

City of Lansing Charter Commission

Regular Meeting Agenda



Tony Benavides Lansing City Council Chambers
Lansing City Hall, 10th floor
124 W. Michigan Avenue

December 17, 2024 at 6:30 PM

1. Call to Order

2. Roll Call

3. Adopt the Agenda

4. Approval of Minutes

- A. November 26, 2024 Minutes
- B. December 3, 2024 Minutes

5. Public Comment

- A. People wishing to share public comment virtually may do so. The deadline to register to comment this way is 6PM, 30 minutes before the start of the meeting. Sign up at this link: <https://events.gcc.teams.microsoft.com/event/7ba6d856-c7a6-4c13-8943-70cbf930ded6@87509dec-095b-4ff8-ba5a-0035cdfc715d>
People sharing public comment in person at the meeting may sign up when they arrive to the meeting.

6. Officer Reports

- A. Chair
- B. Vice-Chair
- C. Clerk

7. Old Business

- A. Article 1: Line-by-Line Review
- B. Article 2: Line-by-Line Review

8. New Business

- A. Article 3: Line-by-Line Review

9. Public Comment

10. Commissioner Remarks

11. Adjournment

Persons with disabilities who need an accommodation to fully participate in this meeting should contact the City Clerk's Office at (517) 483-4131 (TTY 711). 24 hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodation request.

Minutes for the City of Lansing Charter Commission

Regular Meeting | Tuesday, November 26, 2024, 6:30 PM

Tony Benavides City Council Chambers,
Lansing City Hall, 10th floor, 124 W. Michigan Ave.

Present: Commissioners Adams Simon, Anderson, Bauer, Boyd, Dowd, Jeffries, Lopez, Qawwee, Washington

Absent: none

Staff Present: City Clerk Swope, Deputy Clerk Drever, Attorney Rewa (virtual)

Call to Order

The meeting was called to order by Chair Jeffries at 6:30 PM.

Roll Call

Clerk Swope called the roll of the Commission. A quorum was present.

Adopt the Agenda

Moved by Commissioner Dowd to adopt the agenda as presented.

Motion Carried.

Approval of Minutes

A. Moved by Commissioner Dowd to approve the November 12, 2024, minutes as presented.

Motion Carried.

Public Comment

Nicklas Zande spoke about the structure of City Council: removing at-large seats and having nine wards.

Bob Worthy spoke about the Board of Water and Light's Board of Commissioners.

Officer Reports

Chair

No report.

Vice-Chair

No report.

Clerk

Clerk Swope acknowledged written communications in the packet and provided a budget update: the Commission has spent \$141,553.39, with an available balance of \$358,446.61. Then, he gave an historical overview of the City Council Structure.

Old Business

A. Article 1-302: Non-Discrimination and Civil Rights

Commissioner Boyd: Does what we are going to vote for match what the State of Michigan requires?

Chair Jeffries: As I understand it, it is some of the most comprehensive language for a provision like this. This incorporates everything we have looked at in terms of the authority that exists.

Attorney Rewa explained the newly proposed language for 1-302, which reads:

- .1 It is the intent of the City that no person or group be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, pregnancy, breastfeeding a child or expressing human milk, veteran status, medical condition including genetic characteristics, HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, service in armed forces in sovereign nations, linguistic characteristics such as accent or limited English, English proficiency, or other characteristic as defined by law, or any other basis prohibited by law, including any additional protections identified by law, as all forms of discrimination adversely affect Lansing citizens and the quality of life and opportunities available to all people.
- .2 The City and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.
- .3 The City shall take such action, and shall adopt such ordinances, as shall be necessary to accomplish the purpose of this section.

Commissioner Boyd: I have a question that comes down to linguistics. As it relates to English proficiency, if somebody cannot speak English, how is it that we cannot discriminate against them; I don't want to discriminate against anyone, but if someone can't speak English, how are they going to be able to do a job?

