

City of Allen Park Charter

PREAMBLE

We, the people of the City of Allen Park, Michigan, in order to secure the benefits of efficient self-government, accountable to the people, with public participation and to promote our common welfare, do hereby enact and establish this Charter.

ARTICLE I

Article 1: Ethics:

Section 1.01: Ethical Principles for the Government of the City of Allen Park:

1. **Public office is a public trust.** Public servants should treat public office as a public trust, using the powers and resources of public office only to advance public interest, and not to attain personal benefits or pursue any private interest incompatible with the public good.
2. **Principle of independent, objective judgment.** Public servants should employ independent, objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and apparent improper influences.
3. **Principle of accountability.** Public servants should assure that government is conducted openly, efficiently, equitably, and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.
4. **Principle of democratic leadership.** Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of the laws and rules.
5. **Principle of respectability and fitness for public office.** Public servants should safeguard public confidence in the integrity of government by being honest, fair, caring, and respectful and by avoiding conduct which creates the appearance of impropriety or which is otherwise unbecoming a public official.*
6. **Principle of congeniality and productivity.** Public servants should encourage a congenial and productive atmosphere within the City by endeavoring, through their conduct and speech, to treat each other, elected officials, City employees, and the members of the general public, with courtesy and respect.

* Numbers 1 through 5 are from the Josephson Institute Government Ethics Center, Public Service Ethics, Summary of Principles and Guidelines.

ARTICLE II

Article 2: Incorporation; Powers, and Boundaries:

Section 2.01: Powers of the City:

The City and its officers shall have all of the powers and immunities permitted by law unless a power or immunity is specifically denied them by this Charter. These powers may only be exercised to promote the public peace and health and for the safety of persons and property and to advance the prosperity of the City and its people.

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State law reference – permissible that Charter provide that the City may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, **MCL 117.4j(3), MSA 5.2083(3).**

Section 2.02: Property:

The City shall have the power to acquire interests in property either by voluntary purchase or by eminent domain under the laws of the State of Michigan and shall have the right to deal with the property interest in any way allowed by the laws of the State of Michigan.

Section 2.03: Construction:

The powers of the City under this Charter shall be construed liberally in favor of the City, and 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.

Section 2.04: Intergovernmental Relations:

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

Section 2.05: Boundaries; One Election Ward:

The City shall embrace the territory constituting the City of Allen Park on the effective date of this Charter, recorded in the office of the City Clerk, and shall remain in force until changed in accordance with law. There shall be one election ward.

State law reference – incorporation, consolidation of territory and alteration of boundaries of home rule cities, **MCL 117.16 et seq., MSA 5.2085 et seq.**

ARTICLE III

Article 3: Definitions:

“Compensation” means salary, wages and any other remuneration.

“Default” includes delinquency in payment of taxes, assessments, and other indebtedness to the City

“Elector” means a resident of the City having the qualifications of an elector in the State of Michigan, and who has resided in the City at least 30 days.

“Employee” means an individual employed by the City other than an officer, volunteer, independent contractor, or employee of an independent contractor.

“Law” shall include applicable Federal law, the Michigan Constitution and statutes, and applicable common law and ordinance in effect at the time the provision of the Charter containing the word “law” is to be applied.

“Officer” or “Official” means any individual holding an elective or appointive position in the City of Allen Park or who has been invested with some part of the powers of the City.

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- “Person”** The word “person” may extend and be applied to an individual, a partnership, corporation, association or other legal entity.
- “Private Person”** means a resident of the City of Allen Park who is not an Officer or employee of the City of Allen Park.
- “Publish”** means publication for public information as provided by this Charter, by ordinance, or by Council resolution.
- “Remuneration”** means benefits, fringe or otherwise, cost of living adjustments, other than salary resulting from services rendered.
- “Singular and Plural”** The singular shall include the plural and the plural shall include the singular, unless the context indicates otherwise.
- “Statute”** All references to statutes shall include statutes as amended.
- “Tax Day”** shall be December 31st of each year, unless changed by law.
- “Tense”** means this Charter is to be regarded as speaking in the present tense and continuously, for example: the phrase “as provided by law” will incorporate the provisions of the law as they change from time to time.
- “Term of Office”** means a four year term of office for which an individual is elected. Appointment to fill a vacancy is not a term of office.

ARTICLE IV

Article 4: Standards of Conduct:

Section 4.01: Conflict of Interest:

An officer or employee who has a conflict between a personal interest and the public interest as defined by law shall fully disclose in writing to the City Clerk the nature of the conflict. Except as provided by law, no officer or employee of the City may participate in, act upon or vote upon any matter if a conflict exists.

State law reference – standards of conduct and ethics, **MCL 15.341** et seq., **MSA 4.1700(71)** et seq.

Section 4.02: Conflict Involving Financial Interest:

The state law on Contracts of Public Servants with public entities shall control while it remains in effect. At all other times this Section shall control. An officer or employee who has a substantial interest, direct or indirect, in any corporation, organization or business association doing business with the City shall make that interest known and shall refrain from voting upon or otherwise participating in transacting any business with such corporation, organization or business association. A substantial financial interest of an officer or employee shall include any known substantial interest, direct or indirect, of the officers or employee’s spouse or parents, grandparent, child, grandchild, brother or sister or the spouse of any of them. Violation of this Section with the knowledge of the person doing business with the City shall render the business transaction revocable by the Mayor and Council.

Section 4.03: Anti-Nepotism:

No person shall hold an appointed office or employment in which that person would work under the immediate supervision of a spouse or a parent, grandparent, child, grandchild, brother or sister or the spouse of any of them. This Section shall in no way

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disqualify such relatives or their spouses who are officers or employees of the City prior to the election or appointment of said official.

Section 4.04: Political Contributions or Support:

An officer or employee may not personally, or through an agent, command, coerce or attempt to coerce any person holding a position in the service of the City to pay, lend or contribute anything of value to a party, committee, organization, agency or person for the benefit of a person seeking or holding elected office or for the purpose of furthering or defeating a proposed law, ballot question or other measure that may be submitted to a vote of the electors. No solicitation shall take place during normal working hours.

State law reference – political activity by public officers and employees, **MCL** 15.401 et seq., **MSA** 4.1702(1) et seq.

Section 4.05: Political Activity:

Officers or employees shall conduct no political activity during their normal working hours.

Section 4.06: Private Use of City Property:

No officer or employee of the City shall devote any City property or labor for their own personal or political benefit or the personal or political benefit of others.

Section 4.07: Conduct Ordinance:

The City Council shall, within one year of the effective date of this Charter, adopt an ordinance which will put into effect the ethical standards of conduct described in the Preamble of this Charter and described in sections 4.01, 4.02, 4.03, 4.04, 4.05, and 4.06 of this Charter. In addition to those stated conditions, the ordinance shall be at least as restrictive as the State of Michigan statute on Standards of Conduct and Ethics, **MCL** 15.341 et seq.

Section 4.08: Board of Ethics:

The City Council shall, within one year of the effective date of this Charter, establish an independent Board of Ethics to administer and enforce the standards of conduct ordinance(s) adopted under Section 4.07 above. The Board shall consist of five electors of the City of Allen Park nominated, within thirty days of the effective date of the ordinance or within thirty days of any vacancy thereafter, by the Mayor and approved by the Council. The ordinance creating the Board of Ethics shall provide for one term of five years but shall stagger the initial terms so that one term expires each year and the persons first appointed may receive a term of less than five years. No member of the Board may hold elective or appointed office nor shall they be members of any other board or commission under the City or any other government. The ordinance shall authorize the Board to issue advisory opinions, conduct investigations on its own initiative and on referral or complaint, and refer cases for prosecution. The City Council shall appropriate sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it and designate the City Clerk as the staff person to assist the Board. The Board shall be entitled to advice from the City Attorney when it shall request such advice

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and may seek advice elsewhere whenever it resolves to do so. The Board shall file an annual report with the City Clerk in July of each year. The Board shall establish By-laws for the conduct of the Board and the election of its officers acknowledging that the chairperson may serve only one year as chairperson during their term of office.

Section 4.09: Penalties:

Any person who alone or with others willfully violates any of the provisions of this Charter shall be guilty of a violation of this Charter punishable as provided in Section 13.02 of this Charter.

ARTICLE V

Article 5: City Council:

Section 5.01: Composition; Powers; Defined:

There shall be a City Council of seven members, consisting of the six Councilpersons and the Mayor, who shall be deemed a member of the Council for all purposes. The Council shall constitute the legislative and governing body of the City and shall have power and authority, except as otherwise provided in this Charter or by statute, to exercise all powers conferred upon or possessed by the City, and shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise thereof.

All ordinances to be considered by the Council shall have at least a first and second reading by title. The third reading, including a period for public comment, and consideration of passage can not be held until at least ten days after a public comment, and newspaper of general circulation is given and the full printed text of ordinance is available for public review. The adopted ordinance can not become effective until after the public has at least thirty days to review the final printed wording.

Section 5.02: Seal; Adoption:

The Council shall continue using the adopted seal of the City of Allen Park.

Section 5.03: Accounts, Claims, Filing, Council; Duties:

The Council shall pass upon all accounts and claims against the City. Every claim for tort shall, so far as possible, state in detail the time, place and cause of alleged injury. All claims shall be made under oath and shall be filed with the City Clerk for consideration by the Council after the cause of action in every case has arisen. The City shall raise as a defense to any action for the collection of any demand or claim against the City that such claim has not been filed with the City Clerk as hereinbefore provided.

Section 5.04: Specific Licenses; Council Approval Required:

The Council before issuance shall approve all liquor, amusement park, bowling alley, poolroom and trailer camp licenses.

Section 5.05: Hearings; Council Powers; Witnesses, Subpoenas, Fees; Penalty:

The Council shall have power to hold hearings and to compel the attendance of witnesses and the production of books, papers and data in any hearing pending before it.

