referenced as such in the contract. City Council is prohibited from approving any contract subject to this requirement, or change order related to such contract, unless it is accompanied by the Statement of Political Contributions and Expenditures from the contractor.

**COMMENTARY:** *This section has been revised to provide more transparency and accountability in City contracting. It creates a process for regular public reporting of contract information via the City's website and requires that contractors with the City of Detroit disclose information regarding political contributions to and expenditures in support of elected city officials, as a condition of contracting with the City of Detroit. In addition, City Council is prohibited from awarding a*

*contract or change order unless it is accompanied by the herein referenced political contribution and expenditure information.*

## ARTICLE 4. THE LEGISLATIVE BRANCH

### CHAPTER 2. BOARD OF ZONING APPEALS

#### **Sec. 4-201. Establishment of Board of Zoning Appeals.**

There shall be established, pursuant to the Michigan Zoning Enabling Act, MCL 125.3101, *et al.*, a Board of Zoning Appeals. The Board of Zoning Appeals shall be composed of at least seven (7) members, one (1) each from the non at-large districts.

#### **Sec. 4-202. Board of Zoning Appeals Ordinance.**

In accordance with the Michigan Zoning Enabling Act, MCL 125.3601, the City of Detroit shall enact an ordinance that establishes one (1) appeal board with the powers and duties: (1) to hear appeals from administrative decisions either of the Buildings, Safety Engineering, and Environmental Department or Planning and Development Department; and (2) hold hearings on non-conforming uses and structures and requests for variances. In accordance with MCL 125.3601(1), the ordinance shall provide that the City Council appoints members to the Board of Zoning Appeals.

In addition, the ordinance shall provide:

1. For rules governing the appeal and other matters properly before the Board, including the parties entitled to be heard in proceedings before the Board;
2. In any review proceeding, that the Buildings, Safety Engineering, and Environmental Department or the Planning and Development Department shall file a written statement and may appear before the Board in support of its decision;
3. The effect of a decision of the Board; and
4. For compensation of Board members.

**COMMENTARY:** *The new sections 4-201 and 4-202 are revisions of the former section 7-403 (Board of Zoning Appeals). The Board of Zoning Appeals is appointed by City Council and implemented pursuant to ordinance, as required by the Michigan Zoning Enabling Act, MCL 125.3101 et al. Therefore, the Board has been removed from Article 7 (The Executive Branch: Programs, Services and Activities) and properly placed in Article 4 (The Legislative Branch).*

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*This section identifies the duties of the Board of Zoning Appeals to include hearing appeals from decisions of the Buildings, Safety Engineering, and Environmental Department and the Planning and Development Department, in addition to hearings on non-conforming structures, uses and variances.*

*The composition of the Board has been revised to accommodate representation from each of the seven (7) City Council non at-large districts. Also, this section makes clear what should be contained in the ordinance that the City is required to create. This section retains the 1997 Charter language in section 7-403 regarding the content of the subject ordinance such as: (1) the provision of rules governing appeals; (2) parties entitled to be heard in proceedings before the Board; (3) the obligation of the Buildings, Safety Engineering, and Environmental Department to file a written statement and discretion to appear before the Board to support its decision; (4) the effect of a decision of the Board; and (5) ability of Board members to receive compensation. The Planning and Development Department has been added to this section as a city agency whose decisions may be subject to appeal to the Zoning Board of Appeals and afforded the right to file written statements and appear before the Board to support their decision.*

## ARTICLE 4. THE LEGISLATIVE BRANCH

### CHAPTER 3. CITY PLANNING COMMISSION

#### Sec. 4-301. City Planning Commission.

A nine (9) member City Planning Commission shall be appointed by and serve at the pleasure of the City Council. Seven (7) of the members shall be appointed, one (1) each, from the non at-large districts. As far as possible, different professions and occupations shall be represented on the commission.

A member must be a resident of the City. The term of office is three (3) years and the terms of three (3) members expire each year. City Council members are eligible for appointment to the Commission as ex-officio members.

**COMMENTARY:** *City planning is a vital function of government which directly and significantly impacts the lives of residents on a broad scale. Providing district representation on the City Planning Commission not only achieves district inclusion, but allows planning within the City to benefit and be informed by the distinct views and issues within all*

*sectors of the City.*

#### Sec. 4-302. Powers and Duties.

The City Planning Commission shall advise the City Council on development matters as defined in section 6-204 and, to the extent consistent with this Charter and state law, perform other functions as directed by the City Council. Any resolution adopted by the Commission is advisory and shall not be binding until adoption by the City Council.

**COMMENTARY:** *Planning Commissions are created and regulated by state law. See Michigan Planning Enabling Act, MCL 125.3801, et seq. Hence, this section has been revised to clarify that the City Council's power to expand the functions of the Planning Commission may be limited by this Charter and state law.*

#### Sec. 4-303. Staff Assistance.

The Commission may request, and is entitled to, assistance from the staff of the Planning and Development Department in evaluating or preparing any proposal relating to planning or development. All elective and appointive officers shall furnish to the commission, within a reasonable time, available information required by the commission. The Commission may, within appropriations, appoint a staff, exempt from Article 6, Chapter 4 of this Charter.

## ARTICLE 5. THE EXECUTIVE BRANCH: THE MAYOR and GENERAL PROVISIONS

#### Sec. 5-101. Mayor.

The Mayor is the chief executive of the City and, as provided by this Charter, has control of and is accountable for the executive branch of City government. The Mayor is also directly accountable to the citizens of the City of Detroit.

**COMMENTARY:** *This section has been revised to clearly state the Mayor's accountability to the citizens of the City of Detroit.*

#### Sec. 5-102. The Executive Branch.

Except as otherwise provided by law or this Charter, executive and administrative authority for the implementation of programs, services and activities of city government is vested exclusively in the executive branch.



# HOME RULE CHARTER

## **Sec. 5-103. Mayoral Appointments.**

The Mayor may appoint a secretary and other necessary assistants.

Except as otherwise provided by law or this Charter, the Mayor shall appoint for each department of the executive branch a director who serves at the pleasure of the Mayor as head of the department. As used in this chapter, "director" means the administrative head of each department regardless of the title of a particular director.

## **Sec. 5-104. Other Mayoral Powers.**

The Mayor is a conservator of the peace of the City and may administer oaths and take affidavits.

## **Sec. 5-105. Appointment of Deputies.**

Except as otherwise provided by law or this Charter, the Director of each department of the executive branch may, with the consent of the Mayor, appoint a Deputy. The appointment shall be made and may be revoked without cause by a writing filed with the City Clerk.

*COMMENTARY: The 1997 Charter mandates the appointment of a Deputy Director for every executive branch department. While the principles of organizational management may recommend the appointment of a Deputy in the chain of department level leadership, a requirement for a Deputy Director should be discretionary, allowing the Director and Mayor to provide for the unique leadership needs of each department. Elimination of this requirement provides maximum flexibility in staffing and potentially reduces the cost of government.*

## **Sec. 5-106. Powers and Duties of Department Directors.**

Except as otherwise provided by law or this Charter, the Director of each department of the executive branch shall:

1. In accordance with Article 6, Chapter 4, hire, promote, supervise, discipline and remove all employees of the department.
2. Assign duties to the employees and supervise the performance of these duties.
3. Prescribe rules which are necessary for the organization and internal governance of the

department. However, no rule may be inconsistent with any collective bargaining contract or any rule or policy of the Human Resources Department.

4. Prepare reasonable rules governing dealings between the department and the public. A rule becomes effective in accordance with section 2-111.

5. Present annually in quantitatively measurable terms the department's operational performance during the past year and the objective for planned improvement in the coming year. The report shall be submitted to the Mayor and City Council not later than the date established for the Mayor to submit to the City Council a proposed annual budget for the next fiscal year.

6. Respond to any inquiry or investigation of the Inspector General, Ombudsperson, Board of Ethics, Auditor General and City Council.

*COMMENTARY: Paragraph 6 of this section has been revised to include reference to the newly created Office of Inspector General and currently existing Board of Ethics. These entities are empowered with the same broad inquiry and investigation authority as the Auditor General and Ombudsperson.*

## **Sec. 5-107. Powers of a Departmental Deputy.**

The Deputy in each department of the executive branch shall, under the Director's supervision, during the director's absence or disability, or while the director's position is vacant, exercise all the powers and perform all the duties of the director to the full extent permitted by law.

## **Sec. 5-108. Deputy Mayor.**

By a writing filed with the City Clerk, the Mayor shall designate a member of the Mayoral staff or the director of a department of the executive branch as the deputy Mayor. The Mayor may terminate the designation without cause by filing a notice of termination with the City Clerk.

During the absence or temporary disability of the Mayor, the Deputy Mayor shall be acting Mayor and shall exercise all the powers and perform all the duties of the Mayor to the full extent permitted by law, except that the Deputy Mayor may not:

1. Exercise any power of appointment to or removal from office, except in an emergency declared by a two-

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thirds (2/3) majority of City Council members present;  
or

2. Approve or veto any ordinance or resolution within the first five (5) days of the seven (7) days allowed under section 4-117 for exercise of the Mayor's veto power.

## **Sec. 5-109. Succession to Office.**

If a vacancy occurs in the office of Mayor, the City Council president shall succeed to the office until a new Mayor is elected.

If a dispute arises concerning whether a vacancy in the office of Mayor has occurred, the City Council president or any three (3) members of the City Council may petition the appropriate court for a determination of this fact question.

## **Sec. 5-110. Community Meetings.**

Each calendar year the Mayor shall hold at least one community meeting in each of the non at-large districts. A city-wide community meeting shall be held not later than September 30 of each calendar year at the Coleman A. Young Municipal Center auditorium or other location suited to accommodate at least an equal number of citizens. Meetings shall begin between the hours of seven (7) o'clock P.M. and eight (8) o'clock P.M. and shall not conflict with an evening City Council meeting scheduled under section 4-102.

The meetings shall be published and noticed in the manner set forth in the Michigan Open Meetings Act. Meetings shall be conspicuously posted on the City of Detroit's website or then existing modes of electronic or non-print communication and on other forms of media owned or operated by the City of Detroit, including any television channels.

*COMMENTARY: This new section requires the Mayor to hold one city-wide meeting as well as individual meetings in each non at-large City Council district. To allow for maximum citizen participation, such meetings shall be held in the evenings and on days when City Council has not scheduled evening meetings pursuant to section 4-102. It is intended that maximum publication and notice of the meetings be given, as provided by this section.*

## **ARTICLE 6. THE EXECUTIVE BRANCH: STAFF DEPARTMENTS**

### **CHAPTER 1. BUDGET DEPARTMENT**

#### **Sec. 6-101. Budget Department.**

The Budget Department is headed by the Budget Director.

#### **Sec. 6-102. Powers and Duties.**

The Budget Department shall assist other city agencies in the development of program and service objectives and in the conduct of financial planning to achieve those objectives.

The Budget Department shall obtain from city agencies all information required by the Mayor for the preparation of the capital agenda and the capital and annual budgets. That information shall be furnished in the manner prescribed by the Budget Director.

The Budget Director, with the assistance of the Planning and Development Director, shall assist the Mayor in the preparation of the capital agenda and the capital budget.

#### **Sec. 6-103. Management Audits.**

The Budget Department shall conduct management audits which analyze and evaluate the operations of all agencies.

## **ARTICLE 6. THE EXECUTIVE BRANCH: STAFF DEPARTMENTS**

### **CHAPTER 2. PLANNING AND DEVELOPMENT DEPARTMENT**

#### **Sec. 6-201. Planning and Development Department.**

The Planning and Development Department is headed by the Planning and Development Director. In addition to the duties and functions in this chapter, the department shall:

1. Establish a strategic plan that pursues, advocates and supports community development within the City, consistent with the Master Plan, including the creation and support of stable planned communities;
2. Develop and implement a strategic plan to pursue and initiate programs, opportunities and create conditions supportive of global trade;

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3. Develop and implement a strategic plan to actively recruit businesses to the City and provide the support, assistance and conditions necessary to retain businesses; and
4. Develop and implement a strategic plan and program focused on recruiting and supporting emerging industries.

The Department shall provide an annual report to City Council, on or before February 1, that incorporates the community and economic development strategies called for in this section, and which details the department's actions, achievements and future plans in pursuit of these strategies and the duties and functions set forth herein. The report shall also identify the levels of funding necessary to pursue these strategies and achieve their objectives.

**COMMENTARY:** *This section has been renamed to reflect the current name of the department. Referred to as the Planning Department in the 1997 Charter (Article 6, Chapter 2 (Planning Department)), it was subsequently merged with the Community and Economic Development Department established under Article 7, Chapter 5 (Community and Economic Development) and renamed the Planning and Development Department. As a result the former Article 7, Chapter 5 (Community and Economic Development) has been removed from the Charter.*

*As both the United States and State of Michigan readjusts their economic priorities in response to economic turmoil, the City of Detroit is provided the same opportunity to engineer community and economic development strategies that will diversify and secure the City's economic base and promote stable communities. This revised section addresses the fundamental notion that the City must commit its resources to programs focused on revitalization, continual community development, economic growth and revenue generation.*

*This revised section directs strategic planning and development activity in four (4) areas: (1) the active, concentrated pursuit of community development; (2) development and pursuit of global trade opportunities; (3) active business recruitment, development and support; and (4) programs and plans aimed at the recruitment and development of emerging industries. Mandating the pursuit of a growth strategy that encompasses, at a minimum, these areas of development is intended to direct the City's resources along a path of sustained growth and general*

*prosperity that is beneficial to all citizens and communities.*

*Special Note: It is noted that the Executive Planning Council formerly in sections 6-206 to 6-208 have been eliminated from the Charter, in large part because it is currently a defunct body. Eliminating this body from the Charter does not preclude a Mayor from instituting a similar group of city officials to assist in planning and development activities.*

*Moreover, the role, function and process of city planning is dynamic and ever changing. While it may be necessary to have a centralized planning function, which the City of Detroit has in its Planning and Development Department, best practices suggest that a Mayor be allowed flexibility to implement planning methods that are sensitive to the unique circumstances of the times.*

### **Sec. 6-202. Advance Planning.**

The Planning and Development Department shall obtain all information and conduct all studies required by the Mayor and the heads of agencies in the preparation of proposals relative to development matters.

### **Sec. 6-203. Current Planning.**

The Planning and Development Department shall have continuing liaison with all agencies of the executive branch. It may assign any relevant study to any agency. Any agency, with knowledge and consent of the Planning and Development Director, may undertake the study of any development matter within the scope of its duties. The Planning and Development Department shall receive all reports concerning development matters and other information which it requests. The Planning and Development Director shall, with the head of any agency involved, evaluate all reports and information received by the Planning and Development Department in light of the policies, programs and priorities of the Mayor, and the master plan.

### **Sec. 6-204. Definition.**

The term "development matters" as used in the Charter includes: The master plan for social, economic and physical development and conservation; the annual capital agenda and capital budget; any development or renewal project on or affecting public real property or public interests in real property or requiring public assistance; proposed ordinances for the regulation of

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development or conservation; proposals for the demolition, disposition or relinquishment of, or encroachment upon, public real property or public interests in real property; and any other items added by ordinance.

## **Sec. 6-205. Public Hearings.**

The people of the City of Detroit living in areas likely to be affected by proposals resulting from any study undertaken by the Planning and Development Department or an agency under sections 6-202 or 6-203 shall be given full opportunity in public hearings to present facts and arguments relative to the subject under study. The department is required to provide notification of the hearing to any Citizen District Council, Citizen Advisory Council or Community Development Corporation impacted by proposals contained in the study.

*COMMENTARY: This section has been revised to require the Planning and Development Department to specifically notify impacted Citizen Advisory Councils, Citizen District Councils and Community Development Corporations of the hearings required under this section.*

## **ARTICLE 6. THE EXECUTIVE BRANCH: STAFF DEPARTMENTS**

### **CHAPTER 3. FINANCE DEPARTMENT**

#### **Sec. 6-301. Finance Department.**

The Finance Department is headed by the Finance Director.

#### **Sec. 6-302. Departmental Divisions.**

The Finance Director shall direct and coordinate the financial activities of the accounts division, the assessments division, the treasury, and the purchasing division. The Finance Director shall also secure and maintain compliance with all laws pertaining to financial controls for the protection of public funds.

#### **Sec. 6-303. Accounts Division.**

The Accounts Division is headed by the Chief Accounting Officer. The Finance Director, with the consent of the Mayor, shall appoint the Chief Accounting Officer, who serves at the pleasure of the Finance Director.

The Chief Accounting Officer shall maintain records showing the financial condition of the city and perform such other duties as provided by law, this Charter or ordinance.

#### **Sec. 6-304. Assessments Division.**

The Assessments Division is headed by a three (3) member Board of Assessors. The term of membership on the Board is three (3) years. One (1) term expires each year. Compensation for Board members shall be established by ordinance.

The Mayor shall appoint the members of the Board and may remove a member for cause. Each member must possess the qualifications required by law for assessing officers.

Staff services required by the Division shall be provided as determined by the Finance Director.

A majority of the Board may review and correct any assessment made by an employee of the Division.

Except as otherwise provided by this Charter or ordinance, the powers, duties and procedures of the Board and the Division are those provided by law.

#### **Sec. 6-305. Treasury Division.**

The Treasury Division is headed by the Treasurer. The Finance Director, with the consent of the Mayor, shall appoint the Treasurer, who serves at the pleasure of the Finance Director.

The Treasurer shall:

1. Collect all moneys of the city and receive from other officers and employees all moneys of the city collected by them.
2. Have custody of all moneys, funds and securities of the city, keep accounts of them and deposit them as directed by law or ordinance.
3. Disburse all city funds in accordance with law, this Charter or ordinance.
4. Except as otherwise provided by this Charter or ordinance, have such powers and immunities for the collection of taxes as provided by law.

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### Sec. 6-306. Purchasing Division.

The Purchasing Division is headed by the Purchasing Director. The Finance Director, with the consent of the Mayor, shall appoint the Purchasing Director, who serves at the pleasure of the Finance Director.

The Purchasing Director shall, subject to the provisions of section 4-122:

1. Procure all property and all services of independent contractors to be paid for from appropriations made in the annual budget in accordance with section 8-302, except that an agency may be authorized by ordinance to procure specified kinds of property and services directly.

2. Follow all procedures established by ordinance to protect the interests of the city and to assure fairness in procuring property and services. Except in cases of emergency, those procedures shall require competitive bidding for purchases and contracts which are major as defined by ordinance. However, for purposes of this requirement, the "lowest responsible bidder" may be defined by ordinance in terms of lowest overall cost to the City.

3. Sell, lease or transfer in the ordinary course of city operations all personal property of the city which has become unsuitable for public use. Dispositions of personal property which are not in the ordinary course of city operations shall be defined by ordinance and are subject to City Council control.

4. Follow procedures established by ordinance to protect the interests of the city and to assure fairness in disposing of personal property. Except in cases of emergency, those procedures shall require competitive bidding for all sales, leases and transfers which are major as defined by ordinance.

### Sec. 6-307. Privatization of City Services.

The City shall provide by ordinance for a process by which the City shall act prior to any determination or action to enter into any agreement, by which a non-governmental person or entity provides services to the city substantially similar in whole or in part, to services provided by a regular employee of an agency of the City. Such ordinance shall provide for the following:

1. The preparation of a comprehensive report which details the need for the privatization.

2. Comprehensive written estimates of the total current costs to the city of the agency providing the subject services in the most cost efficient manner, including all direct and indirect costs.

3. A requirement for approval of the legislative body to solicit bids for the privatization, after its review of the comprehensive report and cost analysis.

4. An opportunity for the affected employees to organize and prepare a bid to provide the subject services.

5. A process whereby the agency prepares a comprehensive written analysis of all bids of public employees and non-governmental entities, which would include, but not be limited to the cost of the bid to provide the services, contract performance; and unemployment, pension or other accrued benefits resulting from loss of agency employees.

6. Other factors to be included in the consideration, other than cost, which could affect the public interest including the effect of transfer of services from the public to the private sector on the access, delivery or quality of services to be provided; the reduction in the employment level of city residents; the differences in work rules and management practices of the workers in the private sector, including those related to legal and constitutional protections and any loss of accountability to city residents which would result from the services being provided by a non-governmental person or entity.

7. The provision that any final recommendation for the privatization of services would require the two-thirds (2/3) approval of the legislative body, which would be required to certify that it was its determination that the availability and quality of the subject services would be likely to equal or exceed the quality of services which could be provided by regular agency employees.

8. Provisions which would require the annual evaluation of the privatized services and the providing of such evaluation to the City Council.

No provision of this section should be construed to abrogate or limit any legal rights afforded to the employees under the collective, bargaining process.

Nothing in this section shall supersede provisions of section 6-417 of this Charter.

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In addition, nothing in the ordinance should be construed as prohibiting the city from obtaining contractual services which are an expansion or addition to services already provided by governmental employees, provided that the contractual services are not a replacement for existing governmental positions.

An ordinance implementing this section shall be adopted within one hundred eighty (180) days of the effective date of this Charter.