Commissioner Qawwee: We can provide interpretive services for someone who can perform a job but doesn't have English proficiency.

Attorney Rewa: In employment, an employer can require a degree of proficiency to perform a job, such as a 911 dispatcher. For a position that does not require language usage, it can be discrimination to require a certain level of proficiency for the job.

Moved by Commissioner Qawwee to approve the new language for 1-302.

Motion carried.

B. City Council Structure

Chair Jeffries explained no action will be taken on this issue while the Commission reviews recently submitted documents.

Commissioner Washington requested that the vote on this issue be delayed until after the holidays to allow for further public comment.

New Business

A. Article 1: Line-by-Line Review

Chair Jeffries explained the Commission will vote on the sections chapter by chapter.

Moved by Commissioner Washington to approve Article 1 Chapter 1 as presented.

Motion Carried.

Vice-Chair Adams Simon: I propose that “person means a human being regarded as an individual and artificial entities recognized as persons by state law.”

Commissioner Boyd: Under Officer, my recommendation is that we remove “boards and commissions” from the definition of officer, because they are not paid employees and should not be treated as such.

Commissioner Anderson: I would want our board and commission members to be held to the same standard as our officers, such as for ethics training.

Attorney Rewa will weigh in on the impact of Commissioner Boyd’s proposal.

Commissioner Qawwee: I think that we should alter the definition of publish. Is newspaper circulation still relevant? Perhaps adding language of some sort of electronic communication.

Vice-Chair Adams Simon: Maybe putting in the wording “the City’s official website”.

Commissioner Anderson: I would recommend language that refers to forms of media that are of no cost.

Commissioner Dowd: I would like to see in addition to where is that there is the expectation of a concerted effort to make the public aware.

Chair Jeffries: when it says “unless the context clearly indicates otherwise” is this language commonly in charters? I am interested in the attorney’s answer.

Attorney Rewa: Some notices are still required to be posted in newspapers by law, but you can certainly add language to encourage posting in additional ways.

Chairperson Jeffries: in the definition of statute, where it says “as it exists at the time that the provision containing the word statute is to be applied” does that mean if we had a law enacted in 1978 and was amended in 2020, is it the 2020 version or the initial version?

1-301

Vice-Chair Adams Simon: I propose that the charter includes a provision that requires the city to publish a comprehensive list of all datasets in a digital format that is easily accessible and searchable, and establish a definitive timelines for response time and associated fees for public record request which would include language delineating a clear process and response time for submitting Freedom of Information Act (FOIA) requests and complaints from citizens online. The charter could create a transparency commission to ensure the city’s compliance with open data and public records.

I will submit this language to all the commissioners for further review.

Clerk Swope: the thing I think is vague and could be tightened up is “shall be available for inspection during regular business hours.” People have had the expectation of walking in and being able to review documents, which does not reflect reality.

Commissioner Washington: Where it says “shall be available for inspection during regular business hours” it’s imperative that we put “by appointment” because people by reading this would have the expectation that they can just show up.

Commissioner Lopez: Should “in accordance with state law” be stated?

Chair Jeffries: I think we are going to revisit this, and clarification is required.

1-401

Chair Jeffries: It talks about “appointees to the organizations shall file a report on their activities with the mayor and City Council at least once a year.” Does that get done?

Clerk Swope: I think as things arise; they’re reported on.

Commissioner Bauer: We should enforce it or drop it.

Commissioner Washington: It should be incumbent on the mayor or the council to ensure that these are done.

Chair Jeffries ordered a motion to adopt this chapter as presented, with the understanding that it will be revisited when discussing Boards and Commissions.

Moved by Commissioner Washington.

Motion Carried.

1-501

Vice-Chair Adams Simon: Moving forward with inflation, I would propose raising it to \$1,000.

Chair Jeffries: In here they don’t say it’s a misdemeanor. In Michigan, misdemeanors max out at \$500. Do we want to make it a misdemeanor?