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Any person of legal age may serve such subpoena. Each witness shall be entitled to receive the same fees for attendance as is provided by law for the payment of witness fees in the circuit court of the county of Wayne. The Council may by ordinance prescribe the method to more effectively carry out the foregoing provisions. Any person, who, having been personally served with subpoena, willfully disobeys the same, may be punished with a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days or both in the discretion of the court.

Section 5.06: City Planning Commission, Zoning; Ordinance Required; State Law:

The Council shall by ordinance maintain a City planning commission created in accordance with and under the authority of statute having the powers and duties prescribed by statute and this Charter. The Council shall also maintain a zoning ordinance in accordance with and under the authority of statute and having the powers and duties prescribed by statute and this Charter. The Council may be the board of zoning appeals or may create by ordinance a board of zoning appeals under state law.

State Law Reference – MCL 125.585, Board of Appeals; MCL 125.32 et seq. Planning Commission

Section 5.07: Boards and Commissions; Ordinances Required:

The Council shall provide by ordinance, in accordance with this Charter, for boards or commissions to oversee the following activities of the City: civil service (general employees and act 78), public safety (police and fire), retirement system, planning and zoning, parks and recreation, library, and the Council may, by ordinance, provide for such other boards or commissions as they might deem proper or necessary for the benefit of the City of Allen Park. All such boards and commissions shall be required to submit annual reports to the Council.

Section 5.08: Meetings; Time, Places; Resolution Required:

The Council shall provide by resolution for the time and place of its meetings and shall hold at least two regular meetings each month. A regular meeting shall be held on the Monday following each regular City election.

Section 5.09: Special Meetings; Calling; Requirements; Notice:

Special meetings shall be called by the City Clerk upon the written request of the Mayor or by any two members of the Council on at least twenty-four hours written notice to each member of the Council served personally or left at their usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

Section 5.10: Same; Business, Transacting; Restriction:

No business shall be transacted at any special meetings of the Council unless the same has been stated in the notice of such meeting. However, any business, which might lawfully come before a regular meeting, may be transacted at such special meeting if all members present consent thereto and all the members absent file their written consent.

Section 5.11: Meetings Open to Public:

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All regular and special meetings of the Council shall be open to the public under the Open Meetings Act and the public shall have a reasonable opportunity to be heard.

Section 5.12: Same; Quorum; Adjournments:

A majority of the members of the Council in office shall be a quorum for the transaction of business at all meetings of the Council, but in the absence of a quorum a lesser number may adjourn any meeting to a later date, and in the absence of all members the City Clerk may adjourn any meeting to a date not later than one week thence.

Section 5.13: Meetings; Order of Business; Journals; Voting; Standing Committees; Departments; Regulations:

The Council shall determine its own rules and order of business subject to the following provisions:

- (a) A journal of the proceedings of each meeting in the English language shall be kept by the City Clerk and shall be signed by the City Clerk and the presiding officer of the meeting.
- (b) A vote upon all ordinances and resolutions shall be taken by “yes” and “no” vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- (c) While there is a state law in effect controlling an issue of conflicts of interest of municipal officials, the state law shall control. In all other respects, this subsection shall be followed. No Council members shall vote on any question in which they have a financial interest, other than the common public interest, or on any question concerning their own conduct, but on all other questions each member who is present shall vote when their name is called unless excused by unanimous consent of the remaining members present. Any member refusing to vote except when not so required by the paragraph shall be guilty of misconduct in office.
- (d) In roll call votes, the names of the members of the Council shall be called in alphabetical order, and the name to be called first shall be advanced one position alphabetically in each successive roll call.
- (e) Any standing committee of the Council shall be composed of at least three members. The Council shall not assign the administration of any department or agency of the City to any member or committee of the Council

ARTICLE VI

Article 6: Elections: State law reference – Michigan election laws, MCL ~ 168.1 et seq.

Section 6.01: Electors; Qualification, Registration:

The residents of the City having the qualification of electors in the State of Michigan, and no others, shall be the electors of the City. The registration of electors in

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the City of Allen Park shall be conducted as provided for in the Constitution and general laws of the State of Michigan.

State law reference – mandatory that Charter provide for registration of electors, **MCL ~117.3**; qualification a for registration as elector, **MCL ~168.492**.

Section 6.02: Term Limitations:

The Mayor and Council members will not be allowed to seek re-election to the same office after they have been elected to two consecutive terms of office in that particular office until they have taken a one year hiatus.

Section 6.03: Quadrennial Elections; Holding, Time:

The regular City election shall be held on the date set by the State of Michigan for the odd numbered year election in November. The Mayor, City Clerk, City Treasurer and all Council positions shall be elected at this regular election for terms of four years.

State law reference – 168.644a

Section 6.04: Special Election; State Law; Resolution Required:

Special City elections shall be held when called by resolution of the Council at least sixty days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more special City elections shall be called in any one-year than the number permitted by statute.

State law reference – approval of special elections, **MCL ~ 168.639**.

Section 6.05: Elections; Notice; City Clerk, Duties:

Notice of the time and place of holding any election and the officers to be elected and the questions to be voted upon shall be given by the Clerk in the same manner and at the same time as provided in the state election statute for the giving of notice by township and City Clerks.

State law reference – notice of election, **MCL ~ 168.647 et seq.**

Section 6.06: Candidates; Nomination at Primary Required, Exception:

Candidates for any elective office, to be voted for at any municipal election under the provisions of this Charter, shall be nominated at a primary election, and no other names shall be placed on the election ballot for the election of such officers, except those nominated in the manner hereinafter prescribed: provided, however, that whenever the number of candidates for nomination to any office does not exceed twice the number to be elected to that office, then in such case, no primary election for the nomination of candidates for such office shall be held, and such candidates shall be deemed to be nominated to such office, and the names of such candidates for any such office shall be placed on the election ballot to be voted for at the next regular municipal election, the same in all respects as though the said candidates had been nominated at a primary election.

State law reference – mandatory that Charter provide for nomination of elective officers by a primary election, by petition or by convention, **MCL ~ 117.3(b)**.

Section 6.07: Conducting Primary Elections; Time, Place:

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The primary election for the nomination of candidates for elective offices shall be held on the date prescribed by state statute.

State law reference – MCL ~ 168.644 (b).

Section 6.08: State of Candidacy; Accompanying Petition; Signature, Restriction:

Any person desiring to become a candidate for nomination to any elective office at any primary election shall, on or before 4 p.m. of the twelfth Tuesday prior to any such primary election, file with the Clerk any documents required by law for the candidacy such as an affidavit of identification. The Clerk shall supply blank forms.

Each candidate shall at the same time file a non-partisan nominating petition of at least fifty and not more than one hundred registered electors requesting such candidacy. Such petition shall be in form and substance as prescribed by the Clerk in conformity with state statute.

It shall be unlawful for any person to sign more petitions for any office than there are persons to be elected to such office. Upon receipt of any such petition the City Clerk shall affix a certificate thereto certifying as to the number of signers who are registered electors of the City according to the records in the Clerk's office.

State law reference – MCL ~ 168.53 has same deadline for filing. MCL ~ 168.558 requires an affidavit of identification.

Section 6.09: Ballots; Contents; Party Designation Prohibited:

Ballots for elections shall conform as near as may be with the provisions of the State election laws with respect to ballots, except that they shall contain no party mark, vignette or designation mark whatsoever. It shall be the duty of the City election commission, hereinafter provided, to provide for the printing of such ballots.

Section 6.10: Election Commission; Composition, Compensation, Quorum:

An election commission is hereby created consisting of the City Clerk, City Treasurer, or their respective deputies, and City Attorney. The members shall serve without compensation. The City Clerk shall be the chairperson and two members of such commission shall be a quorum.

Section 6.11: Same; Powers and Duties:

The election commission shall provide all necessary voting booths, equipment, ballot boxes and supplies for the conduct of all elections. The election commission shall have charge of all activities and duties required of it by statute and this Charter relating to the conduct of election in the City. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

Section 6.12: Election Inspectors, Appointment, Compensation:

The election commission shall before each election appoint a board of such number of inspectors of election as the Council may determine in accordance with state statute. They shall receive such compensation as shall be fixed by the Council.

State Law Reference – MCL 168.674 governs election inspectors.

Section 6.13: Tie Votes; Determination:

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If at any election is shall appear that two or more persons have an equal number of votes for the same office, for which but one person is to be nominated or elected and such number shall be the highest cast therefor, the successful candidate shall be determined by the Board of Canvassers by lot, as provided in the general election laws of the State.

State law reference – determination of election by lot, **MCL** ~ 168.851, 168.852.

Section 6.14: Recall; State Law:

Any elected official may be recalled from office by the electors of the City in the manner provided by the statute.

State law reference – recall, **MCL** ~ 168.951 et seq. See also Mich. Const. of 1963, Art II~8.

State 6.15: Elections; State Law, Charter Provisions; Conflict, Determination:

The general election laws of the State, when applicable, shall apply to all elections in the City: provided, however, that when there is a conflict between such general laws and this Charter as to any matter which may be lawfully regulated by Charter, then the provisions of this Charter shall control.

ARTICLE VII

Article 7: Officers and Employees:

Section 7.01: Qualifications for Elective Officers:

Elective officers of the City shall be a Mayor, City Clerk, City Treasurer, and six Council members elected from the City at large.

No person shall become a candidate or hold elective office under this Charter unless that person is a resident and registered voter of the City, has no felony convictions of current record, has no outstanding indebtedness to the City and is a citizen of the United States of America.

State law reference – mandatory that Charter provide for qualifications of officers, **MCL** ~ 117.3(a), (d); **MSA** 5.2073(a), (d).

Section 7.02: Filling Vacancies:

- (a) If a vacancy occurs in the office of Councilperson the Council shall, by a majority vote of its remaining members, fill the vacancy at the next regularly scheduled Council meeting with the unsuccessful candidate for City Council who had the highest vote at the last City election and who wishes to serve.

If there are no qualified persons who were recent candidates, and who wish to serve, the Council shall select a qualified person who was not a recent candidate for Council and who wishes to serve.