*COMMENTARY: A non-substantive grammatical changes was made in the last paragraph.*

## **Sec. 6-308. Debarment.**

The Corporation Counsel shall prepare, and City Council shall implement by ordinance, a comprehensive debarment policy and procedure for City vendors and contractors within one hundred twenty (120) days of the effective date of this Charter. The debarment policy shall, at a minimum, include the following:

1. Debarment for a period commensurate with the seriousness of the offense, not to exceed twenty (20) years;
2. Identify the Inspector General as the chief investigative agent for allegations or instances of illegal conduct or unethical contractual activity;
3. Require, under penalty of debarment, that persons or entities with City contracts, or those seeking contracts with the City, report to the Inspector General any improper, unethical or illegal activity or requests from elected officials, those on their behalf or City employees in connection with the contract;
4. Provide for no statute of limitations in connection with investigations, findings of violation of the debarment policy or initiation of debarment proceedings;
5. Require that the City report actual or suspected illegal activity to the proper state or federal authorities;
6. Invest the City Council, as a body, and the Mayor with the authority to request the Inspector General to investigate suspected improper activity related to City contracts; and

7. Require that all City contracts and contractors be made subject to the debarment ordinance.

*COMMENTARY: This new section directs City Council to implement a comprehensive debarment ordinance containing policies and procedures for regulating the ethical behavior of City contractors. City contractors found to have engaged in improper, unethical or illegal conduct related to their contractual agreement with the City will face the prospect of being barred from doing business with the City for a period of up to twenty (20) years. This section also imposes debarment on contractors and prospective contractors who fail to report the unethical, improper and illegal conduct of City officials, representatives of City officials and employees related to the receipt or performance of a city contract. The ordinance will specifically prohibit adopting a statute of limitations, thereby allowing the City of Detroit to investigate and take appropriate action on current and past contractors. All City contracts will be subject to the debarment ordinance and any resulting policy.*

## **ARTICLE 6. THE EXECUTIVE BRANCH: STAFF DEPARTMENTS**

### **CHAPTER 4. HUMAN RESOURCES DEPARTMENT**

*COMMENTARY: This Article and Chapter were formerly Article 6 (The Executive Branch: Staff Departments), Chapter 5 (Human Resources Department) under the 1997 Charter.*

#### **Sec. 6-401. General Purpose.**

The purpose of this chapter is to establish a system of personnel administration that meets the needs of the people of Detroit, assures that employment and promotion in Detroit government are on the basis of merit and in accordance with collective bargaining under law, and provides methods of redress when these provisions are violated.

#### **Sec. 6-402. Human Resources Department.**

Except as otherwise provided by law or this Charter the Human Resources Department shall perform all aspects of the human resources functions for all agencies of the City.

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### **Sec. 6-403. Human Resources Director and Deputy.**

The Human Resources Director shall be appointed by the Mayor. The Mayor may remove the director without cause. A Deputy Human Resources Director shall be appointed by and serve at the pleasure of the Human Resources Director.

### **Sec. 6-404. Qualifications.**

The Human Resources Director shall have at least five (5) years experience in personnel administration.

### **Sec. 6-405. Civil Service Commission.**

The Human Resources Department is headed by a five (5) member Civil Service Commission.

The Mayor shall appoint two (2) members to two (2) year terms beginning February fifteenth (15th) of each even numbered year and the City Council shall appoint two (2) members to two (2) year terms beginning February fifteenth (15th) of each odd numbered year. The Mayor and City Council shall jointly appoint one (1) member to a three (3) year term beginning February fifteenth after the expiration of the preceding term. A member may be removed only for cause by the appointing authority. A vacancy on the Commission shall be filled for the unexpired term, if any, by the authority making the original appointment.

A member must be a citizen of the United States and a resident of the City of Detroit. The members of the Commission may hold no other public office or public employment with the City of Detroit except that of notary public. The Commission shall be representative of the total community and shall meet at least once each month.

The Commission may hold hearings, subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Commission shall apply to the appropriate court. The Commission may delegate the powers to hold hearings, administer oaths and take testimony.

***COMMENTARY:** Three substantive changes have been made to section 6-405(section 6-505 under the 1997 Charter). First, the Human Resources Director, who served as an ex-officio member of the Civil Service Commission, is removed as a member because holding these dual positions violates the Incompatible Public*

*Offices Act, MCL 15.281. The second revision clarifies that members are prohibited from holding public office or employment with the City of Detroit. Lastly, the Commission has been reduced to five (5) members with the Mayor and City Council having two (2) appointments each and jointly appointing one (1) member.*

### **Sec. 6-406. Non-Discrimination.**

No city employee or applicant for employment may be discriminated against because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, disability, familial status, marital status, or any status protected by the laws of the State of Michigan or the United States of America. The Human Resources Department shall take all action permitted by law to ensure fair and equitable treatment of all employees and applicants for employment.

***COMMENTARY:** This revised now reflects language found in state and federal civil rights statutes regarding protected classifications. In addition, this section makes clear the City of Detroit's legal obligation to guarantee fair and equitable treatment of employees and applicants for employment, as implemented by the Human Resources Department.*

### **Sec. 6-407. Employee Organization.**

Employees of the City have the right to collective organization and collective bargaining.

### **Sec. 6-408. Labor Relations.**

A Labor Relations Division is created within the Human Resources Department.

The Mayor may appoint either the Human Resources Director or another person as head of the Labor Relations Division.

The person named as head of the division shall hold the position at the pleasure of the Mayor.

In accordance with Article 6, Chapter 4, the head of the Labor Relations Division may hire, promote, supervise, discipline and remove employees of the division, assign duties to the employees and supervise the performance of those duties.

The Labor Relations Division shall act for the City under the direction of the Mayor, in the negotiation and administration of collective bargaining contracts.

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The City Council must ratify any collective bargaining contract agreed to between the City and the respective union before it becomes effective.

The terms of any collective bargaining contract, and all rules and rulings made under it, shall take precedence over any inconsistent classifications, rules, or policies of the Human Resources Department.

*COMMENTARY: Several grammatical and clarification changes have been made to this section. There are no substantive changes to this section.*

### **Sec. 6-409. Classification of Positions.**

The Human Resources Director shall prepare, maintain, and from time to time revise a classification plan for all positions in the classified service. The classification plan shall include an appropriate title for each class and a description of the duties and responsibilities of positions in the class. The Human Resources Director may consult with the heads of city agencies in the preparation of those descriptions.

The classification plan and any revision of it, shall be filed with the City Clerk and shall be a public record. The plan or any revision shall become effective thirty (30) days after filing, except that, within the thirty (30) day period, the Civil Service Commission may, on its own initiative or at the request of any classified employee or the head of any agency affected, review the classification plan or any revision and, after giving the Human Resources Director a full hearing, may make changes if it finds upon clear and convincing evidence that the description or classification of any position or positions is improper.

### **Sec. 6-410. Examinations.**

Entry into the classified service shall, as nearly as conditions of good administration warrant, be by open, competitive examination. However, any person applying to work for the City in a profession or occupation for which he or she has been licensed by the governments of Michigan or the United States may be excused from this requirement by the rule of the Civil Service Commission.

The head of each agency may make all promotions to classified positions within the agency. However, the head of an agency shall give the Commission written notice of any proposed promotion within the classified service not less than thirty (30) days before its effective date.

The Human Resources Department may require a person nominated for a promotion to take a qualifying examination for the new position and, if that person does not achieve a passing score on the examination, the promotion shall not take effect.

The Human Resources Director shall prepare, administer and grade all examinations, subject only to an examinee's right to appeal under section 6-411.

The Human Resources Director shall consult with the head of the agency involved and other qualified individuals in the preparation of each of its examinations.

Other policies and rules governing entry into, and change of status within, the classified service shall be prepared by the Human Resources Director and shall become effective upon ratification by the Commission and upon the filing of a written copy with the City Clerk. However, no person seeking to enter the classified service who has taken an examination and been placed on a register of applicants eligible for employment may be passed over in favor of an applicant with a lower examination score unless the head of the agency involved files with the commission written reasons for that action, acceptable to the Commission.

### **Sec. 6-411. Validation.**

To the maximum extent possible, the City shall use professionally developed examinations, supported by empirical data demonstrating that the examination is predictive of, or significantly related to, important elements of work behavior of the position or positions for which applicants are being evaluated.

An examinee may challenge any part of any examination on the grounds that it does not conform to the requirements of this chapter or departmental policies or rules, but the Civil Service Commission may grant relief only if it finds that there is no clear and convincing evidence of validity for the examination or part being challenged.

### **Sec. 6-412. Recruitment and Advancement.**

The Human Resources Director shall prepare and carry out policies for the recruitment of capable persons for employment by the City and for employee advancement.

These policies shall be filed with the City Clerk and shall be a public record. They shall become effective



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thirty (30) days after filing, except that, within the thirty (30) day period, the commission may review those policies and, after giving the Human Resources Director a full hearing, may make changes if it finds upon clear and convincing evidence that the policies are contrary to the good of the service.

### **Sec. 6-413. Employee Grievances.**

The Civil Service Commission shall, by rule, provide a procedure for the final resolution of any grievance brought by or against a classified employee of the city. Any grievances filed with the Commission under the procedure shall be finally determined within sixty (60) days after filing, unless the time is extended by agreement of the parties.

If a grievance is not settled, the aggrieved employee may file, within ten (10) calendar days, an appeal with the Commission. The employee and the Commission shall attempt to agree on a hearing officer from among not fewer than three (3) individuals proposed by the Commission. If the employee and the Commission are unable to agree, they shall request a recognized arbitration association as designated by ordinance to propose the names of five (5) persons who could act independently and impartially as hearing officer in the matter. In the presence of an officer authorized to take oaths, each side, acting in turn with the employee beginning, shall indicate a name to be struck with those proposed until both sides have struck two (2) names. The person whose name then remains shall be the hearing officer.

A hearing shall be held within thirty (30) calendar days after filing of an appeal. The hearing officer shall file a report of the decision, setting forth findings of fact, conclusions of law, and recommendations, within thirty (30) calendar days of the hearing which is subject to review by the commission.

Any rule or policy under this section becomes effective in accordance with section 2-111.

### **Sec. 6-414. Jurisdiction.**

The Commission procedure shall be exclusive for classified employees not covered by a collective bargaining contract.

A classified employee covered by a collective bargaining contract containing a procedure providing for a final and enforceable resolution of a grievance shall, unless the contract procedure is made exclusive,

elect to use either the Commission procedure or the contract procedure, but may not use both.

A classified employee covered by a collective bargaining contract containing a grievance procedure that does not result in a final and enforceable resolution of the grievance may, if the collective bargaining contract so provides, pursue the contract procedure and then file under the Commission procedure.

### **Sec. 6-415. Payrolls.**

The Human Resources Department shall certify that the classified employees named in payroll vouchers are employed in accordance with this chapter and departmental policies and rules.

No officer shall make or approve or take any part in making or approving any payment to any classified employee unless the payroll voucher bears the certification of the Human Resources Department.

Any sum knowingly or willfully paid contrary to this chapter or any departmental policy or rule may be recovered in an action brought by any person from any officer who made or approved the payment. All moneys recovered shall be paid into the city treasury. Any person may bring a suit to restrain an officer from making any payment contrary to this chapter, or any departmental rule, regulation or order.

If the Commission finds that the name of any classified employee has been omitted from any payroll, the agency involved shall correct the payroll and the classified employee shall be paid as directed by the Commission.

### **Sec. 6-416. Residence.**

Except as otherwise provided by law, the City may, by ordinance, establish residency requirements for city employment.

*COMMENTARY: The 1997 Charter allows the City to establish, by ordinance, residency requirements for city employees. However, state law, Public Act 212 of 1999, places limitations on the ability of public employers to establish residency requirements. MCL 15.602 et seq. The language of this section has been revised to permit the City to establish residency requirements in a manner consistent with Public Act 212. Under Public Act 212 public employers may set residency requirements, by collective bargaining agreement or otherwise, that require covered employees to live within a specified distance of twenty*

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(20) or more miles of the public employer's nearest boundary. MCL 15.602(2).

## Sec. 6-417. Classified Service.

The classified service of the City shall consist of all employments in the city service except:

1. Elective officers;
2. Persons holding appointments under this Charter;
3. Persons employed to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the City;
4. Others exempted by this Charter.

## Sec. 6-418. Transfers and Promotions to Exempt Positions.

A person holding a position in the classified service may enter the exempt service, but may not be discharged therefrom, except by restoration to a classified position in accordance with rules of the Commission.

## Sec. 6-419. Consolidation of Entities.

If any City activity or agency is taken over by another unit of government, the commission shall prepare the city's payroll history record of all classified employees involved and send that record to the governmental unit. If, after the merger, the service of any such employee is discontinued for reasons other than misconduct or delinquency, the person's name shall be placed on an appropriate re-employment list in accordance with departmental rules.

If an activity of another private or public organization is taken over by the City, an employee who has held a position in the activity continuously for three (3) years before its merger with the City may retain the position. An employee who has held a position in the activity for less than three (3) but more than one (1) year before its merger with the City must take a departmental qualifying examination for the position. If the employee does not pass a required qualifying examination or if an employee has held a position in the activity for less than one (1) year before its merger with the City and is not selected to retain the position under the procedure of section 6-410, the employee shall be dismissed within thirty (30) days after the establishment of a register of eligibles for the position.

## ARTICLE 6. THE EXECUTIVE BRANCH: STAFF DEPARTMENTS

### CHAPTER 5. BUILDINGS, SAFETY ENGINEERING and ENVIRONMENTAL DEPARTMENT

*COMMENTARY: This Article and Chapter were formerly Article 6 (The Executive Branch: Staff Departments), Chapter 6 (Environmental Affairs) under the 1997 Charter.*

## Sec. 6-501. Buildings, Safety Engineering and Environmental Department.

The Buildings, Safety Engineering and Environmental Department is headed by the Director of Building, Safety Engineering and Environmental.

*COMMENTARY: Under the 1997 Charter the Department of Environment existed as a staff department and the Building Department functioned as an operations department. However, these departments were subsequently merged into a single staff department, as allowed by section 7-102 (Assignment of Authorized Function), and renamed the Building, Safety Engineering and Environmental Department. This revised Charter incorporates this new staff department.*

## Sec. 6-502. General Purpose.

The purpose of this chapter is to conserve and protect the natural resources of the City of Detroit in the interests of the health, safety and welfare of the people, to promote improved social and economic conditions in the city and to protect limited environmental resources for the future benefit of city inhabitants.

*COMMENTARY: This section was formerly section 6-602 of the 1997 Charter.*

## Sec. 6-503. Powers and Duties.

The Buildings, Safety Engineering and Environmental Department shall:

1. Develop and implement a coordinated and comprehensive environmental policy for the City of Detroit;
2. Administer, enforce, manage and coordinate compliance by the City of Detroit with federal, state and local environmental laws and regulations;

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3. Coordinate environmental programs for protection and conservation of land, water and air resources;

4. Develop and implement programs for response to emergency conditions which pose an immediate danger to health and safety to the people of Detroit or to the City's environment;

5. Advise, consult and cooperate with agencies of the federal, state and local governments in furtherance of the purposes of this chapter;

6. Develop and coordinate policy, programs and procedures for remediation, redevelopment and reuse of contaminated land sites in the City of Detroit;

7. Develop and coordinate policy, programs and procedures to encourage and promote innovative and competitively viable sustainable economic development in the City of Detroit consistent with protection of the environment;

8. Provide technical support and assistance to other city departments in environmental matters, including response to federal, state and local governmental enforcement activities; qualification for eligible grant moneys, etc.;

9. Develop plans and proposals for joint cooperative investigation and research with the public and with private agencies and organizations on methods for eliminating or reducing land, air and water pollution;

10. Collect and disseminate appropriate educational literature and information, and otherwise promote educational programs for the purposes of advising the general public of the necessity and methods for pollution prevention, securing public cooperation in pollution prevention measures and increasing public awareness of the importance of environmental protection and conservation of natural resources;

11. Provide consultation with City departments regarding the implementation of any policies or programs concerning alternative and renewable energy;

12. Administer and enforce all laws, ordinances and regulations relating to the use of land ("zoning"); and

13. Except as otherwise provided by law or this Charter, grant, revoke, or approve transfers of all licenses and permits required by any law or ordinance for any business and collect fees for licenses and permits.

14. Do any and all other acts which may be necessary for the implementation of the powers and duties conferred on the department under this chapter.

*COMMENTARY: The powers and duties in numbered paragraphs 1-10 and 14 are carried over without revision from Chapter 6 (Environmental Affairs), section 6-603 (Powers and Duties) of the 1997 Charter. The consultation requirement in numbered paragraph 11 regarding alternative and renewable energy is new and complements the green initiative and technologies focus outlined in newly added section 6-509. Paragraph 12 incorporates the language in section 7-401 (Duty Under Zoning Law) of the 1997 Charter.*

*The Consumer Affairs staff department no longer operates as a functioning department and has been removed from the revised Charter. As of July 7, 2006, the Executive Organization Plan required by Charter section 7-102 (Assignment of Authorized Function), prepared by the Mayor and approved by City Council, eliminated the Consumer Affairs Department in accordance with section 7-102 and transferred its three main functions to other departments. The licenses and permits function was transferred to the Building, Safety, Engineering and Environmental Department, weights and measures was transferred to the Police Department and the Human Services Department now handles consumer complaints. The Consumers Affairs department's responsibility for licenses and permits, as set forth in section 7-601(3) of the 1997 Charter, is codified in numbered paragraph 13 of this section.*

### **Sec. 6-504. Conservation.**

The Buildings, Safety Engineering and Environmental Department shall develop programs for the protection and conservation of natural resources within the City of Detroit.

*COMMENTARY: Except for the substitution of the new department name, no changes have been made to this section and the substance of this section is carried over from Article 6, Chapter 6 (Environmental Affairs), section 6-604 of the 1997 Charter.*

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## **Sec. 6-505. Environmental Legislation.**

The Buildings, Safety Engineering and Environmental Department shall propose new ordinances, laws and regulations to the Mayor, City Council and other governmental entities as appropriate for improvement of the quality of the environment and promotion of the mission of the Department.

*COMMENTARY: Except for the substitution of the new department name, no changes have been made to this section and the substance of this section is carried over from Article 6, Chapter 6 (Environmental Affairs), section 6-605 of the 1997*

## **Sec. 6-506. Applications Filed Under Zoning Law.**

All applications for permits, grants, variances, waivers or exceptions of any kind under zoning laws, ordinances and regulations shall be made to the Department.

*COMMENTARY: This section was formerly section 7-402. No changes have been made.*

The Department may allow or deny permits, grants, variances, waivers and other exceptions upon the terms and conditions provided by ordinance.

## **Sec. 6-507. Duty Under Other Regulatory Laws.**

To the extent practicable, the Department shall also administer and enforce all other laws and ordinances regulating the development, maintenance and use of real property in the city.

*COMMENTARY: This section was formerly section 7-404. No changes have been made.*

## **Sec. 6-508. One-Stop Service.**

To the extent practicable, the Department shall, in cooperation with other agencies whose permission is required prior to development, establish a procedure and application form under which an applicant for development permission may obtain, through the Department, all necessary permission.

*COMMENTARY: This section was formerly section 7-405. No changes have been made.*

## **Sec. 6-509. Green Initiatives and Technologies.**

1. The Department shall study the matter and prepare and implement a long-term strategic plan (“Green

Initiatives and Sustainable Technologies Plan” or “GIST Plan”) for the establishment, use and support of green initiatives, technologies and businesses, utilizing public and private partners. The Mayor shall commission a public study (“Study and Report on Green Initiatives and Sustainable Technologies” or “SRGIST”) to determine the feasibility and requirements for engaging in and supporting this activity in the City of Detroit and areas outside the City of Detroit for the benefit of residents. The SRGIST shall be initiated within three (3) months of the effective date of this Charter, completed within one (1) year of its commencement and publicly disseminated upon its completion.

2. Within six (6) months after completion of the SRGIST the Mayor shall prepare the GIST Plan and submit it to City Council for approval before it may be implemented. City Council may hold public hearings prior to taking formal action on the GIST Plan, and if approved shall create any ordinances required to achieve the GIST Plan’s objectives.
3. The GIST Plan shall be comprehensive and may include solar, wind, thermal and other forms of alternative and renewable energy production and uses; alternative fuels; or other sustainable technologies and endeavors; green public works, construction and building programs; and any other green initiative or technology considered feasible. The GIST Plan shall incorporate green initiatives and technologies within the workplace and for use with City owned vehicles and property, real and personal. The GIST Plan may include methods and support for citizen initiated green initiatives and sustainable technology uses.
4. The GIST Plan shall be reviewed yearly by the department and revised as necessary. All revisions to the GIST Plan must be approved by City Council, who shall implement all ordinances necessary to achieve the objectives of the revised GIST Plan.
5. The Mayor may create advisory commissions under section 7-103 to assist with the development, monitoring, implementation and

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revision of the GIST Plan.