Commissioner Dowd: Does this mean that City employees are exempt from violations of the Charter? Who does this apply to, and who does not.

Commissioner Washington: I think there needs to be teeth to this. If you violate our human rights ordinance that’s in the charter, you need to be charged. There is never any accountability.

Commissioner Lopez: Could we also say, “or as permitted by state law?” or is the court the state law?

Chair Jeffries: This reads like a misdemeanor would read- money, potential prison or both. To Commissioner Dowd’s point, we could expand it to talk about civil penalties, or what those penalties would be for. I would also like the Commission to consider raising the 90 days to 93 days. At 93 days there’s a fingerprint requirement that goes into the record, and you automatically get a public attorney to represent you.

Commissioner Lopez: It says, “shall not operate to limit or prejudice power to remove officers or discharge employees provided in this charter”. The penalties for 30 or 90 days, how does it fit into this language?

Commissioner Boyd: I’d like to know the history of this section’s addition to the Charter.

Public Comment

Nicklas Zande spoke about the motivations behind creation of at-large seats of council in the 1950s.

Linda Appling spoke in opposition to increasing the number of wards.

Commissioner Remarks

Commissioner Washington spoke about the population trajectory of Lansing and diversity on Council.

Commissioner Boyd spoke about keeping 4 wards and moving to 3 at-large seats.

Adjournment

The meeting was adjourned by Chair Jeffries at 8:00 PM.

Minutes for the City of Lansing Charter Commission

Regular Meeting | Tuesday, December 3, 2024, 6:30 PM

Tony Benavides City Council Chambers,
Lansing City Hall, 10th floor, 124 W. Michigan Ave.

Present: Commissioners Adams Simon, Anderson, Bauer, Dowd, Lopez, Qawwee, Washington (6:38)

Absent: Commissioner Jeffries (excused)

Staff Present: City Clerk Swope, Deputy Clerk Drever, Attorney Rewa

Call to Order

The meeting was called to order by Vice-Chair Adams Simon at 6:30 PM.

Roll Call

Clerk Swope called the roll of the Commission. A quorum was present.

Adopt the Agenda

Moved by Commissioner Qawwee to adopt the agenda as presented.

Motion Carried.

Public Comment

No public comments were made.

Officer Reports

Chair

No Report.

Vice-Chair

No Report.

Clerk

Clerk Swope acknowledged written communications in the packet.

Presentations

Jake Brower, the City of Lansing Chief Strategy Officer, presented to the Commission on legislation that governs the financial operations of the City. Then, he took questions about investments, City Council, public participation in the budget, retirement, and position duties.

Old Business

A. Article 1: Line-by-Line Review

Vice-Chair Adams Simon summarized the actions taken on Article 1: chapters 1 and 4 were approved as presented, chapter 2 was referred to the attorney for clarifications on the definitions of Officer, Publish, and

Statute, chapter 3 was referred to the attorney regarding publicly accessible data and inspection of City records, and chapter was referred to the attorney to update the penalties.

1-205: Generally

Attorney Rewa clarified the purpose of the phrase “unless the context clearly indicates otherwise” in 1-205 and recommended the phrase be kept in the Charter.

1-205: Officer

Attorney Rewa explained that she will have an opinion on the impact of removing “members of boards and commissions” from the definition of ‘officer’ for the December 17th meeting.

1-205: Publish

Attorney Rewa explained the opinion issued on the definition of ‘publish’ will need to comply with regulations in state law. She talked about clarifying specific types of publishing elsewhere in the Charter and recommended employing a “both / and” definition to expand publishing locations, so long as is feasible for City employees. She directed the Commission to other charters with similar provisions, such as the Pontiac and Ann Arbor charters.

Commissioner Dowd: To me the glaring piece to change is to remove the term “bulletin boards”. I think that was done at a time when that was a way to publish, I don’t know that any constituent is going to come down to City Hall to check the bulletin to see announcements that are going on. That doesn’t make a ton of sense in my mind. Newspaper makes sense as does the language “other media permitted by law.” I think that opens it up and it can be the directive of whomever is making that decision to publish. Then the definition just states this is what’s allowable or required.