- (b) If a vacancy occurs in the office of Mayor, the Mayor pro tem shall serve for the remainder of the unexpired term unless the Mayor pro tem declines to serve, and, in that event, the Councilperson with the next highest number of votes will be requested to serve as Mayor. If that Councilperson declines to serve, a same process will continue until a Mayor is selected.

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- (c) Any Councilperson assuming the office of Mayor shall vacate the office of Councilperson.
- (d) If a vacancy occurs in the office of Clerk or Treasurer, the Council shall, within sixty days of the vacancy, select a qualified person to serve until a successor can be elected.
- (e) A person appointed to the office of Councilperson, Clerk, or Treasurer shall serve until a City election held at such a time after the creation of the vacancy that it is possible to circulate petitions to be placed on the ballot as a candidate for the office.
- (f) If any vacancy occurs in an appointive office, which has a definite term, the Council shall fill the vacancy for the unexpired term within sixty days after the creation of the vacancy.

Section 7.03: Elective Officers Compensation:

The Council shall, by ordinance create a compensation commission, which shall make recommendations concerning changes in compensation for elective officers. No change in compensation for an elective officer shall be effective unless the Council has approved the change by resolution, the amount of the new compensation is no greater than the amount recommended by the compensation commission, and a general City election has taken place between the vote of the Council and the effective date of the change.

Section 7.04: Officers; Compensation, Restriction:

Except as otherwise specifically provided in this Charter, no elective officer shall hold any office except that to which he/she was elected, or perform any service for the City, the compensation for which is paid out of City funds; nor shall any member of the Council be elected or appointed to any office created, by the Council while they were a member thereof, until the expiration of one year from the date when they ceased to be a member of the Council.

Section 7.05: Council Members; Financial Interest Prohibited; State Law Controls:

The state law on contracts of Public Servants with Public Entities shall control while it remains in effect. At all other times this Section shall control. No member of the Council shall vote upon the question of granting any franchise or any work, business or contract, the expense, price or consideration of which are to be paid from municipal moneys, where they are directly or indirectly interested in the same or are an officer, agent or employee of the person, firm or corporation seeking such franchise, work, business or contract; nor in such case shall they participate in the discussion of any matter. In case of the disqualification of a member of the Council to vote upon any question, the reason for their disqualification shall be stated upon the minutes of the Council proceedings.

Section 7.06: Elections, Appointments to Office; Notice Required:

It shall be the duty of the City Clerk, within five working days after any person shall be declared elected to any office, or within five days after any person shall be appointed to any office, to notify such person in writing of their election or appointment.

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Section 7.07: Officers; Oath, Bond:

Every officer of the City before entering upon the duties of their office shall take and subscribe to an oath of office, which shall be filed and kept in the office of the City Clerk, to support the Constitution of the United States and the Constitution of the State of Michigan; and to perform the duties of their office to the best of their ability. If any bond is required of such officer then the same shall be furnished, approved by the Council, and filed with the City Clerk before entering upon the duties of their office. In the case a bond is required for the City Clerk then such bond shall be filed with the City Treasurer. All bonds required of any officers shall be surety company bonds and the premium thereon shall be paid by the City. The Council may at any time require additional or new bonds.

Section 7.08: Officers, Employees; Compensation, Restriction:

Subject to the provisions of this Charter, the Council shall fix the salary or compensation of all officers and employees of the City; but the salary of officers elected or appointed for a definite term shall be established at the beginning of the term.

Section 7.09: Officers; Declaring Vacancies, Removal; Procedure:

In addition to other provisions herein contained, a vacancy shall exist in any office when an officer fails to qualify within ten calendar days after their election or appointment, dies, resigns, is removed from office, moves from the City, or is convicted of a felony. The Council may remove any officer by a majority vote of its members elect, if the incumbent is guilty of malfeasance, nonfeasance, or misfeasance in office or is incapacitated to perform the duties of their office for a period of ninety days. No officer may be removed by the Council until they have been granted a hearing, and notice of such hearing has been served upon them personally, if they can be found in the City, or if they cannot be so found then sent by registered mail to their last known address, at least ten days before the date of such hearing. Such notice of hearing shall state the matters to be investigated. Any accused officer shall have the right to be represented personally or by counsel, to produce witnesses in their defense and to cross-examine the witnesses against them.

Section 7.10: Defaulter to City; Holding Office, Prohibition:

No person shall be eligible for any elective or appointive office who is in default to the City. The holding of office by any person who is in such default shall create a vacancy unless such default shall be cured within thirty days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability for the default.

Section 7.11: Acting as Surety; Prohibition:

No officer, agent or employee of the City shall become surety on any bond given to the City or any officer thereof.

Section 7.12: Termination of Office; Books, Papers, Etc.; Delivery Required:

Every officer upon the termination of their tenure of office shall account to the City or their successor in office for all books, papers, moneys, and effects in their custody

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as such officer or in any way pertaining to their office. Any person willfully violating this provision shall be guilty of a misdemeanor and shall be punished as this Charter provides.

Section 7.13: Appointive Officers, Compensation:

The Council on the recommendation of the Mayor, by simple majority affirmative vote, shall appoint, within sixty days of vacancy or end of their term of office, the following officers of the City of Allen Park: City Administrator, City Attorney, City Engineer, City Auditor, City Assessor and such others as they may deem necessary, to provide City services and set their conditions of employment and compensation by resolution.

Section 7.13.01: Residency:

All full-time appointed officials shall establish residency within the City no later than six months from the date of appointment. The City Council may extend this time for hardship when there has been a good faith effort to comply.

Section 7.14: Deputy Officers; Appointment; Powers:

The Council, on the recommendation of the Mayor, by simple majority, shall authorize the appointment of such deputy City officers, as it may deem advisable. Such deputies shall be deemed to be employees under civil service and their tenure is to be governed accordingly. Each deputy shall possess all of the power and authority of the respective senior officer. In the event of the absence of any officer and their deputy, if any, from their place of duty, the Council may appoint some other person to temporarily perform the duties of that office.

Section 7.15: Employees; Appointment; Civil Service:

The Council may provide for other employees to operate the government of the City of Allen Park under the civil service system of this Charter.

Section 7.16: Appointments to More Than One Office:

The Council may by resolution or ordinance provide that one person may be appointed to any two or more offices of the City or that the functions of any office shall be exercised by one appointed to another in office: unless the functions of such offices are incompatible.

Section 7.17: Mayor; Powers and Duties:

- (a) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the City. The Mayor shall have a vote and voice in all proceedings of the Council equal with that of members of the Council, but shall have no veto power. The Mayor shall be the presiding officer of the Council.
- (b) The Mayor shall be a conservator of the peace, and in emergencies declared by the Council may exercise within the City the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to

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recruit the assistance of all able-bodied citizens to aid the enforcement of the ordinances of the City and to suppress riot and disorder.

- (c) The Mayor and the City Clerk shall execute or authenticate by personal signature such instruments as the Council, this Charter or any statute of the State of Michigan or laws of the United States shall require.
- (d) Except as may be required by statute, the Mayor shall exercise only such powers as this Charter or the Council shall specifically confer upon the office.
- (e) The Mayor shall recommend to the Council all persons for appointive positions as are required to be made by the terms of this Charter. In the event the Mayor fails to make any recommendations necessary to be made within the sixty days after the taking of office, or fails to make any recommendation for any vacancy that might occur within sixty days after the vacancy has occurred with successful concurrence from the Council, then the Council shall make the appointment by a majority vote of its members at the next regular meeting.

Section 7.18: Mayor Pro Tempore: Powers and Duties:

The candidate for the office of Council currently seated who has received the highest number of votes at the last election after this Charter is approved and at any regular elections shall be Mayor pro tem, and in case of the absence or disability of the Mayor shall perform the duties of the Mayor during the period of such absence or disability.

Section 7.19: City Clerk; Powers and Duties:

- (a) The City Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceeding in the English language.
- (b) The City Clerk shall be custodian of the City seal, and affix it to all documents and instruments requiring the seal, and shall attest the same. The City Clerk shall also be the custodian of all papers, documents, bonds pertaining to other officers and employees of the City other than the City Clerk, and records pertaining to the City, the custody of which is not otherwise provided for. All records of the City shall be public, subject to the Freedom of Information Act.
- (c) The City Clerk and the Mayor shall sign all contracts and required documents.
- (d) The City Clerk shall certify by signature all ordinances and resolutions enacted or passed by the Council.
- (e) The City Clerk shall provide for and maintain in the office of the City Clerk a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter.
- (f) The City Clerk shall have the power to administer oaths of office.
- (g) The City Clerk shall be secretary to the retirement board.
- (h) The City Clerk shall be secretary and member of the election commission.

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- (i) The City Clerk shall be secretary to the Fire and Police (Act 78) Civil Service Commission.
- (j) The City Clerk shall perform such other duties as may be prescribed by statute, by this Charter, by ordinance or by direction of the Council.
- (k) The City Clerk shall assist the Board of Ethics as the staff person.

Section 7.20: City Treasurer; Powers and Duties:

- (a) The City Treasurer shall have the custody of all moneys of the City, and bonds pertaining solely to the City Clerk, and all evidence of indebtedness belonging to the City or held in trust by the City.
- (b) The City Treasurer shall collect all money of the City, the collection of which is not provided for elsewhere by Charter or ordinance. The City Treasurer shall receive from other officers and employees of the City all money belonging to and receivable by the City that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the City Treasurer after collection or receipt, and the City Treasurer shall in all cases give a receipt therefor.
- (c) The City Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the City Administrator.
- (d) The City Treasurer shall disburse all City funds in accordance with the provisions of statute, the Charter and procedures to be established by the Council.
- (e) The City Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district and City taxes as are conferred by statute upon township Treasurers in connection with state, county, township and school district taxes upon real and personal property.
- (f) The City Treasurer shall perform such other duties as may be prescribed by this Charter, by ordinance or by direction of the Council.