**COMMENTARY:** *Revitalization of the City of Detroit must include the development and utilization of green initiatives, technologies and businesses. The utilization of green technologies is intended to place the City as a leader in this emerging area of technology and serve as a foundation for economic growth and improvement in the quality of life for Detroit residents.*

*Indeed, the “green” job opportunities presented in the area of construction alone are promising and the potential for economic growth is undeniable. As noted in a 2009 special report of Green Technology, a leading non-profit “green” initiative:*

*Fueled by concerns about energy, greenhouse gas emissions and indoor air quality, an explosion of interest in green building is creating new job opportunities in the construction industry. A 2008 report from McGraw Hill Construction, “The Green Outlook: Trends Driving Change,” notes that the size of the national green building market has expanded five-fold over the last three years, and is projected to triple again in the next five years, reaching \$96-\$140 billion.*

*To meet the demands of government programs and increasingly stringent regulations regarding energy efficiency, alternative energy use, water conservation and environmentally-friendly building materials, working professionals such as plumbers and electricians find that they need training on new equipment and technologies. At the same time, entirely new jobs are emerging, such as solar panel installers, energy efficiency building auditors, and recycling specialists.*

*According to a recent report from the Vocational and Technical Education Act (VTEA) Industrial and Technical Statewide Collaborative, 30,450 new employment opportunities are projected in California construction occupations between now and 2016. In contrast to this increasing demand, VTEA notes that an aging workforce, and a negative perception of construction as “common, dirty work,” have restricted the pipeline of new workers.*

*As the first state to enact a Green Building Code, and the home of numerous local governments that have mandated green standards for new construction, California is poised to set the standard for greening of residential and commercial structures. Effective outreach and training programs for green construction jobs are crucial if the state is to make the most of the current potential for economic growth and increased sustainability. These can help men and women from all sectors of California’s diverse student and working populations gain access to a range of high-paying jobs that also offer the reward of tangible and immediate impact on environmental quality. (See, [www.green-technology.org/greentech-report-june09r.pdf](http://www.green-technology.org/greentech-report-june09r.pdf))*

*This new Charter section requires the development of a long-term strategic “Green Initiative and Sustainable Technology Plan” (“GIST Plan”) by the Mayor, after a one (1) year study period that results in a public report (“Study and Report on Green Initiatives and Sustainable Technologies” or “SRGIST”). Approval of the GIST Plan by City Council assures that the entire community and all facets of city government have input. This section calls for continual review and update of the GIST Plan. The use of public advisory commissions in the development, monitoring, implementation and revision of the GIST Plan is provided for in this section. All forms of feasible green initiatives and technologies are to be included into the GIST Plan with public and private partnerships serving as a vehicle for achieving its objectives.*

*The appreciable resources in the City of Detroit and State of Michigan, in the form of research universities, for-profit and non-profit green technology companies, local green initiatives and access to national and international expertise and funding, makes the development and execution of such a plan feasible and practical.*

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## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES and ACTIVITIES

### CHAPTER 1. GENERAL PROVISIONS

#### Sec. 7-101. Existing Programs, Services and Activities.

When this Charter takes effect, all executive and administrative agencies and functions existing under the 1997 Charter or by ordinance or resolution and not superseded by this Charter shall continue with the force and effect of ordinance until superseded by action taken under section 7-102 or 7-104.

#### Sec. 7-102. Assignment of Authorized Function.

The Mayor shall prepare an executive organization plan which, consistent with law and this Charter, sets forth all agencies of the executive branch and assigns authorized programs, services and activities to each agency.

The plan as proposed by the Mayor shall be filed with the City Council and made public. The City Council shall study and conduct hearings on the plan and may request the Mayor to make modifications in it. Sixty (60) business days after the filing of the plan with the City Council, it shall become effective, with such modifications as are accepted by the Mayor, unless disapproved by a resolution adopted by a two-thirds (2/3) majority of City Council members serving. All amendments to the plan must originate with the Mayor and are subject to the same procedure in taking effect.

The plan shall include the office of Mayor, the five departments created by Article 6, and all departments or functions created by Article 7 or continued by section 7-101. However, the plan may not provide for more than thirty-six (36) departments, exclusive of any department organized under specific statutory authority, unless authority for a greater number is granted under section 7-104.

The Mayor may not reassign or combine the functions of staff departments, but may, except as to departments created under Chapters 3, 6, 7, 8, 12 and 13 of this Article, assign any of the functions of an operating department to a staff department, reassign the functions of one (1) operating department to another operating department or combine operating departments.

*COMMENTARY: This section has been revised to reflect the reduction in the number of staff departments in Article 6 from six (6) to five (5). Also, the chapters*

*listed in the last paragraph have been revised in accordance with internal formatting changes in the revised Charter.*

#### Sec. 7-103. Advisory Commissions.

The Mayor may establish by executive order, any commission of members of the public to advise the Mayor or any Director of an Executive Branch department, in the determination of its policies and budgets and the implementation of its programs, services or activities. Appointments to all advisory commissions shall be made by, and members serve at the pleasure of, the Mayor.

The Mayor shall endeavor to make City-wide commissions as representative of the entire City as possible and any commission established to advise the Mayor or any department Director shall be as representative of the People being served as possible. All members of advisory commissions shall be residents of the City of Detroit, unless the Mayor expressly states in the executive order reasons for allowing non-residents to serve.

The executive order may provide for the advisory commission to complete its work within a specific period of time. In the event that the executive order does not do so, the Mayor may terminate the advisory commission through rescission of the executive order that established the commission.

*COMMENTARY: Besides structural and grammatical changes, section 7-103 has been revised to recognize the Mayor's authority to determine the duration of any advisory commission established under this section, either through explicit mention in the executive order creating the commission or through rescission of that executive order.*

#### Sec. 7-104. Change In Number of Authorized Functions.

Subject to the general provisions of this Charter, the City may, by ordinance, increase the number of departments of the executive branch beyond the number contemplated by this Charter.

The City may, by ordinance, authorize additional programs, services, or activities; or discontinue authorized programs, services, or activities.

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## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 2. RESPONSIBILITIES in HEALTH and SANITATION

#### Sec. 7-201. Health.

The City is responsible for providing an adequate level of health services, both physical and mental, to all its residents.

An advisory commission for health, composed of at least seven (7) members, shall be created under section 7-103. Seven (7) of the members shall be appointed, one (1) each from the non at-large districts.

The Executive branch shall prepare an annual comprehensive health report on the state of the health of the City ("Report on the State of the Health of the City of Detroit"), which shall be presented to City Council and published on the City of Detroit's website. City Council shall hold public hearings on the report within thirty (30) days of its receipt. The Commission shall provide assistance in developing the contents of the report.

The annual report shall be completed by August 1 of each year.

*COMMENTARY: This section has been revised to require district representation on the Health Commission. While many health issues in the City are pervasive, there does exist unique health concerns in various distinct communities within the City. These matters can be addressed in a focused and concentrated manner with an advisory commission composed of representatives from each of the seven City Council districts. Increasing public participation in government in relationship to health matters inures to the benefit of the City as a whole, as a healthy populace is an indicator of a stable, thriving community. Further, this revision potentially allows for a more equitable and targeted allocation of City health resources.*

*Just as important, this section has been revised to require that an annual comprehensive report on the state of the health of the City be prepared by the executive branch with input from the advisory commission for health, and presented to City Council, with public hearings. Continual and sustained monitoring of citizens' health, with a public discussion component, is an effective means for addressing important health concerns and facilitates the*

*implementation of preventative measures. This approach to healthcare reduces healthcare and related costs and improves the quality of life for residents.*

#### Sec. 7-202. Sanitation.

The City is responsible for collecting and disposing of wastes in the manner least harmful to the environment.

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES and ACTIVITIES

### CHAPTER 3. ARTS

#### Sec. 7-301. Department.

The Arts Department is headed by a seven (7) member Commission. The members of the Commission shall be appointed by and serve at the pleasure of the Mayor.

The term of membership on the Commission is four (4) years, and not more than two (2) members' terms expire each year.

The Commission shall appoint, with the approval of the Mayor, the Arts Director and a Deputy Arts Director. The Director and the Deputy Director serve at the pleasure of the commission.

The Arts Department shall maintain and operate the Detroit Institute of Arts directly or pursuant to an operating agreement.

*COMMENTARY: This section has been revised to reflect the current management of the Detroit Institute of Arts. Such management is executed pursuant to an operating agreement under which the City of Detroit retains control and ownership of the Detroit Institute of Arts. The section provides the option of direct maintenance and operation or maintenance and operation pursuant to a third-party agreement.*

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 4. PUBLIC WORKS

*COMMENTARY: This Chapter is identified as Chapter 7 in the 1997 Charter.*

#### Sec. 7-401. Department.

The Department of Public Works shall:

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1. Provide for the management and collection of garbage and debris.

2. Except as otherwise provided by law or Charter, in cooperation with the Buildings, Safety Engineering and Environment Department, enforce the environmental ordinances of the city, relating to this chapter.

3. Provide for the construction, maintenance, demolition and engineering design of streets, alleys and public buildings.

4. Plan, establish and maintain systems and devices for safe and expeditious regulation and control of traffic within the City.

5. As provided by law or ordinance, perform other functions necessary to improve the quality of the environment.

*COMMENTARY: Reference to the Department of Environment has been replaced with the department's new name in numbered paragraph 2.*

## **Sec. 7-402. Sidewalk Maintenance.**

The Department of Public Works may repair sidewalks after first giving the owner, occupant, or party in interest of the premises in front of or adjacent to which such sidewalk or driveway is located notice and an opportunity to repair as prescribed by ordinance. Any such ordinance adopted shall provide for appropriate hardship protections for the abutting property owner.

The cost of any sidewalk repairs performed by the Department of Public Works, with interest, shall be collected from the owner, occupant, or party in interest of the premises in front of or adjacent to which such sidewalk or driveway is located through a special assessment or shall, not less than one (1) year following the date on which sidewalk repairs performed by the Department of Public Works were completed, at the election of the public works department, be a lien of the city upon the premises in front of or adjacent to which such sidewalk or driveway is located. The procedures for the recovery of the cost of sidewalk repairs performed by the Department of Public Works shall be prescribed by ordinance. The decision by the Department of Public Works to repair a defective sidewalk shall not release the owner from responsibility or liability for that condition.

## **Sec. 7-403. Recycling.**

The Department of Public Works shall prepare, implement and update as necessary a comprehensive city-wide Recycling Plan ("Plan") for the City of Detroit that provides for the capture of the City's waste stream prior to disposal. The Plan shall be submitted to City Council for approval before implementation. City Council shall enact any ordinances necessary to achieve the objectives of the Plan and this section.

The Plan shall provide for and encourage materials recovery, composting and other methods of recycling. In determining any recycling methods for inclusion in the Plan, the Department shall consider all relevant factors, including cost. The recycling methods contained in the Plan shall be regularly assessed and evaluated for the purpose of continued inclusion in the Plan, and the Plan shall be periodically updated to reflect the growth and change in recycling methods. All Plan revisions must be approved by City Council prior to implementation. The Department shall annually provide a comprehensive written update to City Council on the Plan's activities, programs, accomplishments and challenges, the Department's effectiveness in meeting the objectives of the Plan and any ordinances or resources required to effectuate the Plan.

Any recycling efforts or programs of the Department existing at the time of the adoption of this Charter may be incorporated into the Plan.

*COMMENTARY: Recycling to capture the value of waste created by a community, and reduce its negative impact, can provide economic benefits to the City of Detroit and environmental benefits to Detroit residents. Although the City has embraced the concept of recycling by instituting pilot projects in a limited number of neighborhoods, this Charter mandates the creation and implementation of a comprehensive city-wide recycling plan.*

## **ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES**

### **CHAPTER 5. FIRE**

*COMMENTARY: This Chapter is identified as Chapter 8 in the 1997 Charter.*

## **Sec. 7-501. Department.**

The Fire Department is headed by the Fire Commissioner.



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The Fire Commissioner and the Deputy Fire Commissioner shall be appointed by and serve at the pleasure the Mayor.

### **Sec. 7-502. Fire Department Divisions.**

Subject to the approval of the Mayor, the Fire Commissioner shall appoint a Chief of the Fire Department from the Board of Fire Chiefs of the Fire Fighting Division. The Chief serves at the pleasure of the Fire Commissioner.

The Chief shall serve as the Director of Operations for the Fire Fighting Division.

Two (2) Deputy Fire Chiefs shall be appointed by the Fire Commissioner from the ranks of the Assistant Chiefs and serve at the pleasure of the Fire Commissioner.

A Fire Marshal shall be appointed by and serve at the pleasure of the Fire Commissioner.

### **Sec. 7-503. Duties.**

The Fire Department shall protect life and property from fire and other dangerous conditions requiring their expertise and, as required by Charter or ordinance, enforce all laws, ordinances and regulations relating to fire prevention and safety within the City of Detroit.

*COMMENTARY: This former section 7-803 in the 1997 Charter has been revised to recognize the current role and duties of the Fire Department, which goes beyond fire fighting and includes the general protection of life and property from dangerous conditions.*

### **Sec. 7-504. Fire Marshal.**

The Fire Marshal shall inquire into the origin of all fires resulting in property loss and shall make a written report concerning every such fire to the Fire Commissioner, the Chief of Police, the Wayne County prosecuting attorney, the Detroit Board of Underwriters and any person legitimately interested in the matter.

The Fire Marshal shall also make such inspection of buildings and other places as is necessary for

enforcement of the fire prevention ordinances of the City.

### **Sec. 7-505. Advisory Commission.**

A seven (7) member advisory commission may be appointed by the Mayor. Four (4) members shall be appointed by the Mayor and three (3) shall be appointed by the Mayor from a list of four (4) names submitted by the City Council. Commissioners shall serve staggered three (3) year terms and shall serve at the pleasure of the Mayor. The Mayor shall make every effort to appoint persons with a minimum of five (5) years experience in one or more of the following areas: fire fighting, fire prevention, emergency medical response, homeland security, emergency crisis management, financial management, policy making and/or public administration. All meetings shall be public and held in compliance with applicable laws. Commissioners shall be residents of the City of Detroit.

*COMMENTARY: The 1997 Charter gave the Mayor the discretion to create a four (4) member Advisory Fire Commission and appoint the members. This revised section increases the membership of the Advisory Fire Commission to seven (7) members with four (4) appointed by the Mayor and three (3) from a list of four (4) names submitted by City Council. The Mayor will be required to make an effort to appoint members that have a minimum of five (5) years experience in one of several areas related to the operations of the Fire Department. Commissioners are required to be residents of the City of Detroit and all meetings are to be held in compliance with the Michigan Open Meetings Act.*

### **Sec. 7-506. Promotions.**

1. The Fire Commissioner shall make all promotions to non-supervisory positions within the classified service of the Department. The employee having served in the longest period in any position shall be advanced to fill any vacancy in the next highest position, if that person has, in the judgment of the Fire Commissioner, the qualifications for the higher position. Qualifications shall be reasonable and non-competitive.

2. Promotions within the classified service of the Department to the supervisory positions of sergeant and above shall be determined by qualifications based on length of service in the next lower position and reasonable and objective evaluation of such factors as ability, skill, experience, knowledge and training.

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## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 6. HISTORICAL

*COMMENTARY: This Chapter is identified as Chapter 9 in the 1997 Charter.*

#### **Sec. 7-601. Department.**

The Historical Department is headed by a thirteen (13) member commission. The members of the commission shall be appointed by and serve at the pleasure of the Mayor. Seven (7) of the members shall be appointed, one (1) each, from the City Council election districts, exclusive of the at-large district.

The term of membership on the commission is four (4) years, and not more than three (3) members' terms expire each year.

The commission shall appoint, with the approval of the Mayor, a Museums Director and a Deputy Museums Director. The Director and the Deputy Director serve at the pleasure of the commission.

The Historical Department shall maintain and operate the City's historical museums directly or pursuant to an operating agreement.

*COMMENTARY: This former section 7-901 has been revised to reflect the current management of the City's Historical Museums. Such management is executed pursuant to an operating agreement under which the City of Detroit retains control and ownership of the subject museums. The Charter now allows the option of direct operation or operation under a third-party agreement. Additionally, the Historical Commission has been expanded to thirteen (13) members with representation from each of the non at-large City Council districts. District representation on this commission is intended to lead to the promotion, recognition and preservation of the unique history that can be found in all parts of the City of Detroit.*

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 7. HUMAN RIGHTS

*COMMENTARY: This Chapter is identified as Chapter 10 in the 1997 Charter.*

#### **Sec. 7-701. Department.**

The Human Rights Department is headed by the Human Rights Director. The Director and a Deputy Director shall be appointed by the Mayor to four (4) year terms beginning on March first (1st) after the beginning of the Mayor's term. The Mayor may remove the Director or Deputy Director for cause. However, the Director and Deputy Director may not be appointed or removed without the approval of the Human Rights Commission.

#### **Sec. 7-702. Human Rights Commission.**

An eleven (11) member Human Rights Commission shall be appointed by the Mayor, with the approval of the City Council. A member must be a resident of the City. The Commission shall be representative of the total community. Seven (7) members shall be appointed from the non at-large districts.

The term of membership on the Commission is three (3) years, and not more than four (4) member's terms expire each year. The members of the Commission may be removed by the Mayor for cause.

*COMMENTARY: This section, formerly section 7-1002, has been revised to require that seven (7) of the members on the Human Rights Commission be appointed by the Mayor, one (1) each from the non at-large City Council districts.*

#### **Sec. 7-703. Budget.**

The City shall make an annual appropriation for the effective operation of the department.

#### **Sec. 7-704. Duties.**

Subject to policies established by the Commission, the Human Rights Department shall:

1. Investigate complaints of unlawful discrimination against any person because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, familial status, marital status, disability or any status protected by the laws of the State of Michigan or

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the United States of America, in violation of any ordinance or any law within the city's jurisdiction, and secure equal protection of civil rights without discrimination. The city shall implement this section by ordinance. The Human Rights Department may cooperate with other civil rights and enforcement agencies in the resolution of complaints, where cooperation is requested or where jurisdiction is concurrent;

2. Secure the rights of citizens to service from city government without discrimination; and

3. Endeavor to increase mutual understanding among the residents of the community, to promote good will, and to work cooperatively with other agencies of government, community groups and organizations, and other persons to eliminate discrimination and the results of past discrimination.

**COMMENTARY:** *This section was formerly 7-1004 under the 1997 Charter. One of the duties of the Human Rights department is to investigate complaints of discrimination against protected classifications of citizens. Therefore, this section has been revised to incorporate the current state of the law as to protected classifications under federal and state civil rights statutes. The language is also revised to clarify that the Human Rights Department may, when requested, cooperate with enforcement agencies to resolve complaints of discrimination.*

*Further, it should be noted that the Human Rights department is tasked with ensuring the right of persons with disabilities to enjoy the same rights, privileges and access to public facilities and resources as other citizens.*

## **Sec. 7-705. Powers.**

The Department shall, with the consent of the commission, promulgate rules for its own procedures.

The Department Director may hold hearings, subpoena witnesses, administer oaths, take testimony, require the production of evidence, and issue appropriate orders, including the dismissal of a complaint. To enforce subpoena or order for production of evidence or other order to impose any penalty prescribed for failure to obey a subpoena or order, the Department Director shall apply to the appropriate court.

The Department Director may delegate the powers to hold hearings, administer oaths, and take testimony.

## **Sec. 7-706. Appeals.**

Appeals from final orders of the Department in all matters, except decisions of ineligibility to do business with the city, shall be taken to the court having jurisdiction provided by law. Appeals by persons or firms aggrieved by decisions of ineligibility to do business with the city may be heard by the City Council or such other appellate body as may be provided by ordinance under section 9-302.

## **Sec. 7-707. Remedies Cumulative.**

This chapter shall not be construed to diminish the right of any party to direct any immediate legal or equitable remedies in any court or other tribunal.

## **ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES**

### CHAPTER 8. POLICE

**COMMENTARY:** *This Chapter is identified as Chapter 11 in the 1997 Charter.*

## **Sec. 7-801. Police Department.**

The Police Department shall preserve the public peace, prevent crime, arrest offenders, protect the rights of persons and property, guard the public health, preserve order, and enforce laws of the State of Michigan and the United States and the ordinances of the City of Detroit.

## **Sec. 7-802. Board of Police Commissioners.**

The Board of Police Commissioners has supervisory control and oversight of the Police Department as set forth in this Chapter. The Board of Police Commissioners is composed of eleven (11) members, seven of whom shall be elected from each non at-large district. Four (4) members of the Board shall be appointed by the Mayor, subject to the approval of the City Council. However, if the City Council does not disapprove an appointment within thirty (30) days, an appointment is confirmed. Appointed members shall serve a term of five (5) years, and not more than one (1) member's term expires each year. The Mayor shall not remove appointed members of the Board except for cause. Vacancies in positions held by appointed members shall be filled by the Mayor for the unexpired term, in the same manner as the initial appointment. All members of the Board must be residents of the City.

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The Board shall elect a chairperson annually. A member of the Board may not serve consecutive terms as chairman, nor may an appointed person serve more than five (5) years consecutively as a member of the Board. The Board shall meet at the call of its chairperson, but shall meet at least once each week and may recess during Thanksgiving, Christmas and New Year holidays. All meetings shall be held in accordance with the Michigan Open Meetings Act. No appointed member of the Board shall have been an employee or elective or appointive officer of the city within three (3) years prior to appointment or while serving as a member of the Board. Unless required by state law, elected members shall not be entitled to salaries, retirement benefits, health benefits or other fringe benefits. Appointed members, and elected members not entitled to compensation by state law, may receive by ordinance reimbursement for parking, mileage and other reasonable expenses. All appointed Commissioners serving at the time of the effective date of this Charter shall continue in their office until their term expires or office becomes vacant.

*COMMENTARY: This section was formerly section 7-1102 under the 1997 Charter. Embracing the principle that effective government is best achieved by increased public participation and accountability, this Charter increases the number of Board of Police Commissioners from five (5) to eleven (11) and calls for the election of the majority of Commissioners from the seven (7) non at-large geographical districts created under section 3-108. The role of the Board of Police Commissioners in the operation of the Police Department has been clarified. The Board of Police Commissioners provides supervisory control and oversight of the Police Department. Civilian oversight and supervisory control of the paramilitary operations of the City is a principle of deep significance in our community and thus is expressly articulated in the Charter.*

*This section has been revised to remove the Board's unlimited right to go into executive session in favor of language referencing compliance with the Michigan Open Meetings Act. Also City Council's ability to provide Board members compensation via ordinance has been replaced with the authority to provide reimbursement for certain expenses.*

### **Sec. 7-803. Duties of the Board of Police Commissioners.**

The Board shall:

1. In consultation with the Chief of Police, and with the approval of the Mayor establish policies, rules and regulations;
2. Review and approve the departmental budget before its submission to the Mayor;
3. Receive and resolve, as provided in this chapter, any complaint concerning the operation of the Police Department and forward all allegations of criminality to the appropriate internal or external law enforcement agency for further investigation;
4. Act as final authority in imposing or reviewing discipline of employees of the department;
5. Make an annual report to the Mayor, the City Council, and the public of the department's activities during the previous year, including the handling of crime and complaints, and of future plans.