Commissioner Anderson: I want to make note that I want it to be broad enough to allow there to be flexibility, but I want it to make it clear that this is also what’s expected. It’s expected of us as a government that we’re going above and beyond in communicating with our residents with our notices. So whatever language makes that happen is what I would be in support of.

Commissioner Washington: Could the official city website be considered the bulletin board if there were a place when you first opened it up to see published notices?

Attorney Rewa: Just so we’re clear, some state law still requires posting, that’s the Open Meetings Act (OMA): you have to physically post it and you can post it otherwise. Keep in mind there are certain specific things where it’s going to have to be a certain way. This [definition] is sort of a catch-all where if it’s not stated elsewhere how you do it, this is how the charter directs the City to do it.

Commissioner Washington: We’re not writing this charter for today, but for today and thirty years in the future. It would be important in there to do whatever it is we need to do now, but we don’t know what communication will look like in 20-30 years, so we need to have something there that states “or as specified by City Council.”

Commissioner Lopez: would it be possible to mention “existing technologies”? That would open it for Facebook or social media.

Attorney Rewa: You certainly could. My recommendation is you could say social media, but I would stay away from specific branding.

Commissioner Lopez: Just say “technology”. That’s the direction we’re going. If this charter is for the future, I think we should talk about the future, and certainly technology is advancing, and we need to keep up with it.

Attorney Rewa: You could say something broad and then give examples for guidance, such as in the Ann Arbor and Pontiac charters. In terms of what something like “widespread dissemination” means, you can provide a list that helps guide. That’s something you could consider in developing that language.

Commissioner Bauer: to follow up on what Commissioner Anderson said, I like the language “widespread dissemination to the public.” We want to make it clear that we want transparent and widespread dissemination, and that’s the goal. And whatever other language needs to be in.

Attorney Rewa: I can draft a proposed bit of language that has that broader goal type language, and then I can also have “including but not limited to ...”

Commissioner Boyd: I agree with Commissioners Bauer and Anderson, we have to have it available electronically, we also have to post it for people who don’t use computers.

Commissioner Qawwee: I think the widespread dissemination part from Pontiac. I would also like to incorporate from Ann Arbor’s Charter Section 7.4., I think we could do a merge of the two to cover all aspects mentioned here.

Commissioner Dowd: We want to make sure there’s not an out that somebody could get something to happen without the public knowing. We want to make sure in our charter we are saying, you have to do more than the bare minimum.

Attorney Rewa explained the meaning of the definition of ‘statute’ and provided a recommendation to leave the language in place to clarify the moment in time.

1-301: City Records to be Public

Attorney Rewa explained the purpose of this section: to establish records are owned by the City and that they shall be available for inspection. She explained the practical applications of the Freedom of Information Act (FOIA). She recommended the Commission consider whether they want to add an open data policy to the Charter. She explained that should the Commission move to establish a board on data transparency, addressing it in Article 5.

Clerk Swope explained procedures for answering FOIA requests and explained why the records are not always immediately accessible. The language in this section creates an unreasonable expectation.

Commissioner Qawwee addressed consistency in expectations set forth in this provision.

Commissioner Boyd: Echoing Commissioner Qawwee, our intention from our discussion last week was this section would be “during regular business hours by appointment” I think that needs to be included.

Commissioner Lopez: I think all this is covered by the statement “as allowed by law”. Is it state or federal law?

Attorney Rewa: The intent was to do it broadly, because there are things the city might possess that would be protected by federal law. FOIA isn’t the only statute that covers the law, so my recommendation is to make it as broad as possible.

Attorney Rewa offered to bring additional language for the Commission to discuss further.

Commissioner Washington: You could also put something in there to give a definition of what you want to look at. I think we should put in there to specify what they want to inspect.