Section 7.21: City Administrator; Powers and Duties:

- (a) The City Administrator is to be responsible to the Council for the efficient administration of all administrative departments and services of the City, except City Attorney and City auditor.
- (b) The City Administrator shall prepare and submit an annual budget to the Council, and shall administer the budget in compliance with statutes and this Charter, as finally adopted under policies formulated by the Council and keep the Council fully advised at all times as to the financial condition and needs of the City.
- (c) The City Administrator shall be responsible for authorizing all purchases for all City departments and offices subject to the policies and instructions of the Council and this Charter.
- (d) The City Administrator shall be responsible for the maintenance of a system of accounts of the City which shall be required to conform to any

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uniform system required by law and to generally accepted principles and procedures of governmental accounting.

- (e) The City Administrator shall report to the Council on any and all matters pertaining to the administration and coordination of the City departments and services and such other matters that require the Council's attention and action.
- (f) The City Administrator is to perform such other duties as may be prescribed by this Charter, by ordinance or by direction of the Council.

Section 7.22: City Attorney(s); Powers and Duties:

- (a) The City Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. The City Attorney shall advise any officer or department head of the City in matters relating to their official duties when so requested and shall file with the City Clerk a copy of all written opinions given.
- (b) The City Attorney shall prosecute such ordinance violations and shall conduct for the City such cases in court and before other legally constituted tribunals as the Council may request. The City Attorney shall file with the City Clerk copies of such record and files relating thereto as the Council may direct.
- (c) The City Attorney shall prepare and review all ordinances, contracts, bonds and other written instruments that are submitted by the Council and shall promptly give an opinion as to the legality thereof.
- (d) The City Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.
- (e) The City Attorney shall perform such other duties as may be prescribed by this Charter, by ordinance, by statute or by direction of the Council.
- (f) Upon the recommendation of the City Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the City Attorney.

ARTICLE VIII

Article 8: Taxation:

Section 8.01: Powers to Tax; Limitation:

The City shall have the power to assess taxes and levy and collect rents, tolls, and excises. Exclusive of any levies authorized by statute to be made beyond Charter tax rate limitations, the general tax upon taxable real and personal property in the City shall not exceed in any one year 12 ½ mills of the taxable assessed value of all real and personal property in the City.

State law reference – limitation on tax rate, **MCL 117.3(g), 117.5.**

Section 8.02: Subject of Taxation:

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

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provided by statute.

State law reference – mandatory Charter provision, **MCL 117.3**; property subject to taxation, **MCL 117.3**.

Section 8.03: Tax Day:

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the thirty-first day of December of the prior year, which shall be deemed the tax day.

State law reference – December thirty-first shall be deemed the tax day, **MCL 211.2**.

Section 8.04: Taxation, Exemptions:

No exemptions from taxation shall be allowed except as expressly required by statute.

State law reference – property exempt from taxation, **MCL 211.7 et seq.**

Section 8.05: Assessment Roll; Time, Notice; Assessor's Duties:

On or before the first Monday in March of each year, the assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized methods of systematic assessment.

The assessor shall give by first class mail a notice of any increase in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. This notice shall be mailed not less than ten days before the meeting of the Board of Review. The failure to give such a notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

State law reference – preparation of assessment roll, **MCL 211.24**.

***State law reference** – General property tax act, **MCL 211.1 et seq.**; provisions of the general property tax act shall apply except where inconsistent with the Charter **MCL 211.107**.

Section 8.06: Board of Review; Composition, Term, Compensation:

The Council shall in each year, on or before the first day of February of such year, appoint three electors of the City therein who shall act as a Board of Review in respect to the tax assessment roll of the City, with the assessor acting as secretary to the board. The Council shall establish their compensation at the time of appointment.

Section 8.07: Board of Review; Sessions; Increase in Assessed Value, Notice:

The Board of Review shall convene in its first session on the first Tuesday following the first Monday in March of each year at such time of the day and place as shall be designated by the Council and shall remain in session for at least one day for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased or any property is added to the roll by the Board or the Board has resolved to consider at its second session the increasing of an assessment or the adding of any property to the roll, the assessor shall give notice thereof to the owner as shown by such roll by first class letter mailed no later than the day following the end of the first session of the Board. Such notice shall state the date, time, place, and purpose of the second session of the board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or any assessment thereon.

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The Board of Review shall convene in its second session on the Tuesday following the second Monday of March of each year at such time of day and place as shall be designated by the Council, provided that at least one session shall begin at 3 p.m. and shall continue until all interested persons have had an opportunity to be heard, but in no case for less than six hours.

State law reference – mandatory that Charter provide for tax procedure, **MCL 117.3**.

Section 8.08: Same; Sessions; Notice, Publication:

Notice of the time and place of the sessions of the Board of Review shall be published by the City Clerk at least two weeks prior to the first session of the board.

Section 8.09: Same; Powers and Duties:

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

State law reference – Board of Review, **MCL 211.28 et seq.**

Section 8.10: Same; Assessment Roll; Endorsement, Time:

After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission shall not affect the validity of such roll.

State law reference – mandatory that Charter provide for the confirmation of the roll, **MCL117.3(i)**; mandatory that review of assessments are complete not later than first Monday in April, **MCL 211.3 (a)**.

Section 8.11: General Ad Valorem Tax; Notice to Assessor; Current, Delinquent Assessments; Certification:

Within three days after the Council has adopted the budget for the ensuing year, the City Clerk shall certify to the assessor the total amount that the Council determines shall be raised by general ad valorem tax. The City Clerk shall also certify to the amounts of current or delinquent special assessments and all other amounts, which the Council requires to be assessed or charged upon any property or against any person.

Section 8.12: Tax Roll; Preparation, Assessor's Duties:

After the Board of Review has completed its review of the assessment roll, the assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll", and upon receiving the certification of the several amounts to be raised as provided in Section 10.04, the assessor shall spread upon said tax roll the amount determined by the

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Council to be charged, assessed or reassessed against persons or property. The assessor shall also spread the amount of the general ad valorem City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on a tax roll shall belong to the City.

Section 8.13: Same; Delivery to Treasurer for Collection:

After spreading the taxes the assessor shall certify the tax roll, and the Mayor shall annex a warrant to it directing and requiring the Treasurer to collect prior to March first of the following year from the several persons named in the said roll the several sums mentioned therein opposite their names as a tax or assessments and charges on such roll. The Treasurer shall possess all the statutory powers and immunities possessed by township Treasurers for the collection of taxes. On or before June first, the roll shall be delivered to the Treasurer for collection.

State law reference – notice to township Treasurer, MCL 211.43.

Section 8.14: Taxes; Due Date; Lien on Property:

On July first, the taxes thus assessed shall become a debt due the City from the person to whom they are assessed, and the amount assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such person so assessed.

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

Section 8.15: Same; City Treasurer, Duties:

City taxes shall be due on the first day of July. The Treasurer shall not be required to call upon the persons named in the City tax roll nor to make personal demand for the payment of taxes, but shall mail, between June 25th and July 1st, a tax bill statement with notice of the amount, the time when said taxes will be due for collection and the penalties and fees for late payment of same.

Section 8.16: Taxes; Fines, Penalties:

All taxes paid on or before August 31st of each year shall be collected by the City Treasurer without collection fee added. On August 31st the City Treasurer shall add to all taxes paid thereafter a collection fee of one percent per month for each month, until February 28th, of the amount unpaid up to a maximum of six percent per year. Such collection fee shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the City Treasurer is delayed for any reason by more than thirty days after June 15th, the application of the collection fee provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

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State law reference – MCL 211.44 controls penalties.

Section 8.17: Same; Failure to Pay; Seizure, Sale, Enforcement:

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

State law reference – suit to collect tax, MCL 211.47.

Section 8.18: Delinquent Taxes; Return to County Treasurer; Enforcement, State Law:

All City taxes on real property remaining uncollected by the City Treasurer on the first day of March following the date when the roll was received by the Treasurer, shall be returned to the county Treasurer in the same manner and with like effect as provided by statute for township, school and county taxes. Such return shall include all additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property. The taxes thus returned shall be collected in the same manner as other taxes returned to the county Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Wayne is no longer charged with the collection of either delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school, and county taxes.

State law reference – return of delinquent taxes, MCL 211.55.

Section 8.19: State, County and School Taxes; State Law:

For the purpose of assessing and collecting taxes for state, county and school purposes, the City shall be considered the same as a township and all provisions of statute relative to the collection of and accounting for such taxes shall apply. For these purposes the City Treasurer shall perform the same duties and have the same powers as township Treasurer under statute.

ARTICLE IX

Article 9: Special Assessments:

Section 9.01: Power to Assess:

The City Council shall have power to determine, with or without a petition therefor, that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessments upon the parcels or property especially benefited and so declare by resolution. Such resolution shall state the estimated cost of the improvement, what portion of the cost shall be paid by special assessment, what portion,

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if any, shall be a general obligation of the City, the number of installments in which assessments may be paid, the interest to be charged, and designate the districts or land and premises upon which special assessments shall be levied. This Charter shall not be deemed to require the holding of any public hearing prior to the authorization or construction of the improvement. Such special assessments may be levied before, during, or after the making of the improvement.

Section 9.02: Procedure Ordinance:

The City Council shall prescribe by general ordinance the complete special assessment procedure to be used, including the preparing of plans and specifications, estimate costs, the preparation, hearing, and correction of the special assessment roll, the collection of special assessments, the assessment of single lots or parcels, and any other matters concerning the making of improvements by the special assessment method. Said ordinance shall authorize additional assessments if the prior assessment proves insufficient to pay for the improvement and cost incident thereto or in case of invalidity in whole or in part, and it shall also provide for the refund of excessive assessments provided that if the excess is less than 5% of the total cost it may be placed in the General Fund of the City.