The Board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Board shall apply to the appropriate court. The Board may delegate in writing to a member of its staff the powers to administer oaths and take testimony. A delegation is revocable at the will of the Board and does not prevent exercise of any power by the Board.

*COMMENTARY: This section, formerly 7-1103 under the 1997 Charter, now requires that allegations of criminality be forwarded to an appropriate prosecuting body for investigation.*

### **Sec. 7-804. Staff.**

#### **1. Secretary to the Board.**

The Board shall appoint a Board Secretary, who serves at its pleasure. The secretary shall not have been an employee or elective or appointive officer of the City within three (3) years prior to appointment. The secretary shall attend board meetings.

#### **2. Investigative Staff.**

The Board shall also appoint a Chief Investigator and such additional staff of investigators as it deems necessary. The Chief Investigator shall not have been an employee or elective or appointive officer of the city within three (3) years prior to appointment. Investigators serve at the Board's pleasure. They must

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possess skills and experience necessary to complete investigative work.

### 3. Other Staff.

The Board may hire, in accordance with Article 6, Chapter 4, such additional staff as is necessary to carry out its duties. All members of the staff are under the direction of the Board, and the Chief of Police has no authority over any member of the staff.

*COMMENTARY: Formerly section 7-1104 under the 1997 Charter, numbered paragraph 2 of this section has been revised to clarify that the Chief Investigator and other Investigators must possess experience and skills that are necessary to “complete” the investigative work they conduct.*

### Sec. 7-805. Chief of Police.

The Board of Police Commissioners shall conduct a professional search with a reputable and qualified executive search firm or other equally qualified entity to identify candidates for Chief of Police. The Mayor shall appoint, subject to approval by City Council, a Chief of Police from a list of qualified candidates provided by the Board of Police Commissioners. If City Council does not disapprove of the appointment within thirty (30) days, it is deemed confirmed. The Chief of Police serves at the pleasure of the Mayor.

The Chief of Police shall be skilled and experienced in police administration or law enforcement and as the head official in charge of the department, the Chief of Police shall be responsible for its day-to-day operations and administration.

*COMMENTARY: This section was formerly section 7-1105 under the 1997 Charter. The 1997 Charter granted the Mayor the right to select the Chief of Police. Under this Charter the Board of Police Commissioners will conduct a professional search and provide the Mayor with a list of qualified candidates to choose from. In addition, the City Council will approve the Mayor’s appointment of a Chief of Police. This allows for public input into the selection process for Chief of Police.*

*The Chief of Police directs the day-to-day operations of the police department, subject to the oversight and supervisory control given to the Board of Police Commissioner under section 7-802 (Board of Police Commissioners). This section clarifies the appropriate role and responsibilities of the Chief of Police in his*

*official capacity as leader of the police department, which involves the day-to-day operation and administration of the department.*

### Sec. 7-806. Duties of the Chief of Police.

1. The Chief of Police is the Chief Executive Officer of the police department and shall administer the department consistent with the policies, rules, and regulations established by the Board and shall organize the department with the approval of the Board;

2. Recommend rules, regulations, and procedures to the Board for its approval;

3. Prepare the annual budget for the police department.

4. Hire, promote, evaluate, commend, transfer, and discipline employees of the department; have authority to suspend and discharge employees of the department under section 7-807; file complaints against employees with the Board Secretary; and direct employees in the performance of their duties;

5. Except as otherwise provided by the Board, keep and control all property, books, records, and equipment belonging to the department or held by the department as evidence;

6. Submit to the Board an annual report of the operations of the department for forwarding to the Mayor, the City Council, and the public;

7. Present annually a police department operations improvement plan. The plan shall be filed with the City Clerk, distributed to the Mayor and City Council, and be a public record;

8. Exercise such other powers as conferred by the Board.

9. Attend all meetings of the Board of Police Commissioners, to the extent practicable, and speak on any issue, but may not vote.

The Chief, with the consent of the Board, may appoint necessary Deputy Chiefs.

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*COMMENTARY: Formerly section 7-1106 under the 1997 Charter, this section has been revised to add two new duties for the Chief of Police including evaluation of police department employees and attendance at Board of Police Commissioners meetings. Attendance at Board meetings was permitted but not mandated under the 1997 Charter.*

### Sec. 7-807. Discipline.

#### 1. Manual.

The Board, in consultation with the Chief of Police, shall adopt a manual of rules, regulations and procedures. The manual shall define categories of major and minor offenses and shall set forth the maximum and minimum penalties for each offense.

#### 2. Summary Discipline.

The Chief of Police may implement summary discipline for a minor offense. A disciplined employee may request the Board of Police Commissioners to set aside the summary discipline and reinstate any loss of pay.

#### 3. General Discipline.

The Chief of Police may discharge or indefinitely suspend any employee for a major offense. When an employee is discharged or indefinitely suspended or other serious charges are made and the employee contests the discharge, suspension or charge, the matter shall be referred to a trial board. The procedure for trial boards shall be established by the department's rules and regulations. A member of a trial board must hold at least the rank of inspector or equivalent grade. All trial board proceedings shall be public. The decision of a trial board may be appealed to the Board of Police Commissioners.

Instead of hearing an appeal itself, the Board of Police Commissioners may appoint a fact finder as provided in section 7-809. The fact finder shall conduct a hearing and report findings of fact to the Board. The Board's disposition of the matter following such a hearing shall be final.

An employee charged with a major offense is presumed innocent and shall not forfeit any pay or seniority rights pending final action by the Board of Police Commissioners except with the concurrence of a two-third (2/3) majority of members of the Board of Police Commissioners.

*COMMENTARY: The number of Commissioners necessary to forfeit the pay and seniority rights of an employee charged with a major offense has been increased from four (4) to 2/3 based on the increase in the size of the Board from five (5) to eleven (11) members.*

### Sec. 7-808. Complaints.

Complaints concerning the Police Department filed anywhere in the Department shall be forwarded immediately to the Board Secretary. Copies of the complaint shall be made available to each member of the Board, the Chief Investigator, and the Chief of Police. The Chief Investigator for the Board shall investigate a complaint immediately and file a report of findings with the Board within sixty (60) days. Within thirty (30) days of receipt of a complaint by the Board Secretary, the Board shall send written communication informing the complainant that their complaint has been received, the guidelines on how the complaint will be handled, and the timeline on when the complainant shall receive a disposition on their complaint.

The Board Secretary shall keep and post on-line, a public docket of complaints and the disposition of each complaint after investigation. The docket shall not contain information which identifies or that can reasonably lead to identification of the parties.

*COMMENTARY: This section was formerly section 7-1108 under the 1997 Charter. The current practice of complaint investigation requires a duplicative effort by the Chief of Police to conduct a concurrent investigation along with the Chief Investigator for the Board of Police Commissioners. Indeed, the independent investigation of the Chief Investigator is arguably the preferred method of investigation, as it removes the appearance of bias, which can be claimed with an investigation by those with a relationship to the department. Therefore, language requiring the Chief of Police to conduct an investigation of complaints has been removed.*

*The investigation of complaints typically takes longer than forty-five (45) days and generally upwards of sixty (60) days. Sixty (60) days is reasonable under the circumstances and this section has been amended to accommodate this timeframe.*

*To achieve transparency and provide the public valuable information, the Board of Police Commissioners will now be required to post on-line, for public access, a docket of complaints and their*

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*post-investigation disposition without any information that could identify the parties.*

### **Sec. 7-809. Resolution of Complaints.**

If a complaint is not resolved as a result of investigation to the satisfaction of the complainant, the respondent employee, or a member of the Board of Police Commissioners, either the complainant, the respondent employee, or the Board member may request the board to hear or review the matter. The Board may, at its option, when it determines that a hearing or review is warranted by the evidence, hear or review the matter itself or refer the matter to a fact finder.

When a matter is referred to fact finding, the secretary to the board and the respondent employee shall attempt to agree upon a person to act as a fact finder. The fact finder must be an attorney. If the parties fail to agree on a fact finder, they shall request a recognized arbitration association as designated by ordinance, to propose the names of five (5) attorneys who could act independently and impartially as a fact finder in the matter. In the presence of a person authorized to take oaths, each side, acting in turn with the employee beginning, shall indicate a name to be struck from those proposed until both sides have struck two (2) names. The person whose name then remains is the fact finder. The fact finder, in the conduct of the hearing, may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the fact finder shall apply to the appropriate court. The cost of the fact finder shall be borne by the city.

After a hearing, the fact finder shall, within thirty (30) days, submit findings of fact to the Board. The Board, upon receipt of the report of the fact finder shall, within thirty (30) days, determine any discipline to be imposed. It shall then make the report and its action public. The decision of the Board is final.

Any employee against whom a complaint is filed is presumed innocent and shall not forfeit any pay or seniority rights pending final action by the Board, except with the concurrence of a two-third (2/3) majority of members of the Board. All pleadings filed and all hearings before the Board and the fact finder shall be public. The parties to any hearing are the complainant and the respondent employee. Each has a right to counsel. The complainant's case may be

presented by the complainant or complainant's counsel. Any probative evidence may be admitted.

*COMMENTARY: The number of Commissioners necessary to forfeit the pay and seniority rights of an employee against whom a complaint has been filed has been increased from four (4) to 2/3 based on the increase in the size of the Board from five (5) to eleven (11) members.*

### **Sec. 7-810. Division of Police Personnel.**

The Division of Police Personnel is headed by a Director of Police Personnel appointed by the Board. The Director of Police Personnel must be a civilian and serves at the pleasure of the Board.

### **Sec. 7-811. Deputy Director.**

The Director of Police Personnel shall appoint a Deputy who serves at the pleasure of the Director.

### **Sec. 7-812. Recruitment and Entry into Service.**

Applicants for employment as police officers with the Department must enter the police service in accordance with section 7-813. Applicants for civilian employment with the department must enter the classified service as provided in Article 6, Chapter 4 of this Charter.

### **Sec. 7-813. Powers and Duties.**

With the concurrence of the Chief of Police, the Director of Police Personnel shall recruit applicants for service as Police Officers with the Department, prepare and administer examinations for hiring police officers, and prepare and conduct examinations for promotion within the department.

Lateral entry into employment with the Department as a police officer is permitted in accordance with the rules, regulations, and procedures established by the Board.

### **Sec. 7-814. Promotions.**

The Chief of Police shall make all promotions within the department. All promotions shall be with the approval of the Board.

Promotions shall be made on the basis of competitive examinations administered by the Director of Police Personnel except for positions above the rank of lieutenant or its equivalent. All examinations will be prepared by the Division of Police Personnel with the

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concurrence of the Board. No person who has taken an examination and has been placed on a register of employees eligible for promotion may be passed over in favor of an employee with a lower examination score.

*COMMENTARY: The practice of "Charter promotions" by the Chief of Police has been eliminated from this section (formerly section 7-1114 under the 1997 Charter). Going forward no officer below the rank of lieutenant or its equivalent may be passed over for promotion by someone who scored lower on the competitive examination.*

## **Sec. 7-815. Examinations.**

All examinations prepared and administered by the Director of Police Personnel must be validated as provided in section 6-411.

## **Sec. 7-816. Employees.**

Employees of the Department shall receive equal pay for the same or similar work and have an equal opportunity for promotion.

## **Sec. 7-817. Police Officers Employed by Governmental and Educational Institutions.**

The Chief of Police may, upon the annual application of governmental or educational institution showing a sufficient necessity, appoint police officers at the charge and expense of the institution making the application, to do duty at any place designated by the chief. These police officers hold office at the pleasure of the Chief and are subject to the policies, rules, regulation, and discipline of the department. They shall wear such dress and emblems as the Chief prescribes. They possess, as conservators of the peace, all powers and privileges and may perform all duties of police officers.

## **Sec. 7-818. Police Reserves.**

The Chief of Police may appoint persons to serve as Police Reserves and set qualifications for entry into the reserves. Police Reserves when called to duty shall possess such powers as designated by the chief, including the powers of peace officers. Training standards shall be set by the chief. Unless there exists an officially declared emergency, duty shall be voluntary. The use of reserves shall be in accordance with rules and regulations approved by the Board and the Mayor.

## **ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES**

### CHAPTER 9. PUBLIC LIGHTING

*COMMENTARY: This Chapter is identified as Chapter 12 in the 1997 Charter.*

## **Sec. 7-901. Department.**

The Public Lighting Department is headed by the Public Lighting Director.

## **Sec. 7-902. Qualifications.**

No person shall head the Public Lighting Department nor serve as Deputy Director, unless that person is a licensed mechanical or electrical engineer.

## **Sec. 7-903. Commission.**

A seven (7) member Public Lighting Commission shall be appointed by and serve at the pleasure of the Mayor. The Commission shall consist of seven (7) members, one (1) each appointed from non at-large districts. A member must be a resident of the City. The term of membership is five (5) years. No more than two (2) terms expire each year. The Commission shall advise in the operation of the Public Lighting Department.

*COMMENTARY: This section was formerly section 7-1203 under the 1997 Charter. It has been revised to require that the Public Lighting Commission have representatives from each of the seven (7) non at-large City Council districts, increasing its composition from five (5) to seven (7) members. Also, the language has been revised to allow for not more than two (2) terms to expire each year, instead of one (1) under the 1997 Charter.*

*The issue of dependable and quality public lighting service has been and continues to be a topic of great interest and concern in communities around the City. Requiring district representation may lead to dissemination of vital information regarding the challenges faced by the Public Lighting department and the opportunities for improvement of this vital service. In addition, communities plagued with public lighting issues will now have a prominent place at the table to impact decision making.*

## **Sec. 7-904. Powers and Duties.**

The Department shall supervise and control all public lighting and public lighting plants and may:



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1. Furnish and sell light, heat and power to any person, firm, division, or corporation within or outside of the city to the extent permitted by law; and
2. Exercise other powers and perform other duties necessary to carry out its functions.

## Sec. 7-905. Limitations on Sale of Assets.

The following limitations shall apply relative to public lighting:

1. The City may not sell or in any way dispose of any property needed to continue the operation of any city owned public utility furnishing lighting, unless approved by a majority of city voters voting on the question at a regular or special election.
2. The City may not grant any public utility franchise for public lighting which is not subject to revocation at the will of the City Council unless the proposition is first approved by three-fifths (3/5) of city voters voting on the question at a regular or special election.
3. All contracts, franchises, grants, leases or other forms of transfer in violation of this section shall be void and of no effect against the city.

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 10. RECREATION

*COMMENTARY: This Chapter is identified as Chapter 13 in the 1997 Charter.*

#### Sec. 7-1001. Department.

The Recreation Department shall operate recreational facilities, offer and carry on organized programs of recreational activities in the city, and, to the extent possible, coordinate all recreational programs and facilities being offered in the City.

#### Sec. 7-1002. Advisory Commission.

An advisory commission for recreation, comprised of not fewer than eight (8) districts, shall be created under section 7-103. Seven (7) of the members shall be appointed, one (1) each, from the non at-large City Council districts.

*COMMENTARY: This section has been revised to require that at least seven (7) of the Recreation*

*Commission members come from one each of the non at-large City Council districts.*

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 11. TRANSPORTATION

*COMMENTARY: This Chapter is identified as Chapter 14 in the 1997 Charter.*

#### Sec. 7-1101. Department.

The Transportation Department shall:

1. Own, maintain, and operate a public transportation system above, on, or below the surface of the ground, or in any combination thereof, utilizing technology known or to be developed;
2. Operate the system within the city and to a distance outside the City as permitted by law;
3. Exercise or recommend the exercise of other functions and powers provided by law or ordinance, including the specific powers of the City to finance transportation under sections 8-401, 8-503(4), and 8-602 of the Charter.

#### Sec. 7-1102. Advisory Commission.

An advisory commission for transportation shall be created pursuant to section 7-103. The Commission shall be composed of at least seven (7) members, one selected from each non at-large district.

*COMMENTARY: This section was formerly section 7-1402 under the 1997 Charter. It has been revised to provide for district representation on the Transportation Advisory Commission. The Commission has been increased from a minimum of five (5) members to a set number of seven (7) members.*

#### Sec. 7-1103. Intelligence Division.

The Director of the Transportation Department may appoint an Intelligence Division, exempt from Article 6, Chapter 4.

#### Sec. 7-1104. Limitations.

The following limitations shall apply relative to transportation:

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1. The City may not sell or in any way dispose of any property needed to continue the operation of any city-owned public utility furnishing transportation service, unless approved by a majority of city voters voting on the question at a regular or special election.

2. The City may not grant any public utility franchise for transportation services which is not subject to revocation at the will of the City Council unless the proposition is first approved by three-fifths (3/5) of city voters voting on the question at a regular or special election.

3. All contracts, franchises, grants, leases or other forms of transfer in violation of this section shall be void and of no effect against the City.

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 12. WATER and SEWERAGE

*COMMENTARY: This Chapter is identified as Chapter 15 in the 1997 Charter.*

#### **Sec. 7-1201. Department.**

The Water and Sewerage Department is headed by a seven (7) member board known as the Board of Water Commissioners. The members of the Board shall be appointed by and serve at the pleasure of the Mayor. No member of the Board shall be a City official or employee, or a principal or employee of a contractor of the City. The term of membership on the Board is four (4) years and not more than two (2) terms expire each year.

A member must be a citizen of the United States and a resident of Michigan. At least four (4) members of the Board must be residents of Detroit.

The Board shall appoint, with the approval of the Mayor, a Director and a Deputy Director for the department. The Director and Deputy Director serve at the pleasure of the Board.

*COMMENTARY: Former section 7-1501 under the 1997 Charter has been revised to prohibit city officials, city employees and employees or principals of contractors from serving as members of the Water and Sewerage Board.*

#### **Sec. 7-1202. Powers.**

Under the direction of the Board, the department shall supply water, drainage and sewerage services within and outside of the city.

The Board shall periodically establish equitable rates to be paid:

1. By the owner or occupant of each house or building using water, drainage, or sewerage services; and

2. By any person, municipality, or public or private agency making a wholesale purchase of water, drainage or sewerage services from the City.

Unless otherwise provided by contract or state law, the unpaid charges for water, drainage, and sewerage services, with interest, shall be a lien of the city upon the real property using or receiving them.

The Board may make all necessary adjustments in the collection of water, drainage or sewerage charges.

The Board may be given additional authority to establish rates by ordinance.

Upon the request of the Mayor the board shall advise the various agencies of the city on matters involving water resource management.

*COMMENTARY: Numbered paragraph 2 has been revised to reference the potential application of state law in preventing the City from placing liens on real property for delinquent service charges.*

#### **Sec. 7-1203. Limitation on Funds.**

All moneys paid into the city treasury from fees collected for water, drainage or sewerage services shall be used exclusively for the payment of expenses incurred in the provision of these services, including the interest of principal of any obligations issued to finance the water supply and sewerage disposal facilities of the city, and shall be kept in separate funds.

#### **Sec. 7-1204. Limitation on Sale of Assets.**

The following limitations shall apply relative to water and sewerage:

1. The City shall not sell or in any way dispose of any property needed to continue the operation of any city-owned public utility furnishing water and sewerage

# HOME RULE CHARTER

service, unless approved by a majority of city voters voting on the question at a regular or special election.

2. The City shall not grant any public utility franchise for water and sewerage services which is not subject to revocation at the will of the City Council unless the proposition is first approved by three-fifths (3/5) of city voters voting on the question at a regular or special election.

3. All contracts, franchises, grants, leases or other forms of transfer in violation of this section shall be void and of no effect against the city.

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 13. ZOOLOGICAL PARK

*COMMENTARY: This Chapter is identified as Chapter 16 in the 1997 Charter.*

#### Sec. 7-1301. Department.

The Zoological Parks department is headed by the Zoological Director. The Zoological Parks Department shall maintain and operate the City's zoological parks directly or pursuant to an operating agreement.

*COMMENTARY: Former section 7-1601 under the 1997 Charter has been revised to reflect the current management of the Detroit Zoo pursuant to an operating agreement which retains City control and ownership. It now provides the option of direct operation of the City's zoological parks or by a third-party.*

#### Sec. 7-1302. Commission.

The Zoological Parks Commission shall advise the department on general program goals for the zoological parks. The Commission shall consist of five (5) members. The members of the Commission shall be appointed by and serve at the pleasure of the Mayor. The term of membership on the Commission is four (4) years, and not more than two (2) members' terms expire each year.

## ARTICLE 7. THE EXECUTIVE BRANCH: PROGRAMS, SERVICES AND ACTIVITIES

### CHAPTER 14. TELEVISION CHANNELS

#### Sec. 7-1401. Cable Television Channels.

The City of Detroit shall operate and maintain its television channels for the benefit of the citizens of the City of Detroit. These cable television channels are public assets. Any ordinances related to the City's cable television channels shall not be inconsistent with this chapter.

*COMMENTARY: This is a new chapter added to the Charter to address the operation, use and management of the City's cable television channels. For several decades, the City of Detroit has owned and operated educational access and government access cable television channels based on ordinance. This new section designates these channels as public assets to be used for the benefit of residents and precludes the adoption of city ordinances that are inconsistent with the requirements of this chapter. It is expected and intended that City officials will take all necessary steps to implement this chapter.*

#### Sec. 7-1402. Executive Oversight, Operation and Management.

The Executive branch shall be responsible for the management, operation and oversight of the City's television channels.