Vice-Chair Adams Simon: Would changing “in accordance with state law” to specifically referencing FOIA, would that be too encompassing? Can we directly reference FOIA, so people understand how this process works?

Attorney Rewa: FOIA is one method for how you look at records. I would caution against limiting to FOIA, based on the discussions you are having about transparency.

The Commissioners discussed how to make data about City residents more accessible.

Vice-Chair Adams Simon proposed a data and transparency Commission.

Clerk Swope explained that the City might not currently keep data sets as envisioned by the Commission.

Commissioner Anderson proposed data aggregated by ward for demographics, socioeconomics, and City spending.

Commissioner Washington, echoing Commissioner Anderson’s remarks, proposed adding a position for a statistician.

1-401

Attorney Rewa explained relative to Article 1-401 that enforcement is not in the Commission’s jurisdiction.

1-501

Attorney Rewa said a legal opinion on Article 1-501 would be provided for the December 17th meeting.

New Business

A. Article 2: Line-by-Line Review

Vice-Chair Adams Simon explained the Commission will review Article 2, with the understanding that they will circle back to the discussion of number of wards later.

Moved by Commissioner Washington to accept the recommendations of the attorney from Article 1.

These recommendations include:

Keeping the language “unless the context clearly indicates otherwise” in 1-205;

More modern methods of information dissemination can be included in the definition of “publish”;

Keeping the phrase “as it exists at the time the provision containing the words STATUTE is to be applied” in the definition of statute;

Changing “and shall be available for inspection during regular business hours” to “and shall be available pursuant to law” in 1-301.1

Motion Carried.

2-101.1

Vice-Chair Adams Simon: Should 2-101.1 include “other offices elected by residents of Lansing”?

Attorney Rewa: This commission is different because it’s set up by state law. You’re going to have to specify who the elected officers are in point 1.

Commissioner Washington: Can the city attorney be elected in Michigan?

Attorney Rewa: There's nothing prohibiting that, I am unaware of any City Attorney that is elected in Michigan.

Commissioner Washington: I ask because a lot of people would like to see our city attorney elected, not appointed, because of the conflict that happens. They're support to the mayor and the city council, but because the mayor can fire, the attorneys when they opine tend to go in one direction. I have had a lot of people suggest we elect our city attorney. And I've had people suggest we not elect our city clerk but appoint them.

Attorney Rewa: According to Home Rule City Act, the charter has to provide for the following: the election of the mayor who is the chief executive officer of the city, and a body vested with legislative powers, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, board of review, and other officers considered necessary.

2-101.2

Commissioner Boyd: In 2-101.2 I believe that the second phrase "And shall serve until the election and qualification of a successor" should be eliminated.

Commissioner Qawwee: What if there's a runoff? What if there's no direct person that won that election? You don't want to leave that position vacant.

Clerk Swope: We do not have runoffs in Michigan. Someone is elected.

Commissioner Washington: Is this language important should somebody be removed from Council, or they die?

Clerk Swope: I don't know that the language is necessary, I don't know if our attorney knows if it appears in other charters. I don't know if this sentence is part of the interpretation that boards and commissions continue. There are township clerks across the state positions that have had no one file for office. I guess in the circumstance where no one filed for a specific office, this would allow someone to continue until an appointment is made. Also, without this, the Council could appoint the person who didn't run for reelection.

Attorney Rewa: To the extent you want me to look at whether striking this is possible, I can look at that for next time.

2-101.3

Commissioner Boyd: I am curious what the Clerk has to say on this.

Clerk Swope: I think every member of every county commission is up for election at the same time, every member of every township board is up for election at the same time. Large number of cities have all their elected officials up for election at the same time. As I pointed out last time, the fact that the wards are on a different cycle. We do end up with the situation where with reapportionment, some voters get to vote for a ward member twice in a row, and some voters go two city elections without voting for a ward member. If we had all elected officials elected at the same time, that would save at least \$100,000; we spend an excess of \$50,000 per election, and we have an August primary and November election.