Section 9.03: Assessment Lien:

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

Section 9.04: Contest of Assessment:

Except as provided by State law, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment (a) unless, within thirty days after the confirmation of the special assessment roll, written notice is given to the City Clerk for attention of the City Council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced with thirty days after the confirmation of the roll. The City shall presume that any person who neglects or refuses to assert a claim within the thirty-day period has withheld his or her claim for the purpose by unjustly obtaining a special benefit to the property. If the City Attorney submits a written opinion finding said roll illegal, in whole or in part, the City Council may revoke its confirmation, correct the illegality if possible, and reconfirm the same, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

Section 9.05: Bonding Authority:

The City Council shall have authority to secure special assessment bonds which are issued in anticipation of the payment of special assessments for public improvements in a special assessment district or combination thereof, which bonds may be either an

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obligation solely of the special assessment district or districts, or both an obligation of such district and a general obligation of the City.

Section 9.06: Special Assessment Collections:

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

ARTICLE X

Article 10: Finances:

Section 10.01: Fiscal Year:

The fiscal year for the City of Allen Park shall commence on the first day of July and end on the thirtieth day of June of the following year.

Section 10.02: Budget; Preparation, Contents:

The City Administrator shall prepare and submit to the Council on or before the second Tuesday in April in each year a budget covering the following fiscal year, and shall include therein the following:

- (a) Detailed estimates with supporting explanations of all proposed expenditure for each department, office, board, or commission and any the function in accordance with the statute for the Uniform Budgeting and Accounting Act.
- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued and the condition of sinking funds, if any.
- (c) Detailed estimate of all anticipated revenues of the City in accordance with the statute for the Uniform Budgeting and Accounting Act.
- (d) A statement of the estimate balance or deficit for the end of the current fiscal year.
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures.
- (f) Such other supporting information as the Council may request.

State law reference – mandatory that Charter provide for annual appropriation of money for municipal purposes, MCL 117.3 (h).

Section 10.03: Same; Adoption, Hearing Prerequisite; Public Inspection:

A public hearing, subject to statute, on the proposed budget shall be held before its final adoption at such time and place, as the Council shall direct. Notice of such hearing

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shall contain the time and place, a summary of the proposed budget and notice that the proposed budget is on file in the office of the City Clerk, shall be published at least ten days in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than ten days prior to such public hearing.

Section 10.04: Budget; Adoption, Time; Appropriations Required:

Not before May first nor later than May thirtieth in each year, the Council by resolution shall adopt a budget for the next fiscal year, which shall appropriate the money needed for municipal purposes during the next fiscal year of the City and shall provide for the levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations in Article 8 and statutes.

Section 10.05: Withdrawals from Treasury, Restriction; Transfer of Funds;

Expenditures:

Except as provided by law, no money shall be drawn from the General Fund of the City without an appropriation thereof, nor shall any obligations for the expenditures of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council by resolution may transfer any unencumbered appropriation balance, or any portion thereof, from one department fund or agency to another. In the case of an emergency endangering the public health, peace or safety, the Council may only make additional appropriations to cover unanticipated expenditures required of the City because of such emergency if permitted by law.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Administrator shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council shall reduce appropriations, except amounts required for the debt and interest charges, to such degree as may be necessary to keep expenditures within the revenues.

The balance in any annual budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the appropriate fund balance.

Section 10.06: Depository, Designation; Deposits, Security, State Law:

The Council shall designate depositories for the City funds, and shall provide for the regular deposit of all City moneys. The Council shall provide for such security for City deposits as is authorized or permitted by statute except that personal surety bonds shall not be deemed proper security.

Section 10.07: Funds; Surplus, Investment:

The Council may direct the City Treasurer to invest any surplus funds belonging to or under the control of the City in direct obligations of the United States of America, or statutorily authorized securities in such amounts and issues as shall be determined by the Council within the limitations of State statutes.

State law reference – Surplus Funds Act, MCL 129.91 controls.

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Section 10.08: Annual Audit Required:

An independent audit shall be made of all City accounts at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by certified public accountants to be selected by the Council. In the selection of such auditor the Council shall not be subject to any requirements for competitive bidding.

ARTICLE XI

Article 11: Contracts:

Section 11.01: Contracts:

The authority to contract on behalf of the City is vested in the City Council and shall be exercised in accordance with the provision of statute and of this Charter.

Whenever it becomes desirable for the City to enter into a contract with a second party for any purpose whatsoever, such instrument shall be drawn or approved as to form by the City Attorney and certified to by the City Administrator as to sufficiency of appropriated funds.

All, contracts, except as otherwise provided for in this Charter, shall be approved by the City Council and shall be signed on behalf of the City by the Mayor and the City Clerk. Copies of all contracts and agreements shall be filed in the office of the City Clerk.

Section 11.02: Purchasing Procedure:

The Council shall provide, by ordinance based upon a national standard and subject to Section 11.05 for a purchasing procedure to be followed in purchasing City supplies, materials, equipment, contractual services or other forms of personal property. Before making any such purchase or contract to purchase, competitive bids shall be obtained, except:

- (a) in the securing of professional services for the City or,
- (b) when the purchasing officer for the City is exempted by the purchasing ordinance because of value or when the City Council shall determine that no advantage to the City would result from competitive bidding.

Purchases shall be made from the lowest responsible bidder meeting specifications, unless the Council shall determine that the public interest would be better served by accepting a higher bid or rejection of all submitted bids. All purchases shall be evidenced by a written purchase order or sales memorandum.

The Council shall provide in the ordinance required by this Section the definition of “lowest responsible bidder”, the dollar limit within which the purchasing officer of the City may make purchases without the necessity of obtaining competitive bids, and the dollar limit within which purchases may be made without the necessity of the Council’s approval.

The purchasing officer shall provide the Council with all additional certifications required by law prior to Council action on the contract and shall report to the Council at an appropriate time on compliance with the terms of the contract.

Section 11.03: Adoption and Updating of Index:

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All references in this chapter to dollar amounts for purchases refer to the equivalent in the year of the purchase to the value of the dollar at the time this Charter is adopted. The Council shall, each year, update the purchasing ordinance to take into account the current value of the dollar according to a generally recognized index similar to the Consumer Price Index applicable to the type of purchase and this region of the country.

Section 11.04: Public Improvements:

- (a) The City may contract to perform any public works with a value of under \$15,000 through departments of the City without competitive bidding but new public improvements in excess of that amount shall require competitive bidding unless the Council declares a public emergency that would require immediate action.
- (b) No public improvement costing five thousand dollars or more shall be authorized by the City until after the drawings, profiles, and estimates for the work shall have been approved by the Council and a copy of all the supporting documentation filed with the City Clerk for at least one week of public inspection.

Section 11.05: Purchases of Goods:

No contract shall be authorized by the City for the purchase of any goods of a value of five thousand dollars or more until competitive bids have been requested by advertisement. The City is not obligated to accept any proposal.

Section 11.06: Modification of Contracts:

When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Council. No such order shall be effective until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Clerk, upon authority of the Council, and a copy of the modification documents filed in the City Clerk's office.

Section 11.07: Estoppel by Representation:

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

Section 11.08: Regulatory Power:

The City may, in exercise of its police power:

- (a) Regulate;
- (b) Prohibit; or
- (c) Prohibit except as authorized by permit, license or franchise any trade, occupation, amusement, business or other activity within the City.

State law reference – Regulatory power MCL 117.4 (i)

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Section 11.09: Limitation on a Franchise:

An irrevocable franchise, for a period of up to thirty years, 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 majority of the 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 or equivalent of general circulation in the City not less than thirty 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 franchise grantee.

State law reference – Michigan Const. Art 7, Sec 25 requires a three-fifths vote of the people for public utility franchise.

Section 11.10: Same: Conditions of Grant Enumerated; Enumeration Not Exclusive:

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City of Allen Park, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provisions within the power of the City to impose or require:

- (a) To repeal the same for misuse, non-use, or failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To use, control, and regulate the use of its streets, alleys, bridges, and other public places and the space above and beneath them;
- (f) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

ARTICLE XII

Article 12: Borrowing:

Section 12.01: General Power:

The City may borrow money for any purpose within the scope of its powers, may issue bonds or other evidence of indebtedness therefor, and may, when permitted by the

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Constitution and the law, pledge the full faith, credit, and resources of the City for the payment of those obligations.

Section 12.02: Limitations of Borrowing:

The new 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.

Section 12.03: Specific Kinds of Borrowing:

Included within the City's general powers 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 by 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 12.01 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 all 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.

Section 12.04: 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.

Section 12.05: Execution of Obligation:

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All obligations issued by the City shall be executed with the facsimile signature of the Mayor and signed by the City Treasurer and shall bear the seal of the City. Interest coupons shall be executed with the facsimile signatures of the Mayor and the City Treasurer.

ARTICLE XIII

Article 13: Ordinances:

Section 13.01: Action Requiring an Ordinance:

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 Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Grant, renew, or extend a franchise;
- (4) Regulate the rate charged for its services by a public utility;
- (5) Authorize the borrowing of money;
- (6) Convey or lease or authorize the conveyance or lease of any lands of the City;
- (7) Regulate land use and development; and
- (8) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

State law reference – annual levy MCL 117.3 (g) can be by ordinance or resolution. See also MCL 117.3(k).

Section 13.02: Penalties for Violation of Ordinances or Charter:

The Council shall provide in each ordinance for the punishment of those who violate its provisions. Punishment for the violation of any City ordinance or for the commission by any officer of the City of any act declared by this Charter to constitute misconduct in office cannot exceed the maximum penalties provided by State law, except that any officer of the City found guilty of any act declared by this Charter to constitute misconduct in office, shall, in addition to such fine or imprisonment, or both, forfeit the office.