*COMMENTARY: Since their operation began the cable channels have been located within the oversight function of the executive branch of government and this Charter intends that this continue.*

#### Sec. 7-1403. Channel Use.

At least one channel (Government Channel) shall be dedicated to the broadcast of the official affairs, programs and projects of the branches and units of City government, including the Legislative branch, Executive branch and Office of City Clerk. All official meetings of the City Council shall be broadcast in their entirety, and where feasible in a live format.

At least one channel shall be dedicated to educational, cultural and arts programming, which shall include programming received from the K-12 public school systems within the jurisdiction of the City of Detroit and may include programming from not-for profit organizations and public universities, community colleges or other institutions of higher learning, public or private.

*COMMENTARY: To ensure that the cable television channels retain their public purpose, this Charter dedicates the use of such channels for government and educational programming.*

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## Sec. 7-1404. Limitations

The following limitations shall apply relative to television channels:

1. The City of Detroit shall not sell or in any way dispose of any property needed to continue the operation of any television channel, unless approved by a majority of city voters voting on the question at a regular or special election.
2. The City of Detroit shall not grant any franchise for its television channels which is not subject to revocation at the will of the City Council unless the proposition is first approved by three-fifths (3/5) of city voters voting on the question at a regular or special election.

All contracts, franchises, grants, leases or other forms of transfer in violation of this section shall be void and of no effect against the City of Detroit.

*COMMENTARY: Like other public assets contained in the Charter, limitations have been placed on the transfer or grant of any asset or right related to television channels owned and operated by the City of Detroit. These limitations recognize the public nature of these assets and require that residents have a voice in the disposal of the assets.*

## ARTICLE 7.5. INDEPENDENT DEPARTMENTS and OFFICES CHAPTER 1. AUDITOR GENERAL

*COMMENTARY TO ARTICLE 7.5: Article 7.5 (Independent Departments and Offices) is new. The departments and offices located in this article have a unique advisory or investigative role to fill in city government. Therefore, such departments and offices should be seen as reasonably removed from the influence of the executive and legislative branches of city government.*

### Sec. 7.5-101. Auditor General.

The Auditor General shall be appointed by a majority of City Council members serving. The Auditor General shall be a certified public accountant.

*COMMENTARY: The Office of Auditor General has been moved to this new section. In the 1997 Charter,*

*the Auditor General is located in Article 4 (Legislative Branch), Chapter 2 (Auditor General).*

### Sec. 7.5-102. Deputy Auditor General.

The Auditor General shall appoint a Deputy who during periods of the Auditor General's absence or temporary disability or when the position is vacant shall exercise the powers and perform the duties of the Auditor General to the full extent permitted by law. The Deputy Auditor General shall be a certified public accountant. The Deputy Auditor General serves at the pleasure of the Auditor General.

### Sec. 7.5-103. Term of Office.

The term of Auditor General is ten (10) years beginning with the taking of office. The Auditor General may be removed for cause by a two-thirds (2/3) majority of City Council members serving. Any person who has held the position of Auditor General is not eligible for re-appointment.

### Sec. 7.5-104. Employees.

In accordance with Article 6, Chapter 4, the Auditor General may hire, promote, discipline and remove employees of the agency, assign duties to the employees, and supervise the performance of those duties.

### Sec. 7.5-105. Powers and Duties.

The Auditor General shall:

1. Make audits of the financial transactions, performance and operations of City agencies based on an annual risk-based audit plan prepared by the Auditor General, or as otherwise directed by the City Council. Audits shall focus on high risk agencies and/or processes identified in the annual risk-based audit plan. The Auditor General shall make an annual financial analysis of all agencies not selected for audit in the current year. The Auditor General shall have access to all financial records, human resource records, and other records of city agencies necessary to perform his/her functions. Make a full report to the City Council of each individual audit and file a copy with the Mayor.

2. As soon as possible after the close of each fiscal year, make a report of the financial position of the city. The report shall be a public record.

3. Investigate the administration and operation of any city agency and report findings and

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recommendations to the City Council and the Mayor. The Auditor General may request and shall be given necessary assistance and information by each agency. The Auditor General may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any agency during regular business hours. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Auditor General shall apply to the appropriate court.

4. From time to time make reports to city agencies of irregularities of practice and erroneous accounting methods with recommendations for improving the accounting procedures and systems of the agencies.

Recommendations which are not put into effect by the agency shall be reviewed by the Finance Director, who shall advise the Auditor General and the City Council of action being taken with respect to the recommendations.

5. Upon request of the Budget Director, make available to the Budget Director all information useful in the preparation of the capital agenda or annual budget.

6. Settle all disputed claims in favor of or against the City to the extent and in the manner provided by ordinance. All appeals from determinations made by the Auditor General shall be brought in the court provided by law. However, no proceedings may be brought upon a claim within the jurisdiction of the Auditor General until the claim is rejected by the Auditor General or until six (6) months have elapsed from the time of filing the claim with the Auditor General.

**COMMENTARY:** *The 1997 Charter allows for a two (2) year audit review cycle of City of Detroit agencies. While this audit method may have served the City well in the past, experience and current audit experts recommend a risk-based audit approach which provides a more effective use of the City's auditing resources.*

*In explaining the value and significance of risk based audits, audit expert David McName has written:*

*“Risk assessment in internal auditing identifies, measures, and prioritizes risks so that focus is*

*placed on the auditable areas of greatest significance. In individual audits, risk assessment is used to identify the most important areas within the audit scope. Risk assessment allows the auditor to design an audit program that tests the most important controls, or to test the controls at greater depth or with more thoroughness. Risk-based auditing (RBA) extends and improves the risk assessment model by shifting the audit vision. Instead of looking at the business process in a system of internal control, the internal auditor views the business process in an environment of risk. It's a straightforward paradigm: an audit focusing on risk adds more value to the organization than an audit focusing only on controls.”*  
*(Internal Auditor, August, 1997, published by the Institute of Internal Auditors)*

*The current auditing approach diminishes the City's ability to timely address weaknesses in the larger, riskier agencies of City Government resulting in major risks continuing unnoticed for lengthy periods of time.*

*Under the risk based audit approach low risk agencies would continue to be audited on a rotating basis, not once every two (2) years as required by the 1997 Charter. In the period between audits, low risk agencies would be subjected to an annual financial analysis which focuses on unusual transactions and requires reasonable explanations and verification for unusual or significant changes in financial balance accounts.*

### **Sec. 7.5-106. Limitations.**

The Auditor General may hold no other City, County or State office.

Except as otherwise provided in this Charter, the Auditor General shall not have any connection with any city agency, nor be custodian of any cash or securities belonging to the City other than the appropriation to the office.

## **ARTICLE 7.5. INDEPENDENT DEPARTMENTS and OFFICES**

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## CHAPTER 2. LAW DEPARTMENT

*COMMENTARY:* Chapter 2 (Law Department) is located in Article 6 (The Executive Branch: Staff Departments), Chapter 4 (Law Department) of the 1997 Charter.

### Sec. 7.5-201. Law Department.

The Law Department is headed by the Corporation Counsel who is the duly authorized and official legal counsel for the City of Detroit and its constituent branches, units and agencies of government. The Mayor shall appoint the Corporation Counsel subject to approval of the City Council. However, if the City Council does not disapprove the appointment within thirty (30) days, it is deemed confirmed.

The Mayor may remove the Corporation Counsel without cause, with a two-thirds (2/3) majority vote of the membership of City Council. City Council may remove the Corporation Counsel, without cause, by a two-thirds (2/3) vote and concurrence of the Mayor. A Mayor occupying the Office of Mayor through succession under section 5-109 (Succession to Office) may only remove Corporation Counsel with cause and approval of one (1) less than the entire membership serving on City Council.

#### 1. Client and Representation.

The client of the Corporation Counsel is the City of Detroit as a body corporate. The agents and representatives of the City of Detroit, for purposes of receiving and directing legal services in a manner consistent with Corporation Counsel's professional obligations to the City of Detroit, as herein provided in this Charter or allowed by law, shall be the Mayor, City Council and City Clerk.

Corporation Counsel represents the City of Detroit as a body corporate and may represent its branches of government, departments, agencies, elected officials and employees as required or allowed by law, Charter, ordinance, city policy or contract. For purposes of conducting city business and in the performance of their duties therein, no branch or unit of government, department, agency, elected official or employee required or allowed to receive legal services by law, Charter, ordinance, city policy or contract, may solicit or obtain formal legal advice, or retain services or representation from an outside law firm or attorney, in the execution of their duties, without requesting and receiving the approval of Corporation Counsel, unless expressly allowed by Charter. Upon request of an

agency or officer, the Corporation Counsel may retain an outside law firm or attorney as Special Corporation Counsel for any particular matter or proceeding.

Nothing in this section is intended to prevent any branch, officer or employee of city government from consulting with legal experts or convening meetings or hearings for the purpose of obtaining information necessary to execute their duties. Further, nothing in this section is intended, nor shall it be construed, to limit the exercise of any constitutional rights, including those in Article I, §§ 13 and 20 of the State Constitution.

*COMMENTARY:* This section was formerly section 6-401 of the 1997 Charter. Corporation Counsel serves as the attorney for the City of Detroit, which is a corporate body. MCL 117.1 (Home Rule City Act). As such, Corporation Counsel is the sole legal representative of the municipal corporation, who happens to take legal direction from and provides legal services to the agents of his client - both branches of government. To this end, the appointment and removal of the Corporation Counsel should equitably reside with both branches of government. In addition, this reinforces the fact that the Corporation Counsel is not the exclusive legal representative of either branch of government, which misperception is held by many and bolstered by the current removal mechanism that gives that right solely to the Mayor.

In order to provide guidance to the branches of government and city officials on the proper role and function of Corporation Counsel as the sole legal representative of the City of Detroit and its constituent parts and agents, language has been added that prevents government branches, agencies and employees from seeking and obtaining legal advice, opinions or services pertaining to city business, without approval of Corporation Counsel, unless expressly allowed by Charter. The revisions in this section are intended to clarify that the office of Corporation Counsel is designed to service all branches and agencies of city government. Therefore, no branch, agency or employee has an automatic need or right to access outside legal counsel, absent a grant of such authority by Charter or law.

The section has also been revised to clarify that, where allowed, City Council, agencies and officers may retain the services of outside law firms, or other attorneys outside the City of Detroit who may not be associated with a law firm (e.g. law professor and public interest attorneys).

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*This section recognizes and makes provision for the fact that city officers and employee in the execution of their duties may have the need to speak with legal experts and obtain from them information through public meetings or hearings in fulfilling their job duties and responsibilities. These instances of interactions with legal experts are not considered formal attorney-client relationships, which is the subject of section 7.5-201(1). Examples of these interactions would include hearings or meetings where law professors or attorneys with expertise in certain subject matters are called before City Council or other governmental bodies to provide testimony and information, or where members of City Council or department officials consult with legal experts on pertinent matters, but not in the capacity of a formal attorney-client relationship (See, however, section 4-121, Special Counsel).*

### **Sec. 7.5-202. Qualifications.**

The Corporation Counsel and the Deputy Corporation Counsel must be attorneys licensed to practice in Michigan.

### **Sec. 7.5-203. Civil Litigation.**

The Corporation Counsel shall defend all actions or proceedings against the City.

The Corporation Counsel shall prosecute all actions or proceedings to which the City is a party or in which the City has a legal interest, when directed to do so by the Mayor.

Upon request, the Corporation Counsel may represent any officer or employee of the city in any action or proceeding involving official duties.

No civil litigation of the city may be settled without the consent of the City Council

### **Sec. 7.5-204. Penal Matters.**

The Corporation Counsel is the city prosecutor and shall:

1. Institute and conduct, on behalf of the people, all cases arising from the provisions of this Charter or city ordinances and, when authorized to do so by law, cases arising under state law.

2. Prosecute all these cases, including all recognizance and bail forfeitures, in the court of original jurisdiction and on appeal.

3. Prosecute all actions for the recovery of fines, penalties, forfeitures and other money arising out of these cases.

### **Sec. 7.5-205. Advice and Opinions.**

Each branch and unit of government shall receive the legal advice and opinion of Corporation Counsel on matters pertaining to the execution of their functions and duties as governmental bodies and officials. Upon request, the Corporation Counsel shall give such legal advice or opinions to the Mayor, City Council, and members of the City Council, City Clerk or the head of any agency.

*COMMENTARY: Corporation Counsel is the attorney for the City of Detroit as a corporate body and all of its constituent units and branches of government. These units and branches include the Mayor, City Clerk and the nine member body of City Council. As such, these entities are entitled to, and currently receive, the legal advice and opinion of Corporation Counsel. This section has been revised to reflect this reality by adding the City Clerk and City Council as agents of city government entitled to the legal advice and opinion of Corporation Counsel.*

### **Sec. 7.5-206. Form of Documents.**

The Corporation Counsel shall prepare or approve all contracts, bonds and other written instruments in which the city is concerned, shall approve all surety bonds required to be given for the protection of the City, and shall keep a proper registry of all contracts, bonds and instruments.

### **Sec. 7.5-207. Drafting.**

Upon request of City Council, any City Council member, or the Mayor, the Corporation Counsel shall prepare or assist in preparing any ordinance or resolution for introduction before the City Council.

### **Sec. 7.5-208. Intra-Government Dispute Resolution.**

In all disputes between branches or units of city government, before any branch or unit can institute legal proceedings, they shall have first requested and obtained from Corporation Counsel a legal opinion which details which party's position is consistent with the current state of the law. Corporation Counsel shall then instruct the branch or unit whose legal position is inconsistent with the current state of the law to retain legal assistance and representation from an outside law firm or outside attorney if they intend to institute legal

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proceedings.

In cases of disputes between the branches of government, prior to filing a lawsuit or taking other legal action, the highest public official from the disputing branches of government shall first meet to resolve the matter. In the case of the Executive Branch the highest public official shall be the Mayor or designee; in the case of the Legislative Branch it shall be the Council President or designee; and in case of the Office of the City Clerk it shall be the City Clerk or designee. The parties shall engage in facilitation of the matter over a period of fourteen (14) business days, or more as agreed to by the parties, before taking legal action. The facilitation shall be conducted by a facilitator, mutually agreed to by the parties. Nothing in this section shall preclude a branch or unit of government from seeking a temporary restraining order, injunction or other emergency legal action based on irreparable harm, but this section shall be complied with if the court rules that no irreparable harm exists, in which case the facilitation period shall be twenty-eight (28) business days from the date of the court's decision, or longer as agreed to by the parties.

**COMMENTARY:** *This section was formerly section 6-408 of the 1997 Charter. This section's allowance for special counsel at the discretion of Corporation Counsel has been removed and incorporated into new section 7.5-201(1) (Client and Representation).*

*The proposed language provides a mechanism for resolving occasional legal disputes that arise between the branches and units of government, which may result in litigation. By forcing the parties to meet in an effort to resolve their disputes, unnecessary litigation costs and expenditure of city resources should be avoided. This revision places the Corporation Counsel in the proper role of legal counsel to the City of Detroit as a municipal corporation and protector of its legitimate legal interests. In this capacity, Corporation Counsel will continue its current practice of determining which branch or unit of government has the legal position that is consistent with the current state of the law and base its representation on this determination, while providing outside counsel to the branch or unit of government whose legal position is inconsistent with the law.*

*This section is not intended to prevent emergency legal action being instigated when the action taken by one branch or unit of government could cause irreparable harm requiring immediate judicial intervention. However, the parties are required to comply with this section's facilitation procedure upon a finding by a*

*court that no such irreparable harm exists. In such case, the facilitation period should be increased by fourteen (14) days to account for the time likely to be lost during the pendency of the emergency legal action.*

### **Sec. 7.5-209. Enforcement of Charter.**

The Corporation Counsel shall be responsible for enforcing compliance with the Charter. Corporation Counsel shall document in writing any violation of the Charter by the executive or legislative branches, Office of City Clerk, elected official or other persons subject to compliance with the Charter. This written notice shall contain the nature of the violation, including the Charter section(s) violated, direct the necessary action to be taken to remedy the violation, and date by which the remedial action must be taken. The time for taking the required remedial action shall not exceed fourteen (14) calendar days. The notice of Charter violation shall be presented to the offending body or individual, with a copy provided to the Mayor, City Council and City Clerk.

In the event the offending body or individual fails to remedy the Charter violation within the time frame and manner required in the written notice, Corporation Counsel shall take all reasonable actions to secure compliance, including, but not limited to, judicial action.

Nothing in this section is meant to waive any right to attorney-client privilege.

**COMMENTARY:** *This section is new. The 1997 Charter lacks a mechanism to remedy Charter violations and enforce compliance. This revised Charter provides a means of enforcing compliance with the Charter and prosecuting its violators as a last resort, if necessary. In addition, a failure to remedy an identified Charter violation by an elected or appointed official is grounds for forfeiture of office under section 2-107(B)(1)(d). This newly created section has no intended or actual impact on the right of elected city officers, citizens or others with legal standing, to enforce the Charter.*

### **Sec. 7.5-210. Claim Reduction.**

Corporation Counsel shall advise City departments, agencies and entities on risk reduction strategies that are necessary to limit or eliminate the City's exposure to liability.

**COMMENTARY:** *This new section requires Corporation Counsel to advise City departments,*



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agencies and entities on strategies designed to minimize or eliminate exposure to liability. The Corporation Counsel is uniquely positioned to offer this advice because the City's legal department frequently addresses issues related to the City's risk exposure and liability.

## Sec. 7.5-211. Other Duties.

The Corporation Counsel has such other duties as may be provided by law, this Charter, or ordinance.

## ARTICLE 7.5.

### INDEPENDENT DEPARTMENTS and OFFICES

#### CHAPTER 3. OFFICE OF INSPECTOR GENERAL

## Sec. 7.5-301. Establishment.

An independent Office of Inspector General is hereby created. The Inspector General shall head the office. The purpose of the Office of Inspector General is to ensure honesty and integrity in City government by rooting out waste, abuse, fraud, and corruption.

## Sec. 7.5-302. Appointment, Removal, Term of Office and Vacancy.

The Inspector General shall be appointed by the majority of City Council members serving. The Inspector General may be removed for cause by a two-thirds (2/3) vote of City Council members serving and shall be appointed for a term of six (6) years.

If a vacancy occurs in the Office of Inspector General, the City Council shall, within sixty (60) days, fill the office for a full term.

## Sec. 7.5-303. Minimum Qualifications.

The Inspector General shall be a person who:

1. Has a bachelor's degree from an accredited institution of higher learning.
2. Has at least ten (10) years of experience in any one, or combination of, the following fields:
  - a. As a federal, state or local law enforcement officer;
  - b. As a federal, state or local government attorney, including a public defender;

c. As a federal or state court judge;

d. Progressive supervisory experience in an investigative public agency similar to an inspector general's office;

e. Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy; and

f. Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary.

## Sec. 7.5-304. Limitations; Prohibited Activities.

During his or her term, the Inspector General may not engage in an occupation for profit, except for teaching, or hold any other government office outside the duties of the Inspector General. Subject to applicable law, the Inspector General shall not solicit votes or raise monetary or in-kind contributions for any candidate for an elective office. Any person who has held the position of Inspector General is not eligible for re-appointment. Subject to applicable law, the Inspector General may not hold any elective city office until two (2) years after leaving the position.

## Sec. 7.5-305. Jurisdiction.

The powers and duties of the Inspector General shall extend to the conduct of any Public Servant and City agency, program or official act, contractors and subcontractors providing goods and services to the City, business entities seeking contracts or certification of eligibility for city contracts and persons seeking certification of eligibility for participation in any city program.

## Sec. 7.5-306. Powers and Duties.

The Inspector General shall:

1. Investigate any Public Servant, city agency, program or official act, contractor and subcontractor providing goods and services to the City, business entity seeking contracts or certification of eligibility for City contracts and person seeking certification of eligibility for participation in any city program, either in response to a complaint or on the Inspector General's own initiative in order to detect and prevent waste, abuse, fraud and corruption.

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2. Issue quarterly reports to the City Council and Mayor concerning results of investigations and audits undertaken by the Office of Inspector General. All reports shall be a public record and additionally published electronically on the World Wide Web or another format as to provide remote or on-line access to the reports.

Have access to the financial and other records of all city agencies at any time.

### **Sec. 7.5-307. Subpoena Powers.**

1. The Inspector General may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.
2. The Inspector General may enforce a subpoena or order for production of evidence. The Inspector General shall apply to the appropriate court to impose any penalty prescribed for failure to obey a subpoena or order.

### **Sec. 7.5-308. Duty to Report Illegal Acts.**

If the Inspector General has probable cause to believe that any Public Servant or any person doing or seeking to do business with the City has committed or is committing an illegal act, then he or she shall promptly refer the matter to the appropriate prosecuting authorities.

### **Sec. 7.5-309. Employees.**

The Office of Inspector General shall include an Inspector General and such deputies, assistants and other employees as deemed necessary by the Inspector General. The Office of Inspector General staff shall include, at a minimum, attorneys, investigators and auditors who are certified public accountants. The Inspector General may hire, promote, discipline and remove employees of the office, assign duties to the employees and supervise the performance of those duties. The staff of the office may include persons who are both subject to, and exempt from, Article 6, Chapter 4 of this Charter.

### **Sec. 7.5-310. Cooperation in Investigations; Obstruction.**

It shall be the duty of every Public Servant, contractor and subcontractor and licensee of the city, and every applicant for certification of eligibility for a city contract or program, to cooperate with the Inspector General in any investigation pursuant to this Article.

Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Inspector General by withholding documents or testimony is subject to forfeiture of office, discipline, debarment or any other applicable penalty.

This requirement and associated penalty shall be incorporated into all contracts and subcontracts to the extent necessary to make them effective against such entities or persons.

### **Sec. 7.5-311. Consultation Required.**

1. No report or recommendation that criticizes an official act shall be announced until every agency or person affected is allowed a reasonable opportunity to be heard at a hearing with the aid of counsel. In accordance with section 2-111 of this Charter, the Inspector General will promulgate procedural rules for hearings.

2. After the hearing, if the Inspector General believes it necessary to make a formal report, a copy of any statement made by an agency or person affected shall accompany the report.

### **Sec. 7.5-312. Conflict of Interest; Special Counsel.**

Where there exists a conflict of interest between the Inspector General and another branch of City government, the Inspector General has the authority to retain an attorney licensed to practice law in Michigan who shall represent the Inspector General in legal proceedings. Such attorney shall not represent the City as a municipal corporation in any legal proceeding.

### **Sec. 7.5-313. Confidentiality.**

Subject to any applicable state law, all investigative files of the Office of Inspector General shall be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Michigan Attorney General or Wayne County Prosecutor's Office, or as otherwise provided in this Charter.

### **Sec. 7.5-314. Immunity.**

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The Inspector General and the staff shall be, to the full extent permitted by law, immune from any suit based on any report or communication within the scope of official duties.

## **Sec. 7.5-315. Retaliation Prohibited; Penalty.**

No person shall retaliate against, punish or penalize any other person for complaining to, cooperating with or assisting the Inspector General in the performance of his or her duties. Any person who violates this provision shall be subject to a fine of not less than \$300 and not more than \$500 for each violation and any other penalties under applicable law.

## **Sec. 7.5-316. Funding.**

The City shall annually appropriate funds sufficient to enable the Office of Inspector General to perform its duties. Funding shall be in accordance with section 8-214 (*Proportional Funding for Oversight Agencies.*)

*COMMENTARY: The Office of Inspector General is a new addition to the Charter. The citizen's call for a government free from corruption and unethical practices, led to the establishment of an office dedicated to eliminating waste, fraud, abuse and corruption. The Office of the Inspector General is intended to move the City of Detroit toward efficient government, particularly when coupled with several other Charter revisions which address the conduct of elected officials, City employees and those that do business with the City. While not a panacea, taken collectively with these other measures, the Office of the Inspector General is expected to have a positive impact on City government.*

## **ARTICLE 7.5.**

### **INDEPENDENT DEPARTMENTS and OFFICES**

#### **CHAPTER 4. OMBUDSPERSON**

*COMMENTARY: The Office of Ombudsperson has been moved to this new section. The Office of the Ombudsperson was located in Article 4 (The Legislative Branch), Chapter 3 (Ombudsperson) of the 1997 Charter.*

## **Sec. 7.5-401. Ombudsperson.**

The Ombudsperson shall be appointed by a two-thirds (2/3) majority of City Council members serving.

## **Sec. 7.5-402. Term of Office.**

The Ombudsperson's term is ten (10) years.

The Ombudsperson may be removed for cause by a two thirds (2/3) majority of City Council members serving.

Any person who has held the position of Ombudsperson is not eligible for re-appointment.

## **Sec. 7.5-403. Vacancy.**

If a vacancy occurs in the office of Ombudsperson, the City Council shall, within sixty (60) days, fill the office for a full term.

## **Sec. 7.5-404. Salary.**

The salary of the Ombudsperson is equal to the salary of the Auditor General.

## **Sec. 7.5-405. Staff.**

To carry out the responsibilities of the office, the Ombudsperson may, within appropriations, appoint not more than six (6) employees who are exempt from Article 6, Chapter 4 of this Charter. The number of exempt positions on the Ombudsperson's staff may be increased by a majority of City Council members serving.

## **Sec. 7.5-406. Definition.**

In this chapter, "official act" means any action, omission, decision, recommendation, practice or procedure of any agency.

## **Sec. 7.5-407. Jurisdiction.**

The Ombudsperson may investigate any official act of any agency except elective officers which aggrieves any person. The authority of the Ombudsperson extends equally to all agencies. However, with respect to any investigation authorized by this Charter to be made by an agency having subpoena power, the Ombudsperson may only investigate and report whether the agency's investigation and hearing, if any, was conducted fully and fairly.

The Ombudsperson may establish procedures for receiving and processing complaints, conducting investigations and hearings, and reporting findings. No fee shall be levied for the filing or investigation of complaints.

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### **Sec. 7.5-408. Powers of Investigation.**

The Ombudsperson may request and shall be given necessary assistance and information by each agency. The Ombudsperson may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any agency during regular business hours, and establish rules of procedure. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Ombudsperson shall apply to the appropriate court.

Where there exists a conflict of interest between the Ombudsperson and another branch of government, the Ombudsperson has the authority to retain an attorney licensed to practice law in Michigan who shall represent the Ombudsperson in legal proceedings. Such attorney shall not represent the city as a municipal corporation in any legal proceeding.

### **Sec. 7.5-409. Delegation of Powers.**

The Ombudsperson may delegate in writing to a member of the staff the powers to administer oaths and take testimony.

A delegation is revocable at will and does not prevent exercise of any power by the Ombudsperson.

### **Sec. 7.5-410. Correspondence From Person Detained.**

Any letter to the Ombudsperson from a person in a place of detention, penal or otherwise, under the control of an agency shall immediately be forwarded, unopened, to the Ombudsperson.

### **Sec. 7.5-411. Consultation Required.**

No report or recommendation that criticizes an official act shall be announced until every agency or person affected is allowed a reasonable opportunity to be heard with the aid of counsel.

After the hearing, if the Ombudsperson believes it necessary to make a formal report, a copy of any statement made by an agency or person affected shall accompany the report.

### **Sec. 7.5-412. Reports.**

The Ombudsperson shall make periodic reports to the City Council of action taken under this chapter. All reports shall be made public.

### **Sec. 7.5-413. Duty to Report Illegal Acts.**

If the Ombudsperson has probable cause to believe that any elective officer, appointee, employee or member of an agency or any person doing or seeking to do business with an agency has committed or is committing any illegal act, the Ombudsperson shall promptly refer the matter to the appropriate authorities.

### **Sec. 7.5-414. Obstruction.**

The office or position of any elective officer or appointee who willfully and without justification or excuse obstructs any investigation of the Ombudsperson by withholding documents or testimony may be forfeited under section 2-107(B)(2) of this Charter.

### **Sec. 7.5-415. Immunity.**

The Ombudsperson and the staff shall be, to the full extent permitted by law, immune from any suit based on any report or communication within the scope of official duties.

### **Sec. 7.5-416. Limitations.**

The Ombudsperson may not hold any office of trust or profit other than the office of Ombudsperson, or engage in any occupation for profit outside the duties of this office. The Ombudsperson is not eligible to hold any city office until two (2) years after leaving the position.

### **Sec. 7.5-417. Remedies Cumulative.**

The remedies of this chapter are additional to those provided under any other law.

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## ARTICLE 8. PLANNING and FINANCIAL PROCEDURES

### CHAPTER 1. PLANNING PROCEDURE

#### Sec. 8-101. Comprehensive Plan.

The Mayor shall propose and the City Council shall approve, with the modifications it deems necessary, a Master Plan of policies for the social, economic and physical development and conservation of the city, and the full range of transportation, access and mobility options (“Plan” or “Master Plan”).

*COMMENTARY: This section has been revised to require the Master Plan to address transportation issues within the City.*

#### Sec. 8-102. Periodic Review.

After approval of the Plan, the Mayor shall annually propose any amendments necessary to keep the Plan current and the City Council shall consider the Mayor’s proposed amendments and make the modifications in the Plan that it deems necessary.

#### Sec. 8-103. Council Procedure.

The City Council shall conclude its action on the Plan annually by December 1. Interested persons and groups shall be given notice and an opportunity to be heard by either the City Council, the City Planning Commission, or other committee of the City Council, before approval of the Plan or any amendments to the Plan.

#### Sec. 8-104. Purpose of the Plan.

The Master Plan shall be a set of guidelines to assist the Mayor and others in proposing, and the City Council in evaluating and implementing, specific proposals for the total development of the City and its residents.

## ARTICLE 8. PLANNING AND FINANCIAL PROCEDURES

### CHAPTER 2. BUDGETS

#### Sec. 8-201. Fiscal Year.

Except as otherwise provided by ordinance, the City’s fiscal year is July 1 through June 30. If the fiscal year is changed, related dates specified in the Charter shall change accordingly.

#### Sec. 8-202. Capital Agenda.

1. On or before November 1 of each even numbered year, the Mayor shall submit a proposed Capital Agenda for the next five (5) fiscal years to the City Council.

2. The Capital Agenda shall state:

- a. All physical improvements and related studies and surveys, all property of a permanent nature, and all equipment for any improvement when first erected or acquired, to be financed during the next five (5) fiscal years in whole or in part from funds subject to control or appropriation by the city, along with information as to the necessity for these facilities;
- b. Capital expenditures which are planned for each of the next five (5) fiscal years;
- c. The estimated annual cost of operating the facilities to be constructed or acquired; and
- d. Other information pertinent to the evaluation of the capital agenda.

For each separate purpose, project, facility, or other property there shall be shown the amount and the source of any money that has been spent or encumbered, or is intended to be spent or encumbered before the beginning of the next fiscal year and also the amount and the source of any money that is intended to be spent during each of the next five (5) years. This information may be revised and extended each year for capital improvements still pending or in process of construction or acquisition.

The City Council may delete projects from the capital agenda as submitted but it may not otherwise amend the capital agenda until it has requested the recommendations of the Planning and Development Director. The City Council shall not be bound by those recommendations and may act without them if they are not received within thirty (30) days from the date requested.

3. The City Council shall publish in one (1) or more daily newspapers of general circulation in the city a general summary of the capital agenda and a notice stating:

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a. The time and places where copies of the proposed capital agenda are available for public inspection; and

b. The time and places, not less than two (2) weeks after the publication, for a public hearing on the proposed capital agenda.

The head of any agency has the right, and it shall be a duty when requested by the City Council, to appear and be heard.

4. At the conclusion of its deliberation, but not later than March 1 of the following year, the City Council shall approve a five (5) year capital agenda for the City. If the City Council fails to take action by March 1, the proposed Capital Agenda shall be deemed approved.

*COMMENTARY: Under the 1997 Charter the capital agenda is to be sent to City Council on or before December 1. This timeframe provides City Council an insufficient amount of time to review the several hundred page document which arrives to Council during the holiday recess. Moving the submission date to November 1 will allow for a sufficient review period.*

## **Sec. 8-203. Annual Budget.**

In accordance with law, the City shall establish by ordinance, dates upon which the Mayor shall submit to the City Council a proposed annual budget for the next fiscal year, and City Council to complete consideration of the budget. Proposed capital appropriations shall be set forth in a separate section of the annual budget.

Before November 1 of each year and prior to submitting a proposed annual operating budget, the departments of police, fire, public works, water and sewerage, recreation, health and public lighting shall conduct a public meeting to review programs, services and activities to be included in the budget and receive public comment.

Departments shall publish a general summary of programs, services and activities funded in the current fiscal year, in one (1) or more daily newspapers of general circulation in the city. The summary shall include funds spent or encumbered in the current fiscal year. The notice shall be published not less than ten (10) days before the day on which the meeting is held, and shall state date, time and place of the meeting.

*COMMENTARY: This section was revised to include a non-substantive grammatical change in the last paragraph.*

## **Sec. 8-204. Budget.**

1. The budget shall constitute a complete financial plan for the city for the next fiscal year.

2. The budget shall set forth estimated revenues from all sources and all appropriations. Any surplus or deficit during the fiscal year preceding that covered by the budget shall be entered as an item in the budget.

3. The total of proposed expenditures shall not exceed the total of estimated revenues.

## **Sec. 8-205. Form of Appropriation.**

All appropriations to each agency shall be made in lump sums to the agency's specific programs, services or activities, or to additional classes as the Mayor may recommend in the proposed budget, subject to amendment by deletion, addition or substitution by the City Council. However, the accounts of each department and agency shall be maintained in such detail as required by generally accepted standards of financial reporting. A uniform system of accounts shall be established as required by state law.

*COMMENTARY: This section was revised to clarify its application to City departments as well as agencies.*

## **Sec. 8-206. Public Hearing.**

A public hearing in the manner provided by law or ordinance shall be held on the proposed budget before adoption.

## **Sec. 8-207. Amendment Before Adoption.**

After the public hearing, the City Council may adopt the budget with or without amendment.

## **Sec. 8-208. Budget Adoption.**

Consideration of the budget shall be completed by the City Council as provided by ordinance.

If the Mayor disapproves amendments made by the City Council, the Mayor shall within seven (7) days, submit to the City Council in writing the reasons for the disapproval.

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The City Council shall proceed to reconsider any budget item so disapproved. If after reconsideration a two-thirds (2/3) majority of the City Council members serving agree to sustain any of the City Council's amendments to the budget, those amendments so sustained shall be of full force and effect. The City Council's reconsideration of the budget must be concluded within three (3) business days after receipt of the Mayor's disapproval.

### **Sec. 8-209. Effect of Budget Adoption.**

Adoption of the budget shall constitute:

1. Appropriations of the amounts specified therein from the funds indicated;
2. A levy of the property tax specified therein; and
3. Authorization for the issuance of any bonds specified therein.

### **Sec. 8-210. Amendments After Adoption.**

1. If during the fiscal year the Mayor advises the City Council that there are available for appropriation revenues in excess of those estimated in the budget, the City Council may make supplemental appropriations for the year up to the amount of the excess.

2. To meet a public emergency affecting life, health, property or the public peace, upon request of the Mayor, the City Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet those appropriations, the City Council may authorize the issuance of emergency notes as provided by this Charter or ordinance, in a manner consistent with state law.

### **Sec. 8-211. Transfer of Appropriations.**

At any time during the fiscal year upon written request by the Mayor, the City Council may, by resolution, transfer all or part of any unencumbered appropriation balance among the programs, services or activities within an agency or from one (1) agency to another.

### **Sec. 8-212. Report of Budget Deficit.**

Where, during the Fiscal Year, the head of any agency, department or City funded entity determines that the budget is in deficit, the head shall immediately notify, in writing, the Mayor and Budget Director of the reason for, and circumstance surrounding, the deficit. Within ten (10) business days of notification, the

Budget Director shall request a hearing with the City Council to apprise it of the deficit and outline actions to remedy the deficit.

*COMMENTARY: This is a new section. It is intended to provide an early detection system for deficits and an appropriate fiscal response by government officials.*

### **Sec. 8-213. Revenue Estimating Conference.**

The Directors of the Finance Department, Budget Department, Auditor General and City Council's Fiscal Analysis Division shall hold a revenue estimating conference two times per year. The revenues under consideration shall include all general fund, solid waste fund, and risk-management fund revenues, and revenues of enterprise agencies that require a general fund subsidy. The parties shall also compile and consider any and all outstanding delinquent receivables in the possession of City agencies, departments and entities and, in conjunction with Corporation Counsel, recommend to the Mayor and City Council the most efficient means to collect this revenue, which may include collection procedures by the Law Department.

*COMMENTARY: This new section is intended to improve and expedite the annual budget process by bringing together the executive and legislative officials with the most knowledge regarding fiscal matters, before a budget is proposed by the Mayor and adopted by the City Council. These types of cooperative meetings, held twice a year, should result in accurate, useful and timely revenue estimates related to budget adoption.*

### **Sec. 8-214. Proportional Funding for Oversight Agencies.**

The Detroit City Council shall establish a proportional method to fund oversight agencies to insure the proper oversight of executive and legislative branches of government. City Council shall arrive at an equitable proportional method to fund oversight agencies in local government. City Council shall prepare and adopt a proportional funding system within ninety (90) days of the effective date of this Charter.

The funding system shall include a formula to distribute funds to each of the agencies contained in this section and any other agencies added by ordinance. The internal cost allocation plan shall determine the amount of funds to be appropriated to each agency for oversight functions. The proportional funding system shall be enacted by ordinance. The ordinance shall contain this mandate to establish a proportional method

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of funding for oversight agencies, the list of agencies included in this section and other agencies determined by City Council.

The oversight agencies referred to in this section shall include the Office of the Inspector General, Auditor General, Ombudsperson and Board of Ethics.

*COMMENTARY: The functions served by the oversight agencies identified in this section are extremely important to the efficient and ethical operation of city government. To make certain these oversight agencies are not hampered in their ability to properly function, a proportional funding mechanism is created under this section.*

## ARTICLE 8. PLANNING AND FINANCIAL PROCEDURES

### CHAPTER 3. ADMINISTRATION OF BUDGETS

#### Sec. 8-301. Work Programs and Allotments.

When the Budget Director specifies, each agency shall submit work programs for the next fiscal year showing the requested allotments of its appropriation by periods within the year. The Budget Director shall review and authorize those allotments with or without revision as early as possible in the fiscal year. The Budget Director may revise those allotments during the year if desirable and shall revise them to accord with any supplemental, emergency, or transferred appropriations.

#### Sec. 8-302. Limit on Obligations and Payments.

No obligations shall be incurred against, and no payments shall be made from, any allotment or appropriation except in accordance with appropriations duly made and unless the Chief Accounting Officer, or in absence of the Chief Accounting Officer, a designee of the Finance Director advises that there is a sufficient unencumbered balance in the allotment or appropriation and that sufficient funds will be or are available to meet the obligation.

When the Chief Accounting Officer or, in absence of the Chief Accounting Officer, a designee of the Finance Director so advises, the obligation may be incurred or payment made in accordance with any applicable procedure established under section 6-306.

#### Sec. 8-303. Penalties for Violation.

Any incurring of obligation or authorization of payment in violation of the provisions of this Charter

shall be void and any payment so made illegal; the action shall be cause for removal of any officer who knowingly incurred the obligation or authorized or made the payment, and he or she shall also be liable to the City for any amount so paid and to any criminal sanctions imposed by law or ordinance.

#### Sec. 8-304. Obligations to be Met by Subsequent Appropriations.

As permitted by law, the City may by resolution of the City Council:

1. Make contracts or make or authorize payments for capital improvements to be financed wholly or partly by the issuance of bonds; or
2. Make any contract or lease (including installment contracts, lease-purchase contracts, or other forms of deferred payment contracts for the acquisition of real property or capital equipment) providing for payments beyond the end of the fiscal year.

## ARTICLE 8. PLANNING AND FINANCIAL PROCEDURES

### CHAPTER 4. PROPERTY TAXATION

#### Sec. 8-401. Power.

The City is authorized to levy property taxes at the rate of two percent (2%) of assessed value of all real and personal property in the City or to such other maximum limit as may be permitted by law.

Included is the power to levy property taxes for public transportation and transit services to the maximum rate permitted by law.

The subjects of taxation for municipal purposes shall be in accordance with state law.

#### Sec. 8-402. Assessors' Duties.

1. The Board of Assessors shall certify the assessment roll to the board of review on or before the date provided by ordinance
2. The Assessors shall prepare the tax roll by spreading property taxes ratably on the assessment roll on or before the date provided by ordinance and shall deliver the tax roll to the Treasurer in the manner provided by law.



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## Sec. 8-403. Collection of Property Taxes.

1. Except as otherwise provided by this Charter or ordinance, the rights, duties, powers, and immunities established by state law shall apply in the collection and enforcement of city property taxes.

2. City property taxes shall become a debt of the persons liable for them on the date provided by state law and shall become payable, and a lien upon the property, on the first (1st) day of the city's fiscal year or such other date as may be provided by ordinance.

3. Property taxes shall become delinquent if they remain unpaid on September 1. However, when any person shall pay one-half (1/2) of the city taxes on any property on or before the fifteenth (15th) day of August, the remaining one-half (1/2) shall not become delinquent until the sixteenth (16th) day of January. The City may, by ordinance, provide interest and penalties for delinquent city property taxes.

4. State, county and school taxes shall be collected and returned by the City Treasurer in accordance with state law. However, except as otherwise provided by law or ordinance, city property taxes shall not be returned to the Wayne County Treasurer under state law.

5. Before the end of the City's fiscal year, the Treasurer shall give reasonable notice to all persons who are liable for delinquent real property taxes that, on the last day of the fiscal year, the city's lien on real property for delinquent city real property taxes shall be deemed "sold" to the Finance Director. Thereafter, the Finance Director, with the concurrence of the Planning and Development Director or any other department director designated by the Mayor, may sell the lien in accordance with procedures provided for by ordinance adopted by the City Council. Any such ordinance adopted shall provide for appropriate hardship protections. The ordinance may also provide for public notice of the sale of the lien to a third party. The council may at any time review and revise the procedures and protections established by any such ordinance adopted to determine their appropriateness and effectiveness. However, two (2) years following the enactment of any such ordinance, the City Council shall review the procedures and protections established by that ordinance to determine their appropriateness and effectiveness.

6. Two (2) years after such a sale of the lien on any real property to the Finance Director, the city or

other holder of the lien may bring a civil action to foreclose its lien.

If the City or other holder of the lien prevails in the action, the judgment, which may not be entered before one hundred and twenty (120) days have expired from the filing of the complaint, shall provide that possession of the real property to which the lien attached shall be given to the City or other holder of the lien, unless the judgment, and all costs are paid within sixty (60) days. The judgment when final shall be conclusive evidence of the City's or other lienholder's title in fee simple, subject only to unextinguished interests or encumbrances.

7. In addition to the other remedies specified in this section, at the time unpaid city property taxes become delinquent or at any later time permitted by law, the city may maintain a personal action against the debtor for collection of the unpaid property taxes and may use any means permitted by law for collection of the debt. The City of Detroit tax roll shall be prima facie evidence of the amount of the indebtedness to the City of Detroit. The preceding sections of 8-403 are not the exclusive remedies of the City of Detroit.

8. In addition to the procedures and remedies for the collection and enforcement of the property taxes set forth in the Charter, the city or other lienholder may use any procedure and remedy for the collection and enforcement of property taxes established by state law.