State law reference – limitation on penalties MCL 117.4 (i)

Section 13.03: Procedure and Publication:

- (a) Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. When an ordinance is introduced in written form, it shall have a first and second reading. The style of all ordinances passed by the Council shall be, “The City of Allen Park ordains”: except in the case of ordinances which are declared by the Council to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. The third and final reading and passage of an ordinance may

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only be done at a regularly scheduled meeting of the Council and no sooner than ten days after it has appeared in public notice printed form in a general circulation newspaper within the City of Allen Park. The public notice form may be a brief synopsis of the proposed ordinance and with notice to the public that the full printed ordinance is available in the City Clerk's office for their inspection during the ten days before consideration. There shall be no action by the Council on the proposed ordinance until after an opportunity for public comment. No ordinance shall be revised, altered, repealed, or amended by reference to its number and title only, but the Section or sections of the ordinance revised, altered, or amended shall be reenacted and considered as stated above. All ordinances, when enacted, shall be recorded by the City Clerk in a book to be called "The Ordinance Book", and it shall be the duty of the Mayor and City Clerk to authenticate such record by their official signature thereon.

- (b) Each ordinance passed by the Council shall be published at least once within ten days after its adoption by the Council. All ordinances of the City shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication thereof, is specially provided in the ordinance itself. Publication by title and a brief synopsis of the ordinance that clearly shows the purpose and intent of the same shall be sufficient publication thereof to make it a valid ordinance of the City of Allen Park so long as the publication indicates that a printed public text of the ordinance is available in the City Clerk's office.

State law reference – mandatory that Charter provide for publication of ordinances before they become operative, **MCL 117.3(k)**.

Section 13.04: Codes; State Law; Adoption by Reference:

The Council may adopt any provisions of State law or any detailed technical regulations as a City ordinance or code in the manner provided by State law.

State law reference – permissible Charter provision, **MCL 117.4 (i)**.

Section 13.05: Initiative, Referendum; Petition Required:

An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, as hereafter provided.

State law reference – permissible Charter provision, **MCL 117.4 (i)**.

Section 13.06: Same; Petition; Signatures Required; Contents, Filing:

An initiatory or a referendum petition shall be signed by not less than ten percent of the registered electors of the City, as of the date of the last regular City election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the City Clerk. Any such petition shall be addressed to the Council and may be the aggregate of two or more petition papers identical as to content and simultaneously filed by one person. An initiatory petition shall set forth in full the ordinance it proposed to initiate, and no petition shall propose to initiate more than one ordinance. A referendum petition shall identify the ordinance or part thereof, or code sections it proposes to have repealed.

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Each signer of a petition shall sign their name, and shall place thereon, after their name, the date and their place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in within fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the City, the City Clerk shall notify forthwith by registered mail the persons filing such petition and fifteen days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this Section, the City Clerk shall present the petition to the Council at its next regular meeting.

Section 13.07: Same; Council Action Required:

Upon the presentation to the Council of an initiatory or referendum petition by the City Clerk, the Council shall, within thirty days, unless otherwise provided by statute, either:

- (a) Adopt the ordinance as submitted by an initiatory petition;
- (b) Repeal the ordinance, or part thereof, referred to by a referendum petition;
or
- (c) Determine to submit the proposal provided for the petition to the electors.

Section 13.08: Initiative, Referendum; Submission to Electors; Time; Determination:

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose, or, in the discretion of the Council at a special election called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the City for any other purpose within one hundred fifty days from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special election within sixty days from such date of presentation for the submission of the initiative proposal. The result of all elections held under the provisions of this Section shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

Section 13.09: Same; Suspension, Amendment, Repeal; Conflicting Provisions,

Determination:

The presentation to the Council by the City Clerk of a valid and sufficient referendum petition containing a number of signatures equal to twenty-five percent of the registered electors of the City as of the date of the last regular City election, which signatures have been obtained within sixty days before the date of filing the petition with the City Clerk, shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended, or repealed at any time by

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appropriate referendum or initiatory procedure in accordance with foregoing provisions of this Charter or if submitted to the electorate by the Council on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

ARTICLE XIV

Article 14: Civil Service:

Section 14.01: System Established:

There is hereby created a system of civil service in the City of Allen Park that will affect the police and fire departments of said City and all other municipal employees as hereinafter provided.

State law reference – specific authority to provide for civil service, MCL 117.4I(7).

Section 14.02: Purpose of System:

The general purpose of the Article is to provide for the establishment of a civil service system of personnel administration based on merit principles, and scientific methods governing the appointment, promotion, transfer, layoff, removal, and discipline of all employees in the classified service as hereinafter defined. No personnel changes or personnel action of any kind in the classified service shall be made which violate civil rights or for causes other than the good of the service.

Section 14.03: Civil Service for Police and Fire Departments; State Law:

The police and fire departments of the City of Allen Park are under Act 78 of 1935, Firemen and Policemen Civil Service System, as amended.

State law reference – MCL 38.501, et seq.

Section 14.04: Municipal Employees Civil Service Commission:

Section 14.04.01: Civil Service Commission; Composition, Term:

There shall be established a civil service commission for the purpose of administering the provisions of the civil service system prescribed in this Section. The commission shall consist of five qualified and registered electors of the City of Allen Park and who, while in office, shall not hold any other City office or City employment and shall not serve on any political committee or take part in the management of any political campaign. Membership on the commission shall be limited to those persons known to be sympathy with civil service principles in government. Current members of the commission shall serve until the expiration of their term. The City Council shall appoint two members, the employees shall elect two members and the four shall elect a fifth member at the expiration date of their respective terms or upon vacancy of said position. All terms shall be for a term of five years each. The term of office shall commence and terminate on the same date as other appointive officers as provided in this Charter, and their eligibility for appointment shall be the same as other appointive officers, except where the same would conflict with the provisions of this Article, then the provisions of this Article shall govern.

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Section 14.05: Members; Compensation; Rules, Procedures:

The members of the commission shall serve without compensation unless the same is provided by the City Council. The commission shall select its own chairperson and vice-chairperson and determine its own rules of procedure.

Section 14.06: Secretary; Records; Custody, Maintenance:

The City Administrator, or the representative designated by the City Administrator, shall act as secretary for the commission. The secretary shall be custodian of all personnel records and shall be the official upon or with whom all notices, requests for hearing, complaints or other official documents shall be served or filed. The secretary shall keep the minutes of meetings and records of all proceedings of the commission.

Section 14.07: Employees Elections:

The City Administrator, or the representative designated by the City Administrator, shall conduct all elections for the employees in accordance with the procedure adopted by the employees. The City Administrator, or the representative designated by the City Administrator, shall promptly notify the employees of any vacancy for the filling of which there must be held a special election.

Section 14.08: Commission; Powers and Duties:

It shall be the general responsibility of the commission:

- (a) To represent the public interest in the improvement of personnel administration in the City government;
- (b) To sit as a body in investigating and hearing grievances of employees and appointing authorities;
- (c) To make reports to the Council on the quality and status of personnel administration in the City government and to make recommendations for, or effect under its own powers, improvements therein;
- (d) To investigate enforcement of provisions of this Article, for which purpose it shall have the power to summon witnesses, administer oaths and compel the attendance of witnesses and production of books, papers, and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers, and other evidence as ordered under the provisions of this Section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers, or other evidence as ordered under the provisions of this Section shall constitute a violation of the City Charter and such employee when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed one hundred dollars or imprisonment not to exceed ninety days or both in the discretion of the court.

It is further provided that, in cases of failure on the part of any person to obey such summons or to produce such books, papers, and other evidence as so ordered, the commission may invoke the aid of the circuit court of Wayne county in requiring obedience of such summons or production of such books, papers, and other evidence. The circuit of Wayne county, in

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case of contumacy or refusal to obey such summons or produce such books, papers, and other evidence, may issue an order requiring such person to obey such summons or to produce such books, papers, and other evidence and give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as contempt thereof.

- (e) To contract for such technical personnel services as it may deem necessary with an agency or person of recognized professional standing in the field of personnel administration;
- (f) To do any lawful act necessary to effect the purpose of this Article, including the power to adopt, revise or amend such rules and regulations as it may deem necessary for the administration of the provisions of this Article they shall be approved by the City Council.

Section 14.09: Commission; Rules, Regulations; Council Approval Required:

The specific duties of the commission shall be concerned with administering the civil service program as provided in this Article. It shall be the specific responsibility of the commission to prepare and adopt rules and regulations necessary to carry out the provisions of this Article. All general rules and regulations of the commission, whether required by this Article or not, shall be approved by the Council before becoming effective.

Section 14.10: Classified, Unclassified Service; Composition:

The classified service shall include all employees of the City except elected or Council appointed officers or officials, including secretaries serving the Mayor and City Administrator, listed in this Charter, all department heads or deputy department heads, all specialists serving in recreation and building inspections, all members of boards and/or commissions and all part-time employees.

Section 14.11: Positions; Classification Plan:

The commission shall prepare, or cause to have prepared, installed, and maintained a position classification plan based on the duties, authorities, and responsibilities of all positions in the classified service; and such plan shall be based upon accepted and established principles of position classification plans.

Section 14.12: Recruitment Program:

The recruitment program shall be designed to provide an orderly and effective means for bringing competent employees into the classified service. The basic procedure governing recruitment shall be as follows, in addition to such supplementary rules and regulations on this matter as are adopted by the commission. Unless specifically stated otherwise, the provisions of this Section shall apply only to the recruitment or appointment of new employees to the classified service.

- (1) **Announcement.** Public announcement of all vacancies in the classified service shall be made at such time and in such form as is considered reasonable by the commission in order to permit interested and qualified persons to apply.