## ARTICLE 8. PLANNING AND FINANCIAL PROCEDURES

### CHAPTER 5. BORROWING

#### Sec. 8-501. General Power.

The City may borrow money for any purpose within the scope of its powers, may issue bonds or other evidence of indebtedness therefore and may, when permitted by law, pledge the full faith, credit, and resources of the city for the payment of those obligations.

#### Sec. 8-502. Limitations on Borrowing.

The net bonded indebtedness incurred annually by the City shall not exceed the limit permitted by law. No obligations shall be sold to obtain funds for any purpose or purposes other than that for which those obligations were specifically authorized.

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## **Sec. 8-503. Specific Kinds of Borrowing.**

Included within the City's general power are the following specific kinds of borrowing:

### 1. Bonds to Finance Local Public Improvement.

The City may borrow money and issue bonds in anticipation of the payment of special assessments or any combination of special assessments levied under sections 8-601 and 8-602 of this Charter. 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.

The City may also borrow money and issue bonds under section 8-501 for its share of the cost of any local public improvement or, where the cost of that improvement is to be defrayed in part from the payment of special assessments and in part from other city revenues, for the entire cost of that improvement.

All collections on each special assessment roll or combination of rolls to the extent that those collections are pledged for the payment of the principal and interest on any bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of the principal and interest and may be used for no other purpose.

### 2. Emergency Bonds.

In case of fire, flood, or other calamity, the city may, subject to law, authorize the issuance of emergency bonds which shall be general obligations of the City for the relief of residents of the City and for the preservation of city property.

### 3. Budget Bonds.

Any capital improvement items contained in the budget may be financed by the issuance of bonds as a part of the budget system. However, the amount of those bonds together with the city property taxes levied for the same year may not exceed the limit permitted by law.

### 4. Bonds to Finance Transit Facilities.

The City may borrow money for public transportation and rapid transit facilities and may incur obligations and issue bonds therefore to the maximum extent permitted by law.

### 5. Bonds to Finance Public Lighting Facilities.

The City may borrow money for public lighting facilities and may incur obligations and issue bonds therefore to the maximum extent permitted by law.

## **Sec. 8-504. Use of Borrowed Funds.**

Each obligation shall contain on its face a statement of the purpose for which it is issued and no officer of the City may use the proceeds for any other purpose, except that, whenever all or any part of the proceeds of any issue remains unexpended and unencumbered for the purpose for which the issue was made, the City may use those unexpended and unencumbered funds in any manner permitted by law or for the retirement of the issue, or, if the issue shall have been fully retired or if any funds remain after retirement of the issue, then for the retirement of other obligations of the City.

## **Sec. 8-505. Execution of Obligation.**

All obligations issued by the City shall be executed with the facsimile signature of the Mayor and signed by the Director of Finance and shall bear the seal of the city. Interest coupons shall be executed with the facsimile signatures of the Mayor and the Director of Finance.

## **Sec. 8-506. Tax Exempt.**

All obligations issued by the City shall be exempt from all city taxation.

## **ARTICLE 8. PLANNING AND FINANCIAL PROCEDURES**

### **CHAPTER 6. SPECIAL ASSESSMENTS**

## **Sec. 8-601. Power To Assess.**

The City may determine that the whole or any part of the expense of any local public improvement or repair shall be defrayed by special assessments upon the property specially benefited and so declare by resolution.

Special assessments may be levied before, during, or after the making of the improvement. However, where special assessments are not levied until after commencement of a local public improvement, the resolution levying those assessments shall not be effective unless approved by a two-thirds (2/3) majority of City Council members serving after all

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interested parties have been given an opportunity to be heard on all relevant issues, including necessity.

## **Sec. 8-602. Special Assessments to Finance Transit Facilities.**

Included within section 8-601 is the power to finance any local improvements or repair for public transportation or rapid transit facilities through special assessments to the maximum extent permitted by law.

## **Sec. 8-603. Procedure Ordinance.**

The complete special assessment procedure to be used, including the preparing of plans and specifications; estimated costs; the preparation, hearing and correction of the special assessment roll; the collection of special assessments; the assessment of single lots of parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments, if the prior assessments prove insufficient to pay for the improvement or is determined to be invalid, in whole or in part, and shall also provide for the refund of excess assessments; however, if the excess is less than five percent (5%) of the total costs as defined by ordinance, it may be placed in the general fund of the City.

## **Sec. 8-604. Assessment Lien.**

From the date of confirmation of any roll levying any special assessment, the full amount of the assessment and all interest thereon shall constitute a lien on the property subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent city property taxes.

## **Sec. 8-605. Contest of Assessments.**

No action of any kind may be instituted for the purpose of contesting or enjoining the collection of any special assessment (a) unless, the special assessment is first protested at the hearing held for the purpose of confirming the special assessment roll; and (b) the action is commenced within thirty-five (35) days after the final decision, ruling, determination or order confirming the roll. If the Corporation Counsel submits a written opinion finding the roll illegal, in whole or in part, the City Council may revoke its confirmation, correct the illegality, if possible, and reconfirm it, provided that no property shall be assessed more than

was imposed upon the original confirmation without further notice and hearing thereon.

City Council may by ordinance provide a process for contest of special assessments which is in accordance with state law and is not inconsistent with this section.

*COMMENTARY: This section has been revised to comply with the MCL 205.735a, which requires a 35 day timeframe for commencing an action and does not allow for prior written notice as is mandated by the 1997 Charter. Therefore, the 35 day timeframe has replaced the 30 day timeframe and the written notice requirement has been removed.*

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **CHAPTER 1. COMMUNITY ADVISORY COUNCILS**

#### **Sec. 9-101. Definition and Purpose.**

Community Advisory Councils as used in this chapter are advisory councils established by ordinance upon the petition of city residents. The purpose of these Councils is to improve citizen access to city government. The City Council shall create advisory council districts by ordinance that shall be the same as districts from which council members are elected, exclusive of the at-large district. The ordinance shall be adopted within ninety (90) days after the effective date of this Charter.

*COMMENTARY: Direct citizen participation in government in a formal and institutionalized manner is considered an effective means to achieve community objectives and improve the overall condition of a city. Sections 9-101 to 9-103 are devised to accomplish these ends. Community Advisory Councils were formerly mandated by the 1997 Charter but subsequently repealed on November 3, 1998. A movement toward greater public participation in government occasioned by the 2009 citizen adoption of a City Council district model legitimizes restoration of Community Advisory Councils. This Charter attempts to provide for greater citizen participation in government decision making in several revisions, including this section and sections regarding district representation on certain public boards and commissions (e.g. City Planning Commission, Transportation Advisory Board, Historical Commission, Health Advisory Board, etc.)*

*Section 9-101 enables the establishment of Community*

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*Advisory Councils corresponding to the non at-large City Council districts. Adoption of the implementing ordinance must occur within ninety (90) days of the effective date of this revised Charter.*

### **Sec. 9-102. Creation and Composition of Advisory Councils.**

City Council shall by ordinance establish seven (7) Community Advisory Councils upon receipt of a petition from the residents of districts created under section 9-101. The petitions shall be signed by a number of qualified registered voters who are residents of a district equal to not less than ten (10) percent of the number of persons voting at the last municipal general election in the district.

Each Community Advisory Council shall consist of five (5) members elected from a single non at-large district, who shall be residents and qualified and registered voters of the district; one (1) youth member between the ages of thirteen (13) and seventeen (17); and one (1) member selected as a representative for senior issues. City Council shall establish by ordinance a procedure for the selection and appointment of the high school member and senior issues representative on Community Advisory Councils. After creation of a Community Advisory Council, elected members shall be elected at the next election occurring in the city, if permitted by law, and shall serve until January 1 of the year following the regular city municipal elections. Thereafter, elected Community Advisory Council members shall be elected to four (4) year terms at the regular city municipal elections. Notwithstanding election to an initial term of less than four (4) years, an elected member may not be elected to more than two (2) consecutive four (4) year terms. The senior issues representative selected in accordance with the City ordinance shall serve one (1) four (4) year term, and may be reappointed. The youth member selected in accordance with City ordinance shall serve a one (1) year term and may be reappointed for as long as the person meets the age requirement. Reappointment of the youth member shall be for one (1) year terms. All members shall serve without compensation.

The City Council member elected from the non at-large district in which a Community Advisory Council resides, or their designee, shall attend all official meetings of that Community Advisory Council.

*COMMENTARY: Section 9-102 sets forth the process for creating the advisory councils. A petition request from registered and qualified voters within each of the seven (7) districts is necessary to create the*

*Community Advisory Council for that particular district. The pre-repealed section 9-102 language from the 1997 Charter has been retained as it relates to the election of members to the Community Advisory Councils. Thus, once a Community Advisory Council is established, election to it shall occur at the next election occurring in the city, as permitted by law. All future elections will occur at the regularly scheduled four (4) year municipal elections, consistent with other city elective officers.*

*This new Charter recognizes the importance of youth and seniors issues and the role of these constituencies in the vibrancy and revitalization of the City. Thus, this revised Charter mandates that City Council establish an ordinance to guarantee that there is representation of these interests and concerns on Community Advisory Councils. While non at-large district City Council members from the respective Community Advisory Council district are not made members of the Community Advisory Council as in the 1997 Charter prior to repeal of this chapter, they are required to attend all official meetings.*

### **Sec. 9-103. Powers, Duties and Limitations.**

City Council shall, by ordinance, prescribe uniform procedures, for the exercise of the powers and duties for all Community Advisory Councils. Included in those powers and duties shall be the provision that a community council may require that the City Council representative receive prior consultation from the Community Advisory Council on all issues which relate exclusively to that district.

Community Advisory Councils shall receive no appropriations from city funds, but may accept donations or grants in accordance with state, federal or local law.

A particular Community Advisory Council shall be dissolved only by a petition signed by the same number of qualified voters residing in the Community Advisory Council district required above, and an ordinance adopted after public hearing by City Council with public notice to the Community Advisory Council district in question.

Each Community Advisory Council shall hold public meetings not less than four (4) times each year. The meetings will be held within the respective districts and will be held in donated facilities with an attempt to provide as broad of a geographical distribution for the meetings as possible. The meetings shall be held in accordance with the Michigan Open Meetings Act and

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the Community Advisory Councils shall comply with the Michigan Freedom of Information Act.

The powers and duties of each Community Advisory Council shall include:

1. Communicating to City Council the concerns of groups, agencies, businesses and residents within its districts with respect to the delivery of programs and services.
2. Assisting groups, agencies, businesses and residents in community problem solving by meeting with groups to:
  - a. Clarify issues; and
  - b. Demonstrate proper procedural approaches to accessing city government.
3. Disseminating information to groups, agencies, businesses and residents on social and physical plans for the districts areas.
4. Providing advice to community representatives and City Council on major issues within the council district which may include:
  - a. Housing development;
  - b. Commercial blight;
  - c. Safety and security;
  - d. Economic and community development;
  - e. Employment opportunities;
  - f. Code enforcement; and
  - g. Other concerns impacting social, economic, cultural and environmental conditions within the district.
5. Familiarizing themselves with the City Charter, with the objective of assisting the community in understanding the intent and relevance of Charter provisions.
6. Familiarizing themselves with the Master Plan for the City of Detroit in relationship to the City generally and the land area within their district generally.
7. Meeting annually with the Mayor and annually with City Council to discuss the challenges confronting the district and the resources required to advance the interest and support the viability of the district.

**COMMENTARY:** Section 9-103 details the intended

*duties and functions of Community Advisory Councils that are to be incorporated into the mandated ordinance and provides for a method of dissolution of Community Advisory Councils. The public nature of these bodies and the importance of the principle of transparency are indicated by language making them subject to the Michigan Open Meeting Act and Freedom of Information Act. Community Advisory Councils are required to have a minimum of four (4) meetings a year in a manner that allows for a broad geographical distribution of meeting locations.*

## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 2. COUNCIL OF THE ARTS

#### **Sec. 9-201. Council of the Arts.**

The Council of the Arts, comprised of fifteen (15) members, shall be appointed by and serve at the pleasure of the Mayor. Each member's term is four (4) years. Not more than four (4) terms expire each year.

The Council shall act as an advisory body to the Mayor and the City Council and as advocate for the arts and aesthetics in all aspects of city life. It shall advise and support cultural institutions and groups interested in cultural activities. It shall encourage, develop and support a wide variety of programs which reflect the cultural needs and experiences of all citizens and shall encourage participation by all citizens in the cultural activities carried on in the city.

The Council of Arts may, within appropriations appoint an Executive Director, exempt from Article 6, Chapter 4 of this Charter. The Executive Director serves at the pleasure of the Council.

## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 3. REGULATORY POWER and REVIEW

#### **Sec. 9-301. Regulatory Power.**

The City may, in exercise of its police power:

1. Regulate;
2. Prohibit; or
3. Prohibit except as authorized by permit, license or franchise any trade, occupation, amusement, business or other activity within the city.

# HOME RULE CHARTER

## **Sec. 9-302. Appellate Review.**

The City shall provide, by ordinance, for the review of administrative decisions of city agencies which are not within the appellate jurisdiction created by other sections of this Charter.

This section shall not be construed to diminish the right of any party to direct any immediate legal or equitable remedies in any court or other tribunal.

## **Sec. 9-303. Limitations on a Franchise.**

An irrevocable franchise and all renewals, amendments and extensions of it, may be granted only by ordinance.

The City Council may approve such an ordinance only after a public hearing has been held on it and after the grantee named in it has filed with the City Clerk its unconditional acceptance of all the terms of the franchise.

The ordinance may not take effect unless it has been approved by the voters of the city, where state law so requires, or, unless it has been approved by a two-thirds (2/3) majority of City Council members serving, where approval of the voters is not required by state law.

When approval of the voters of the City is required, the ordinance as approved by the City Council shall be published in a daily newspaper of general circulation in the city not less than thirty (30) days before the election at which it is submitted to the voters. The City Council may not call a special election unless the expense (as determined by the City Council) of holding the election has first been paid to the Treasurer by the grantee.

A franchise for the use of the streets or other public places of the city or for the transaction of a local business may not be sold or transferred in any manner, nor may a party other than the grantee use the franchise, unless the city gives its consent by ordinance.

## **Sec. 9-304. Standard Provisions of a Public Utility Franchise.**

Public utility franchises shall include provisions for fixing and periodically readjusting rates and charges at the direction of the City.

The City may, with respect to any public utility franchise granted by it, whether or not so provided in the granting ordinance:

1. Repeal the franchise for:
  - A. Violation of or failure to comply with any of its provisions,
  - B. Misuse or non-use, or
  - C. Failure to comply with any regulation imposed under authority of this Charter;
2. Require proper and adequate extension and maintenance of plant facilities at the highest practicable standard of efficiency;
3. Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
4. Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period of the franchise;
5. Impose other regulations determined by the City Council to be conducive to the health, safety, welfare, and convenience of the public; or
6. Require the public utility to permit joint use of its property and equipment, located in the streets and public places of the City, by the City and other utilities, insofar as joint use may be reasonably practicable, and, in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions, for joint use.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **CHAPTER 4. SPECIFIC RESPONSIBILITIES**

#### **Sec. 9-401. Board of Review.**

The City Council may, by ordinance, sit as a Board of Review to the extent allowed by law, or appoint a Board of Review to hear and determine appeals from property tax assessments. The board shall possess the duties and powers provided by law, which may be exercised by the whole board or by committees thereof. An appointed board shall consist of at least seven (7) members appointed from each of the non at-large districts.

## HOME RULE CHARTER

Appeals from decisions of the board shall be taken in the manner provided by law.

*COMMENTARY: This section has been revised to require district representation on the Board of Review. This revision is part of the Charter Commission's goal of increasing citizen participation in government as it relates to the membership of certain Charter created boards and commissions.*

*Also, this section has been revised to clarify that City Council may sit as a Board of Review only to the extent permitted by law.*

### **Sec. 9-402. Hospitals.**

The City shall provide, by ordinance, for the operation of any city hospital by a division of a public health agency, by a department of hospitals, or by a non-profit public corporation.

Notwithstanding section 5-103, the ordinance may provide for the administration of a hospital by a commission which may appoint a director and deputy director, exempt from Article 6, Chapter 4. Such an ordinance and any amendment to it shall originate with the Mayor, except that an ordinance, providing for the operation of a city hospital by a non-profit public corporation, and any amendment thereto, may originate with either the Mayor or the City Council.

### **Sec. 9-403. Revision Question.**

The question of whether there shall be a general revision of the City Charter shall be submitted to the voters of the City of Detroit at the gubernatorial primary of 2018, and at every fourth (4th) gubernatorial primary thereafter and may be submitted at other times in the manner provided by law. A primary election shall be held for the offices of Charter Revision Commissioners at the same election and shall be void if the proposition to revise is not adopted. If the proposition to revise is adopted, Charter Revision Commissioners shall be elected at the ensuing general election for governor.

### **Sec. 9-404. Schools.**

Every resident of Detroit has a right to an education that will permit the full development of his or her potential. City government has a responsibility to cooperate with the school districts serving the people of Detroit in the achievement of this objective and to exercise such influence and to provide such ancillary or supplemental services to the people or to the school

districts as may be necessary or helpful in the furtherance of this objective.

### **Sec. 9-405. Elimination of Redundancy in Government.**

Every effort shall be made by city elective officers, employees, and branches and units of government to reduce duplication of efforts and increase and maintain efficiency in the operations of city government.

Within one hundred eighty (180) days of the effective date of this Charter, the Executive and Legislative branches, and City Clerk shall conduct a comprehensive evaluation of its programs, services, activities, policies and operations to identify and eliminate any redundancy. Thereafter, the evaluations shall be made within the first quarter of the year following the regular city general election. Each evaluation shall result in a compiled report of the City of Detroit entitled "*Report on Elimination of Redundancy*", which, at a minimum, outlines the efforts and means taken to identify redundancy, makes findings on redundancy and details methods implemented to eliminate, reduce or avoid redundancy. The report shall be published and presented to City Council and the Auditor General in April of the year of its completion.

As much as practicable attempts shall be made to realign service delivery systems and eliminate operational duplication and inefficiency, which may include cooperative agreements with other government entities as allowed by law.

*COMMENTARY: This new section institutionalizes a process for reducing costs by identifying duplication in the City's policies, programs, activities and operations. This process has been statutorily and successfully mandated at the federal level. In its first annual report to Congress on duplication in the federal government, the Government Accountability Office revealed among other potential savings, \$5.7 billion merely related to duplicate policies and efforts regarding domestic ethanol production and estimates saving in the hundreds of billions based on its review of federal government operations. (See, GAO report entitled "Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue.")*

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## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 5. SPECIFIC POWERS

#### Sec. 9-501. Eminent Domain.

The City has the power of eminent domain and, to the extent permitted by law, may condemn private or public property, located within or outside the city, for any public purpose. This power may be exercised in accordance with any procedure authorized by law or ordinance.

Private property may not be taken without just compensation therefore being first paid or secured. Further, the City may, by ordinance, provide supplemental compensation for property taken. Where the conduct of the City constitutes a taking of property under the law, any party injured by such a taking may institute an inverse condemnation action in a court of appropriate jurisdiction.

#### Sec. 9-502. Enabling Legislation.

The City may enact any ordinance authorized by law or necessary to carry out the provisions of any section of this Charter.

#### Sec. 9-503. Historic Areas and Landmarks.

The preservation of historic areas and landmarks is declared to be a public purpose.

The City may provide, by ordinance, for the preservation of historic areas and landmarks within the city.

When an area is designated an historic district, the designation may not be withdrawn without the consent of a majority of the property owners within the district and the requirements of the district applicable to private property may be enforced upon the complaint of any property owner or association of property owners within the district.

#### Sec. 9-504. Library.

The City may make appropriations to, and exercise its power in aid of, the Detroit Library Commission for the operation of libraries within the City.

#### Sec. 9-505. Penalties.

The City shall by ordinance, provide punishment, up to the extent permitted by law, for the violation of this Charter or any ordinance.

All persons prosecuted for the violation of this Charter or any ordinance shall be afforded all rights of due process required by federal and state law.

#### Sec. 9-506. Rents, Tolls, Excises and Taxes.

The City may provide for the laying and collecting of rents, tolls, excises and taxes in accordance with section 4-114.

#### Sec. 9-507. Service Fees.

Any agency of the City may, with the approval of the City Council, charge an admission or service fee to any facility operated, or for any service provided, by an agency.

The approval of the City Council shall also be required for any change in any such admission or service fee.

*COMMENTARY: This section clarifies that City Council must approve any subsequent change to previously approved service and admission fees.*

#### Sec. 9-508. Utilities.

##### 1. Acquiring and Financing of City-Owned Utilities

The City may acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain public utilities and borrow money, levy taxes, or make other arrangements for the financing of public utilities to the maximum extent permitted by law or this Charter. Included is authority to acquire and maintain or participate in the acquisition of maintenance of a bridge or tunnel across the Detroit River or to acquire, own and operate ferry boats on the Detroit River and surrounding water.

As used in the chapter, public utility means any business or service affected with the public interest as defined by general law.

##### 2. Rates.

Except as provided by section 7-1202, the City shall, by ordinance, fix just and reasonable rates and such



# HOME RULE CHARTER

other charges as may be necessary for supplying city utility services to the residents of the City and others.

### 3. Enforcement.

The City shall provide, by ordinance, for the enforcement of city utility rates and charges.

### Sec. 9-509. Parking Fines.

The City Council shall, by ordinance, adopt a schedule of fines and penalties for parking violations.