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- (2) **Application.** The commission shall cause to have developed a standard application form, which must be filled out fully and accurately by all applicants to fill vacancies. The rules and regulations of the commission shall specify the conditions, which shall be deemed sufficient cause for the rejection of applicants.
- (3) **Competitive examinations.** The relative fitness of applicants for appointment or promotion shall be determined by examination; provided, that such examination may measure any or all of the following qualification factors: education, training, experience, general adaptability, special aptitudes, physical fitness, and such other qualifications as may be pertinent for determining the satisfactory performance of the duties of the position. An appointment list shall be prepared for each such examination, listing qualified candidates in descending order of their ranking.
- (4) **Entrance to examinations.** Entrance to examinations shall be open only to those who are citizens of the United States or who are eligible to work under the laws of the United States.
- (5) **Veteran's preference.** The commission shall provide for the granting of employment preference for entrance level positions to such honorably discharged war veterans of the United States Armed Forces as shall be consistent with statute but shall not be contrary to the best interest of the City service. War veterans shall have five points added to their earned ratings who have an honorable discharge from any branch of the armed forces after serving in time of war, and ten points shall be added to the earned rating of all honorably discharged veterans who have served in time of war and who have a service connected disability; provided however, that all other requirements of this Section have been complied with by such war veterans; and provided, further, that any such preference shall be allowed to only those applicants who have attained a passing score on the examination for the position, and provided further that no such preference shall be awarded in promotional examinations.
- (6) **Appointment.** The commission shall specify the procedure which shall be followed in original and promotional appointments in the classified services, provided that in all cases the commission shall certify to the appointing official for appointment the name of not less than the three persons standing highest on the proper list. Appointments shall be made to any position from the following list in this order; (a) the re-employment list, (b) the promotional list, (c) an appointment list resulting from a recruitment examination. It is provided, however, that if the commission holds a combined appointment-promotional examination and a combined eligible list is prepared, the appointing officer or body shall give first consideration to those persons on the list who are candidates for promotion.

All of the following relatives and their spouses, of any elective official or of their spouse are disqualified from holding any appointive office or employment during the term for which said elective official was elected;

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child, grandchild, parent, grandparent, brother, sister. All relationships shall include those arising from adoption. This Section shall in no way disqualify such relatives or their spouses who are bona fide employees of the City at the time of the election of said elective official.

- (7) **Probationary period.** There is established for all newly appointed or newly promoted employees a probationary period, which shall be of six months duration. The commission's rules and regulations shall specify the terms and conditions of probationary periods; provided, that the tenure of any employee may be terminated at any time during the probationary period by the appointing authority without any right of appeal to, or hearing before, the commission. In the case of a newly promoted employee whose tenure in a new position is terminated, they shall return to the position held previously, provided that they may at any time be removed from classified service for cause as provided in Section 14.13. If not previously held, residency in the City must be secured during the probationary period and resident status must be maintained in compliance with this Section and/or statute or contract.
- (8) **Appointments other than probationary.** The rules and regulations of the commission shall provide for appointment of employees to the classified service which are not probationary as defined in this Section but are of a temporary, provisional or emergency nature; provided, such appointments shall be limited as to length of service permitted thereunder.

Section 14.13: Service Conditions and Ratings:

The commission shall effect by rules and regulations, an in-service merit system program, where not in conflict with union contracts; provided that this program shall be designed to insure uniform treatment of all employees in the City classified service and to include at least:

- (1) **Salary and wages.** Where not established by union contracts or agreements.
- (2) **Service ratings.** The commission shall prepare or cause to be prepared and maintained a service rating system, which is not in conflict with union contracts, whereby, department heads will report at least annually on the performance of all employees in the classified service.
- (3) **Transfers.** Where not established by union contract the transfer of an employee from one position to another shall only be done in conformity to the rules and regulations established by the commission.
- (4) **Promotions.** Where not established by union contract the commission shall establish by rules and regulations the condition for promotion in compliance with this Section. Promotional employees shall have a one-year probationary period from the original date of appointment. Where not in conflict with union contracts the commission may recruit for entrance level positions from outside the classified service, whenever it is deemed to be in the best interest of the City.

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- (5) **Annual leaves and sick time.** Where not established by union contracts the commission shall provide by the rules and regulations for annual leaves and sick time.

Section 14.14: Demotions, Suspensions, Dismissals, Layoffs:

The commission shall provide by rules and regulations for the procedures to be observed and the causes which justify the following, or other, personnel action: demotions, suspensions, dismissals, and layoffs subject to the two following paragraphs:

- (a) The tenure of everyone holding an office, place, position, or employment in the classified service shall be only good behavior and efficient service; and any such person may be removed or discharged, suspended without pay, deprived of vacation privileges or other special privileges for incompetence, inefficiency, dishonesty, drunkenness, use of non-prescription drugs, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, violation of the provisions of this Charter or the rules and regulations of the commission, or other failure of good behavior, or any other acts of misfeasance, malfeasance, or nonfeasance in office.
- (b) When it is necessary to lay off employees because of lack of work or funds, such layoffs shall be accomplished by suspending in numerical order commencing with the last person appointed until the necessary reduction has been accomplished. Employees so laid off shall have their names placed on a re-employment list, which shall be the first source for filling the appropriate vacancies as they occur. No names shall remain on a re-employment list for longer than two years, except by specific action of the commission.

Section 14.15: Employees; Appeal from Commission Action; Hearing; Procedure:

Any employee in the classified service, except one serving in probationary period, who is aggrieved because of any action affecting their status or condition of employment which has not been adjusted to their satisfaction after consultation with their department head or representative thereof, within two weeks of the time they have been formally notified of such action by their department head or representative thereof, file a written appeal with the commission requesting a hearing thereon. This right of appeal shall not apply to one or more suspensions totaling not over seven working days in any calendar year. Such appeal shall state the pertinent facts relative to the cause of complaint and shall be signed by the employee. The filing of an appeal shall not stay the effect of the personnel action complained of. Where there is union contractual language for procedures of grievance it shall prevail.

The commission shall investigate each such appeal and shall promptly hold a hearing thereon. A record of the proceedings of such hearing shall be kept by the commission.

After considering the facts brought out in the investigation and hearing, the commission shall determine whether such action was made without just cause; if it so determines that it was made for such reasons or without just cause, it shall order that the employee be restored to the status existing before such action. If it finds otherwise, it

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shall report its decision and order in writing to the employee making the appeal and to their department head or representative thereof. The commission shall render its decision in all matters affecting an employee within thirty days after receipt of the appeal.

Except as hereinafter provided, the decision and order of the commission shall be final and the affected parties shall comply therewith. If the decision finds that the action was made for political or religious reasons or without just cause, it shall order the employee reinstated with payment of any lost salary or wages. Documents which may have been considered by the commission and the decision and order of the commission shall be promptly filed with the secretary of the commission, and shall be public record.

The circuit court of Wayne County, upon petition of any party aggrieved, may review, any final decision or order of the commission. The issuance of such writ shall not however, unless specifically ordered by the court, operate as a stay of such decision or order. The decision of such court shall be final, subject to appeal.

ARTICLE XV

Article 15: Boards and Commissions:

Section 15.01: Boards and Commissions:

The Council may create, by ordinance, boards and commissions which the Council deems necessary or of benefit to the City of Allen Park and provide for their duties and functions subject to law. The boards and commissions shall not administer any activity, department, or agency of the City government unless specifically required to do so by State statute, but shall serve solely in an advisory capacity or in the capacity of a quasi-judicial appeal board.

All members of the City boards and commissions established under this Charter, by statute or otherwise, shall be appointed by the Mayor, subject to the approval and confirmation by a majority vote of the City Council except as otherwise provided in this Charter or by statute. Council members may be appointed by the Council to serve on a board or commission only when the service is required by State law. Whenever any statute or law requires that the appointment of members of a board or a commission established under this Charter, by statute or otherwise, be by the chief executive or administrative office of the City, such chief executive or administrative officer, for the purposes of such appointment, shall be deemed to be the Mayor, and an appointment in such cases shall be subject to the approval and confirmation by a majority vote of the City Council. No person may be appointed to serve on more than two boards at a time.

Section 15.02: Recruitment of Boards and Commissions:

The City Clerk shall publish quarterly notice of anticipated openings on boards or commissions. The notice will state the general duties of the office, the qualifications for the office and the fact that letters of intent from candidates listing qualifications shall be accepted by the City Clerk.

Section 15.03: Public Safety Commission:

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The Commission of Public Safety is vested with the powers and charged with the duties stated in this Charter and is subject to the provisions of Section 14.03 of this Charter.

Section 15.04: Composition; Members, Qualifications; Filling Vacancies:

The composition of the Commission of Public Safety shall consist of five members who shall be current residents, having been a resident for at least one year, and registered electors of the City of Allen Park and not having been active employees of either police or fire departments for at least one year. The Mayor and Council shall appoint two members of the commission in the same manner as other appointed officials as herein set forth in this Charter. The Act 78 employees of the police department shall elect one member and the Act 78 employees of the fire department shall elect one. The fifth member shall be neutral member elected by the other four members of the commission, that is the two members elected by Act 78 employees and the two members appointed by the Mayor and Council. Upon approval of this Charter all currently serving members shall continue to serve their respective terms. The first expiration of a term shall be filled by the police department election, while the second expiration of a term shall be filled by the fire department election and the third expiration of a term shall be filled by the neutral elected by the other four. The fourth and fifth members expiring terms shall be appointed by the Mayor and Council. Each member of the commission shall serve for a term of five years. Any time there is a vacancy it shall be filled by the electing or appointing body for the remainder of the established term within thirty days thereafter. If any member of the commission shall become a candidate for any elective office or shall be appointed to any appointive City office or any other commission, the membership on the commission shall immediately terminate and the vacancy shall be filled as hereinbefore provided for. Any member of the commission who has not attended a meeting for a period of ninety days shall forfeit the office declared vacant and the vacancy filled as provided for.

Section 15.05: Members; Term, Compensation:

Elected or appointed members shall serve for one term of not more than five years or any portion of a term is considered one term. The members shall serve in an honorary capacity without compensation, except that the Council may provide for actual expenses for official business of the commission and such other reasonable remuneration that the Council may deem just and fair for the commission.

Section 15.06: Officers; Election; Meeting, Procedures, Records; Quorum:

The commission shall annually, at their January meeting, organize by electing a chairperson, vice chairperson, and a secretary from among their members. The commission shall hold meetings, subject to the Open Meetings Act, at least monthly at such time and place, as it shall designate. It shall adopt its own rules and/or procedures and shall keep a record of its proceedings in the English language, which records shall be filed with the City Clerk and open to public inspection. Three members of the commission shall constitute a quorum for the transaction of business at any time.

Section 15.07: Powers and Duties; State Law:

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The Commission of Public Safety must comply with Section 14.03 of this Charter in the appointment of the chiefs of the police and fire departments and in the management of the police and fire departments. The powers and duties of the Commission of Public Safety shall be exercised and performed in accordance with the laws of the State of Michigan, this Charter and the ordinances of the City. The commission shall provide the Council with annual reports each July.

Section 15.08: Police, Fire Departments; Chiefs; Duties, Reports:

The chiefs of the police and fire departments shall perform such duties as prescribed for them by law and this Charter and the ordinances of the City of Allen Park, and such further reasonable rules and regulations as shall be put into effect by the commission of public safety, and shall make such reports as required by law and further reports as may be required by this commission and the Council. There shall be no authority or individuals serving between the commission and the chiefs.

Section 15.09: Effectuating Provisions; Ordinances Authorized:

The Council shall enact such ordinances as may be necessary to carry out the provisions of this Section of the Charter.

Section 15.10: Civil Service Commission: See Article XIV.

Section 15.11: Retirement Board: See Article XVI.

Section 15.12: Planning and Zoning Commission: See Section 5.06.

Section 15.13: Parks and Recreation Commission:

The Council shall by ordinance maintain a parks and recreation commission, of not less than seven members, to oversee and administer City controlled recreation programs and facilities along with all park lands and buildings within or outside the City.

Section 15.14: Library Board:

The Council shall by ordinance maintain a library board, of not less than five members, to oversee and administer the library programs and facilities. The operations of the library may be in conjunction with other boards or agencies within or without the City.

ARTICLE XVI

Article 16: Retirement System:

Section 16.01: Establishment of Retirement Plan:

The retirement plan of the City shall continue in existence with adoption of this Charter. The accrued financial benefits of active and retired City employees, being contractual obligations of the City, shall in no event be diminished or impaired. Financial benefits arising on account of services rendered in each fiscal year shall be funded during that year and that funding shall not be used for financing unfunded accrued

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liabilities. The Council shall continue coverage of City employees under the federal social security old age and survivors' insurance program.

Section 16.02: Retirement Ordinance; Contents:

The Council shall continue the existing retirement ordinance until such time as they deem it appropriate to authorize change, in accordance with the provisions of this Charter, to said ordinance. The retirement ordinance shall contain such provisions, in concert with all labor agreements, as the Council shall deem necessary to provide for the retirement of eligible City employees; to provide pensions to be paid said employees; to provide benefits to be paid certain dependents of eligible City employees who have satisfied certain service requirements and whose deaths occur under certain conditions; to provide a board of trustees to independently administer the retirement system; to provide that contributions be made to the retirement system by members and the City and to provide for the investment of the retirement system's reserve funds; provided, that the said retirement ordinance shall be subject to the following conditions:

- (a) Provisions may be made to exclude certain classes of City employees, along with the Mayor and Council, from membership in the retirement system; provided such exclusions shall not extend to City employees employed in positions requiring 1,800 or more hours per annum.
- (b) Provisions shall be included for coverage of full time appointees, full time administrative employees and the full time City Clerk and City Treasurer with the same benefits and responsibilities as the general employees of the City.
- (c) In no case shall the pension which may be provided dependents of an eligible member who dies while in the employ of the City exceed the pensions provided for or workers compensation, if any, payable on account of said member's death, whichever amount is greater.
- (d) Member's contributions to the retirement system to be made by payroll deduction. Provision shall be made for the return of a member's retirement system contributions in the event they leave City employment before becoming eligible to vest and no pension or pensions become payable from funds of the retirement system on account of their employment.
- (e) The liabilities of the retirement system shall be actuarially evaluated annually by the actuary designated by the board of trustees and said designated City liability shall be financed by annual appropriations. Said evaluation shall take into account the requirements of the system current and future financial liabilities.

ARTICLE XVII

Article 17: Public Utilities:

Section 17.01: City Authority, State Law:

The City of Allen Park shall possess and hereby reserves to itself all powers granted to cities by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits,

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including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, gas, and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and Constitution.

State law reference – City authority relative to public utilities, MCL 117.4c, 117.4f. See also Michigan Const. 1963, Art. VII, 24.

Section 17.02: Municipally Owned Utilities; Administration:

All municipally owned or operated utilities shall be administered as a regular department of the City government under the management and supervision of the City Council in such manner as they may direct.

Section 17.03: Rates and Charges; Discrimination Prohibited:

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

Section 17.04: Same; Collection; Ordinance Required, Contents:

The Council shall provide by ordinance for collection of all public utility rates and charges of the City. Such ordinance shall provide at least:

- (a) That the City of Allen Park shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, subject to the filing of an affidavit by the property owner under State law, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance.
- (b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates and charges.
- (c) That suit may be instituted by the City before a competent tribunal for the collection of such rates and charges.

State law reference – MCL 123.165 and 141.121 shift the obligation to the tenant when a property owner notifies the City that the tenant is liable.

ARTICLE XVIII

Article 18: Miscellaneous:

Section 18.01: Severability:

Should any provision or Section of this Charter be held invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such Section or this Charter, it being the intent that the Charter shall stand notwithstanding the invalidity of any provision or Section.

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Section 18.02: City Liability:

Any person having a claim against the City by reason of negligence for damages to person or property shall give the City written notice of the claim within 120 days. This notice shall be served on the City Clerk and shall contain the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the City liable for such damages as may have been sustained.

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

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

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

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

ARTICLE XIX

Article 19: Transition:

Section 19.01: Vested Rights Continued:

After the effective date of this Charter, the City shall be vested with all the property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of the previous City Charter.

No right or liability, either in favor of or against the City, existing at the time this Charter becomes effective and on suit or prosecution of any character shall in any manner be affected by any change resulting from the adoption of this Charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be the debts and liabilities of the City and all fines and penalties imposed at the time of such change shall be collected.

Section 19.02: Departments, Offices and Agencies:

- (a) Transfer of powers. If a City department, office, or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter, or, if the Charter makes no provision, designated by the City Council.

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- (b) Property and records. All property, records, and equipment of any department, office, or agency existing when this Charter is adopted shall be transferred to the department, office, or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, office, or agencies designated by the Council in accordance with this Charter.

Section 19.03: Prior Ordinances; Repeal, Continuance:

The valid provisions of all bylaws, ordinances, resolutions, rules, and regulations of the City of Allen Park which are not inconsistent with this Charter and which are in force and effect and lawfully applicable to the City of Allen Park at the time of the effective date of this Charter shall continue in full force and effect and administered by and for the City until and unless repealed or amended under provision hereof or rendered invalid by law.

Those provisions of any such bylaws, ordinance, resolution, rule, or regulation, which are inconsistent with this Charter, are hereby repealed.

Section 19.04: Transition:

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

Section 19.05: Election to Adopt this Charter:

This Charter shall be submitted to a vote of the qualified electors of the City of Allen Park at the regular election to be held on **Tuesday, November 2nd, 1999**. This election shall be conducted by the officers under the existing Charter charged with the conduct and supervision of elections, and shall follow the election procedure and be canvassed in the manner provided in the existing Charter.

Section 19.06: Headlee Override:

Adoption of this Charter is not approval of a Headlee override; this means that the millage authority of the Council shall not change because this Charter is adopted.

State law reference – Michigan Const. Article IX Section 31.

Section 19.07: Form of Ballot:

The question of adoption of this Charter shall be submitted in this form:

“Shall the City Charter proposed by the Allen Park Charter
Revision Commission be adopted?”

Yes []

No []

Section 19.08: Effective Date:

For all purposes not otherwise provided for herein this Charter shall take effect upon the completion of the canvass of votes.

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Section 19.09: First Elected Officers Under Charter:

The Mayor, and each member of the Council, the City Clerk, and the City Treasurer, who held such office under the immediately prior Charter of the City of Allen Park, shall upon the adoption of this Charter, be deemed to be elected hereunder, and their respective terms hereunder shall be the balance of the term to which they were originally elected under the said prior Charter. Thereafter, their successors shall be elected and qualify for, assume and hold office to which they have been elected in accordance with the provisions of this Charter.

Section 19.10: Continuation of Appointed Officers and Employees:

Except as otherwise provided herein, after the effective date of this Charter all appointed officers and employees of the City shall continue in that City office or employment which they prior to the adoption of this Charter under the same terms and conditions as under the prior Charter.

Section 19.11: Publication of Proposed Charter; Notices:

The City Clerk, being the Clerk of this Charter revision commission, shall cause to be published the proposed revised Charter of the City of Allen Park, notices of registration, notices of election, and shall perform all acts required by law or the Charter.

Resolution of adoption:

At the regular meeting of this Charter Revision Commission of the City of Allen Park held on July 22, 1999, in the City Hall of the City of Allen Park, a quorum being present, the following resolution was offered by Commissioner Kettlehut and supported by Commissioner Hill:

RESOLVED, that the Charter Revision Commission of the City of Allen Park does hereby adopt the foregoing proposed revised Charter of the City of Allen Park, and that the Clerk of this commission is hereby instructed to transmit the same to the Governor of the State of Michigan in accordance with the provisions of Public Act Number 279 of the Public Acts of 1909 of the State of Michigan for his approval and file a copy thereof in the office of the City Clerk as required by said Act and to certify the filing thereof giving the date and time to the chair of this commission and to cause this proposed Charter to be published in accordance with the provisions of said Act.

The resolution was adopted by the following vote:

Yes: Commissioners Brooks, Haberkern, Hill, Huebler, Kettlehut and Trudel.

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No: None

Absent: Commissioners Herrera, Dell, Sheridan

The Chair declared the foregoing resolution adopted and requested the members of the commission to authenticate said resolution and also copies of this Charter to be presented to the Governor and filed with the City Clerk by subscribing their names as follows:

Richard A. Huebler, Chair _____

Maria L. Trudel, Vice Chair _____

Robert D. Brooks _____

Gary Dell _____

Bruce Haberkern _____

Joe L. Herrera _____

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Steven J. Hill

Lynn Ketelhut

Julianna Sheridan