### Sec. 9-510. Incentives for City-Based Businesses.

The City shall provide by ordinance for incentives to business entities located within the City of Detroit, to the extent permitted by law. The City may adopt a purchasing ordinance with a system of incentives for Detroit-based businesses. The incentives may provide for businesses located in economic zones of the City, or for community-based enterprises, as defined by ordinance. This ordinance shall be enacted no more than one hundred eighty (180) days after adoption of this Charter.

*COMMENTARY: This section has been substantively revised to allow the City to provide incentives to community-based enterprises and bring it into conformance with the current state of the law by removing reference to “set-asides.” Language has also been removed that allowed the ordinance referred to in this section to “provide for defined areas which do not grow in assessed value at the rate of inflation, according to the annual consumer price index.”*

## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 6. RETIREES’ REPRESENTATION

#### Sec. 9-601. Retirees’ Representation.

Retired general city employees are entitled to be represented in the City legislative and budgetary proceedings on issues affecting their interest by persons elected by them.

## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 7. RISK MANAGEMENT

#### Sec. 9-701. Risk Management Council.

The Risk Management Council is an advisory body to the Mayor comprised of:

1. A chairperson, appointed by the Mayor, who shall be an appropriately qualified Mayoral cabinet-level official, which may not be any person identified in this section;
2. The Corporation Counsel;
3. The Chief of Police;
4. The Finance Director;
5. The Human Resources Director;
6. The Auditor General;
7. A City Council designee who is a city employee, other than a member of City Council;
8. The Inspector General; and
9. The Transportation Director.

*COMMENTARY: The Risk Management Council has been expanded to include the Inspector General, Transportation Department Director, a City Council designee and an executive cabinet-level Chairperson appointed by the Mayor. This expanded Council assures representation and involvement of both branches of government and permanent, identified leadership. Also, placing the Inspector General on the Risk Management Council is consistent with the functions of the office, all of which significantly implicate risk (e.g., fraud, waste and abuse). The Transportation Department Director has been included on the Council because of the significant number of claims the department receives and the risks that the operation of the transportation system poses to the City.*

*The language has been revised to make clear that the Council is a purely advisory body and that the duties are in addition to those of a member’s regular position.*

*To stress the importance of the Risk Management Council, the right of members to serve by Deputy or other person from their department has been removed. It is intended that these chief officers of City departments attend and participate in the process of investigating and devising means to minimize liability and risk exposure.*

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## Sec. 9-702. Duties.

In addition to their regular duties, members of the Risk Management Council shall have the following duties:

1. The Risk Management Council shall make recommendations to the Mayor, and shall have authority to implement the Mayor's directives concerning implementation of policies, programs and activities to minimize exposure or liability of the City to claims and damages.
2. The Risk Management Council shall produce, with the assistance of the Finance Department, a quarterly report that summarizes its evaluation, monitoring and coordination of the City's comprehensive risk management strategy.
3. The Risk Management Council shall prepare for the Mayor and City Council an annual strategic risk management report, in conjunction with the Finance Department, which evaluates the effectiveness of risk management functions within the City. Included in the report shall be recommendations on, and identification of, city-wide and agency and department specific, risk reduction strategies and projected savings from implementation of these strategies.
4. The Risk Management Council and Finance Department shall formulate a cost system to monitor, control and report on all potential risk and liability costs to the City of Detroit.
5. Assisted by the Finance Department, the Risk Management Council shall provide an annual report to the Mayor and City Council summarizing claims that have been paid by the City on risk related matters including, but not limited to, the settlement of lawsuits, pre-litigation claims and worker's compensation claims. The report shall provide recommendations for risk avoidance and liability exposure reduction measures related to these claims. Release of the report shall coincide with the Mayor's annual submission of the proposed budget to City Council.

Annually the Risk Management Council shall assess the administration and effectiveness of safety, liability and risk reduction functions in each city agency, and report findings and recommendations to the Mayor and City Council. The City shall make an annual appropriation for the operation of the Risk Management Council that is adequate to perform its duties.

*COMMENTARY: Risk management is an important function within City government. It requires the collective insight and cooperation of City departments and agencies in order to adequately assess and reduce the City's liability and exposure to risk. This section has been significantly revised to strengthen and expand the functions of the Risk Management Council along the lines of reducing the City's exposure to risk and liability throughout government, which can result in significant savings and improved safety. Lastly, in order to assure that the Risk Management Council can perform its expanded functions the City is directed to provide adequate funding.*

## ARTICLE 9. MISCELLANEOUS PROVISIONS

### CHAPTER 8. INSURANCE ASSISTANCE

#### Sec. 9-801. City Sponsored Insurance Assistance.

To the extent allowed by law, the City of Detroit may establish an insurance system to provide, support, supplement or otherwise assist in the provision of automobile and/or property insurance for City residents. Within sixty (60) days of the effective date of this Charter, the Corporation Counsel shall advise the City Council and Mayor, in writing, on the legal requirements necessary to implement the insurance systems contemplated by this chapter and whether there exists any legal prohibition to implementing the insurance system.

No insurance system shall be implemented without the Mayor and City Council jointly commissioning a feasibility study that must demonstrate the ability of the City to fund, sustain and operate the insurance system in a fiscally responsible manner. Any insurance system implemented by the City shall be done pursuant to ordinance and in accordance with applicable laws.

City Council may, by majority vote, discontinue the operation of any insurance program implemented under this chapter.

*COMMENTARY: This Charter recognizes that an essential component of a stable and thriving municipality is an affordable quality of life. Central to this is the ability to purchase automobile and property insurance at reasonable and competitive rates. For decades citizens have been plagued by excessively high automobile and home insurance rates that foster residential flight, compounds economic hardship and may encourage improper insurance activity by citizens.*

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*In order to directly address this critical issue, this revised Charter empowers the City of Detroit to investigate and institute an insurance system to the extent feasible and permitted by law.*

## ARTICLE 10. COURTS

### Sec. 10-101. Courts.

The organization, powers, procedures and practices of the courts with jurisdiction for cases involving violations of this Charter or city penal ordinances shall be as provided by this Charter or ordinance, in accordance with state law.

The City may make appropriations for the operation of any court where it is in the city's interest to do so and shall dispose of revenues resulting from the collection of fines in accordance with law.

## ARTICLE 11. RETIREMENT PLANS

### Sec. 11-101. City's Duties.

1. The City shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees.

2. Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and that funding shall not be used for financing unfunded accrued liabilities.

3. The accrued financial benefits of active and retired city employees, being contractual obligations of the city, shall in no event be diminished or impaired.

### Sec. 11-102. Continuation of Existing Plans.

The retirement plans of the city existing when this Charter takes effect, including the existing governing bodies for administering those plans, the benefit schedules for those plans and the terms for accruing rights to and receiving benefits under those plans shall, in all respects, continue in existence exactly as before unless changed by this Charter or an ordinance adopted in accordance with this article.

### Sec. 11-103. Principles Applicable In Administering Plans.

Not more than two (2) governing bodies for administering the city's retirement plans may be

established, whose membership is set forth in this section, subject to applicable law.

1. The Board of Trustees of the General Retirement System shall consist of:

- a. The Mayor;
- b. A City Council member selected by that body;
- c. The City Treasurer;
- d. Five (5) members of the retirement system, to be elected by the members of the retirement system under rules and regulations as may be adopted by the Board; except that not more than one (1) trustee shall be elected from any department;
- e. A citizen of the City who is neither an employee of the city nor eligible to receive benefits under the retirement system, appointed by the Mayor, subject to approval of the Board; and
- f. One (1) retirant, receiving benefits under the retirement system and elected by retired city employees under procedures established by ordinance.

2. The Board of Trustees of the police and fire retirement system shall consist of:

- a. The Mayor or in the absence of the Mayor, a designee;
- b. A City Council member selected by that body;
- c. The City Treasurer;
- d. The Chief of Police;
- e. The Fire Commissioner;
- f. Three (3) firefighters who are members of the retirement system elected by the firefighter members under the rules and regulations as may be adopted by the Board. Trustees shall be:
  - (1) Two (2) to be elected by and from members holding the rank of lieutenant (or equivalent) and lower ranks.
  - (2) One (1) to be elected by and from members holding a rank above lieutenant (or equivalent);

# HOME RULE CHARTER

g. Three (3) police officers who are members of the retirement system elected by police officer members under the rules and regulations as may be adopted by the board. Trustees shall be:

(1) Two (2) to be elected by and from members holding the rank of lieutenant (or equivalent) and lower ranks.

(2) One (1) to be elected by and from members holding a rank above lieutenant (or equivalent); and

h. Two retirants, receiving benefits under the retirement system, who shall be residents of the city, one elected by retired firefighters and one elected by retired police officers under procedures established by ordinance.

Staff services required by a governing body shall be provided as determined by the Finance Director.

*COMMENTARY: The 1997 Charter allows one (1) retirant on the board of the Police and Firefighters Retirement System. This section has been revised to allow for two (2) retirants board members, one selected by retired police officers and the other by retired firefighters.*

*The section has been further revised to clarify that membership on the retirement boards is subject state law.*

## **Sec. 11-104. Information Required Before Benefit Increase.**

Before final action on any proposed change in future retirement benefits is taken, the City Council shall obtain a report as to the immediate and long-term costs of the change from an independent actuary of its choosing and may not take final action until at least three (3) months after the report of the actuary is made public at a meeting of the City Council.

## **Sec. 11-105. Audits.**

The Board of Trustees for the city retirement plans shall contract for annual independent audits.

## **ARTICLE 12. INITIATIVE and REFERENDUM**

### **Sec. 12-101. Initiative and Referendum.**

The voters of the city reserve the power to enact city ordinances, call the “initiative”, and the power to nullify ordinances, enacted by the city, called the “referendum”. However, these powers do not extend to the budget or any ordinance for the appropriation of money; the referendum power does not extend to any emergency ordinance.

The initiative and the referendum may be invoked by petition as provided in this chapter.

### **Sec. 12-102. Petitions.**

Initiative and referendum petitions must be signed by voters of the City, not less in number than three percent (3%) of all votes cast for the office of Mayor at the preceding regular city general election.

Petitions shall set forth in full, the measure to be initiated or referred, as well as a brief statement of its substance. If the measure is submitted to the voters, that brief statement shall appear on the official ballot.

Signers of the petitions shall be voters of the City. Each signer shall sign his or her name indelibly and shall indicate his or her residence and the date of signing. Each petition paper shall contain a sworn affidavit of the circulator stating the number of signers on each petition paper; that each signature is, to the knowledge of the circulator, the genuine signature of the person whose name it purports to be; and that it was affixed in the presence of the circulator.

### **Sec. 12-103. Time of Filing.**

An initiative petition must be filed with the City Clerk not less than one hundred and forty (140) days before the election at which it is to be voted on.

A referendum petition must be filed with the City Clerk before the ordinance on which the referendum is sought, takes effect or, where the ordinance is given immediate effect, within thirty (30) days after its effective date.

### **Sec. 12-104. Filing and Canvass of Petitions.**

Petitions to adopt or rescind an ordinance shall be filed with the Office of the City Clerk. The City Clerk shall verify the number of petitions that were filed and

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transmit petitions to the Department of Elections for a canvass of the petitions. Within ten (10) days of receipt, the Department of Elections shall canvass the signatures thereon to determine their sufficiency and make a report of the result to the City Council. Any signature on an initiative petition obtained more than six (6) months before the filing of the petition with the Office of the City Clerk shall not be counted.

**COMMENTARY:** *In addition to being renamed, several grammatical changes have been made to this section. Additionally, it has been substantively changed as it now reflects the current practice for the filing and canvassing of petitions needed to adopt (an initiative) or rescind (a referendum) ordinances. This includes the City Clerk verifying the number of petitions filed and forwarding them to the Department of Elections to be canvassed. The Department of Elections is required to canvass the signatures within 10 days of receipt and report their results to City Council. The 1997 Charter assigned all of these duties to the City Clerk.*

*Lastly, the title to this section has been revised to better reflect its contents.*

### **Sec. 12-105. Insufficient Petitions.**

If the Clerk's canvass discloses that the number of signatures on petitions for any initiative or referendum is insufficient, additional petitions may be filed within fifteen (15) days after the Clerk's determination. When this fifteen (15) day period has expired, the Clerk shall again canvass the signatures on the petitions filed to determine their sufficiency and make a report of the result.

### **Sec. 12-106. Suspension of Ordinance.**

Where a referendum on an ordinance has been invoked under section 12-103, the effect of the ordinance shall be delayed or suspended until the City Clerk has made a final report that the referendum petitions are insufficient or, if the referendum petitions are sufficient, until the voters of the City have expressed their support for the ordinance in the referendum election.

### **Sec. 12-107. Time Limit for Enactment or Repeal of Ordinance.**

Upon the report of the Department of Elections that the initiative or referendum petitions are sufficient, and filed within the time limits provided by this Charter, the City may within sixty (60) days:

1. In the case of an initiative petition, enact the ordinance, which is proposed by the petition, in accordance with Section 4-115, 4-117, 4-118 of this Charter; or
2. In the case of referendum petition, repeal the ordinance, which is set out in the petition, in accordance with Section 4-115, 4-117, 4-118 of this Charter.

**COMMENTARY:** *This section has been renamed to accurately reflect the subjects covered by this section. Additionally, it has been revised to reflect the current procedure for enacting or repealing ordinances pursuant to initiative or referendum, respectively. The Department of Elections and not the City Clerk as stated in the 1997 Charter, currently reports to City Council on the sufficiency of initiative and referendum petitions and their timely filing. This section has been amended accordingly. Also, the timeline within which City Council is required to enact or repeal the ordinance that is the subject of the initiative or referendum has been increased from thirty (30) to sixty (60) days. Thirty (30) days has proven to be a difficult time frame within which to enact or repeal an ordinance as a result of City Council's adoption of a Committee structure for handling its business. The committee structure was not in existence at the time of the original adoption of this section. Rather the City Council disposed of its business under a Committee of the Whole structure, which was amenable to the thirty (30) day time frame. With the evolution of city government, the thirty (30) day period for enacting or repealing ordinance under this section has become unworkable. A sixty (60) day time period is both practical and non-prejudicial, in light of the current practice.*

*Language has also been added to clarify that sections 4-115 (Ordinance Procedure), 4-117 (Procedure for Approval or Veto by Mayor and City Council's Override of Veto) and 4-118 (Publication of Ordinances and Effective Date) apply to enactment or repeal of ordinances under 12-107, which is the present practice. Lastly, the language requiring the measure to be submitted to voters where the City fails to enact or repeal the measure sought in the initiative or referendum petition has been retained but moved to section 12-108.*

*Lastly, the title to this section has been revised to better reflect its contents.*

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## **Sec. 12-108. Submission to Election Commission and Voters.**

If the City fails to enact or repeal the ordinance in accordance with Section 12-107 of this Charter, the City Council shall forward the proposed initiative or referendum petition to the Election Commission. The Election Commission shall make a determination as to whether the question can lawfully be placed on the ballot and report their conclusions to the City Council. If there is no legal impediment to placing the measure on the ballot, the Election Commission shall place the question on the ballot and submit the measure to the voters in accordance with the applicable requirements of Michigan Election Law, MCL 168.1, *et seq.*

If a measure must be submitted to the voters, it shall be submitted:

1. In the case of an initiative or referendum, at the next election in the city, or, in the discretion of the City Council, at a special election, subject to applicable provisions of the Michigan Election Law, MCL 168.1, *et seq.*

Except as otherwise required by law, the result of any initiative or referendum election shall be determined by a majority of the voters voting on the question.

*COMMENTARY: This section has been revised to add language removed from section 12-107 regarding submission of measures to voters when the City fails to adopt or repeal an ordinance pursuant to the initiative and referendum procedure in the Charter, and spells out the procedure for doing so. Although it is the Election Commission's current practice, language has been added that the Election Commission is charged with determining the legality of the measure to be adopted or repealed. This revision recognizes that certain ordinances are required by law and cannot be repealed, while certain other proposed new ordinances may be expressly prohibited by law and thus are incapable of adoption.*

*Language has been added to the duties of the Election Commission requiring that, as a formality, it report its conclusion to the City Council as to the legality of the proposed initiative or referendum question.*

*The reference to seventy (70) days was removed from numbered paragraph two (2) of the 1997 Charter in favor of reference to the Michigan Election Law, which regulates the time frame in which local questions can be placed on the ballot (Michigan Election Law, MCL*

*681.646a(2)) and paragraph two (2) has been merged with numbered paragraph one (1).*

*Lastly, the title to this section has been revised to better reflect its contents.*

## **Sec. 12-109. Amendment, Repeal and Re-Enactment.**

An ordinance adopted by the voters through initiative proceedings may not be amended or repealed by the city for a period of twelve (12) months after the date of the election at which it was adopted, and an ordinance nullified by the voters through referendum proceedings may not be re-enacted by the city for a period of twelve (12) months after the election at which it was defeated.

## **Sec. 12-110. Submission by Council.**

The City Council may, on its own motion, submit any proposed ordinance or any proposal for the repeal or amendment of any ordinance to the voters in the manner and with the effect provided in this chapter for submission of proposals initiated by petition.

## **Sec. 12-111. Similar or Conflicting Measures.**

If two (2) or more initiative or referendum measures submitted to the voters of the city shall have conflicting provisions, or attempt to accomplish the same object, and more than one (1) of these measures is approved by the voters, the measure receiving the highest number of affirmative votes shall prevail to the extent of their inconsistency.

## **Sec. 12-112. Repeal or Amendment of Ordinance in Effect.**

The voters of the City may invoke the initiative power to repeal or amend an existing ordinance.

## **ARTICLE 13. SCHEDULE**

### **Sec. 13-101. Effect on Existing City Legislation.**

All ordinances and resolutions of the City and all orders, rules and regulations made by any officer or agency of the City which are not inconsistent with this Charter shall remain in effect, until changed by action taken under this Charter.

The Corporation Counsel shall, within six (6) months after the effective date of this Charter, recommend to the City Council such changes as may be necessary to

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make the provisions of the 1997 Charter which have been continued in force as well as existing ordinances, resolutions, orders, rules, and regulations consistent with this Charter.

*COMMENTARY: The year stated in this section has been amended from 1974 to 1997.*

## **Sec. 13-102. Continuation of Public and Private Rights.**

All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing when this Charter takes effect shall continue unaffected except as modified in accordance with this Charter.

## **Sec. 13-103. Rights of Officers and Employees.**

No provision of this Charter shall affect or impair the rights or privileges of city officers or employees existing when this Charter takes effect with respect to appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, or the civil rights or privileges of city officers or employees.

Any person who, at the time this Charter takes effect, holds a position in city government from which he or she could have been removed only for cause or under the rules of the Civil Service Commission, may not be removed under this Charter unless:

1. Cause for the removal is established in proceedings before the Civil Service Commission;
2. The person is transferred to another position in city government and is assured of salary and benefits at least as favorable as would have been earned by service in the position from which transferred until mandatory retirement age is reached; or
3. A mutually agreeable settlement is made by the City with the person discharging all rights against the City which the person may assert.

## **Sec. 13-104. Effective Date.**

Except as otherwise provided, this Charter shall become effective on January 1, 2012.

*COMMENTARY: The effective date for this revised Charter has been set as January 1, 2012.*

## **Sec. 13-105. Employees Benefit Plan.**

The governing provisions of the City of Detroit employees benefit plan may be changed by ordinance. However, the benefits provided by the City of Detroit employees benefit plan may be amended by resolution of the Detroit City Council.

The governing body of the employees benefit plan shall be the General Retirement System Board of Trustees, except the civilian member.

## **Sec. 13-106. Condemnation.**

The procedures for the exercise of the City's power of eminent domain existing when this Charter takes effect shall remain in effect until changed by ordinance.

## **Sec. 13-107. Fire and Police Pension Committees.**

The provisions of the 1974 Charter relating to the Fire Department Pension Committee and the Police Department Pension Committee, existing when this Charter takes effect, shall in all respects continue in existence exactly as before until changed by ordinance.

## **Sec. 13-108. Police Fund.**

The Police Commissioner's power under the 1974 Charter shall in all respects continue in existence exactly as before until changed by ordinance.

*COMMENTARY: This section was revised to include a non-substantive grammatical change.*

## **Sec. 13-109. Initial Appointments.**

Notwithstanding any provision of this Charter, the first appointments after the effective date of this Charter to the vacant positions on any multi-member body may be for varying terms less than the length prescribed by this Charter in order that thereafter not more than the specified number of terms will expire in any year.

The term of a member serving a fixed term of office on any multi-member body when this Charter takes effect shall expire at the end of the fixed term, unless otherwise indicated in this Charter. Appointments to vacancies arising on the multi-member bodies shall then be made in accordance with the provisions in this Charter.

*COMMENTARY: This section has been revised to recognize that the term of a member of a multi-member body may expire earlier than the fixed term, where*

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*stated in the Charter.*

### **Sec. 13-110. General Provision.**

If any question concerning transition from the 1997 Charter to this Charter (for which this Charter has not provided) arises, the City may provide for a resolution of the question by ordinance.

*COMMENTARY: This section seemingly allows for City Council to effectuate and implement this revised Charter by ordinance, where necessary. Accordingly, this section has been revised to reference the 1997 Charter and remove reference to the 1974 Charter.*

### **Sec. 13-111. Submission of the Charter.**

This Charter shall be submitted for adoption at the general election to be held November 8, 2011, in the manner and with the effect prescribed by state law as follows:

Proposal C - Proposal to Adopt a New City Charter.

Shall the City of Detroit Home Rule Charter proposed by the Detroit Charter Revision Commission be adopted?

Yes \_\_\_\_\_

No \_\_\_\_\_

*COMMENTARY: This section was amended to add the appropriate ballot question and submission date of the revised Charter.*



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