Commissioner Bauer: I assume the reason we've done this is, so you always have 50% of your council, you have some stability. I'm now wondering, it's very interesting that you pointed out that a lot of other areas don't do that, which I hadn't thought about. I would tend to still think it's better, from my own experience, to have 50% of the people on a council who have has some experience, than the chance that you could have all new people. I'm very open.

Commissioner Washington: I like the idea of everyone being elected at once. It's a cleaner election. That 50% that's left, might not be that good. At the end of the day, you are going to have some people reelected. I would

favor just one and done, because you always have that off election where not that many people vote because there's no presidential, no governor, no anything. When you're being elected by only 11% of the population, that shows they're not showing up because there's nothing else on the ballot worth voting for.

Commissioner Boyd: I consider it one of my responsibilities as a commissioner to look at should we make changes in this charter that will reduce the expenses as a city. This is one area we could make a change, and it would save the city dollars.

Commissioner Lopez: I'm not sold on the one election. I think we can talk about it but I think if we have staggered elections, I think those who want to do it do it, those that don't, don't, but we would have a better chance to know the candidates than all at once. I agree with Commissioner Bauer, and I agree that some of the 50% might not do what you want, but we can always bring new people in if the voters agree to change. I wasn't thinking so much about saving money, I was thinking about making it better for the electorate. I don't know that money and better for the electorate equals the same. I'm thinking about it. My thing is how do we make the charter better for the community moving forward.

Commissioner Washington: Regardless of how many wards we go to or what we do with the Council, people aren't going to be focused on all seven or all nine, they're going to be looking at their ward, so I don't think that's going to be as big a problem.

Commissioner Dowd: I think it's a good opportunity to think about this, walk away, then come back and discuss.

2-102

Commissioner Washington: This is for our attorney: when it says here "shall have been a resident of the City for one year prior to taking office" is that state law? Because you could maybe not live in the city and run for office. I'm wondering if there's a way we can put in there a time period that you have to be a resident of the city before you file.

Clerk Swope: I believe Detroit has that. I believe the current mayor of Detroit did not meet that qualification when he filed and ran as a write-in and won. I think it's legal, I think it's possible to do that.

Commissioner Washington: I think it's something to consider.

Commissioner Boyd: I personally have no trouble with the one-year requirement, but I'm open to what others have to say.

Clerk Swope: The filing deadline is the end of April, so people will have to live there by January 1 generally, so people will have to live here for four months, per this provision.

2-103.2

Commissioner Washington: I'm wondering if that shouldn't be a requirement to file.

Vice-Chair Adams Simon: In the language the Clerk provided us as candidates, they cannot be in default to the city when they take office.

Commissioner Boyd: We could make an amendment here that is in line with the Campaign Finance Act. When you're running for office, you have to file an affidavit that you've paid all your bills, etc. Why can't we make that the requirement in writing in this charter? You not only have to have your taxes paid, you have to sign an affidavit that your taxes are paid when you file.

Clerk Swope: We have a similar affidavit that states “at the time of taking office” because that’s what the Charter requires. The affidavit could be modified. Would that then give the Clerk’s office authority to check that when people file? The other point, you might want to make it both. If you’re paid up in April, are you paid in December when you take office?

Commissioner Boyd: Who gets to be the elected officer, if the person hasn’t paid by the time they are sworn in? The affidavit that any elected official signs should be modified to include that their taxes are paid. I am open to hearing others on the date of filing or the date of taking office.

Clerk Swope: Property taxes aren’t always the best example, because if you owe on February 28, on March 1, the county pays, so you now owe money to the county and are not in default to the City.

Attorney Rewa: So I’m clear, you would like some guidance on the legal requirements, or law behind, default. How are we defining default and what does that mean? The concern, based on what I’ve heard, is two attorneys came to two different conclusions. To the extent you want to provide more guidance on what that means, now is your time. Not only when this criterion takes place, but what does it mean to be in default?

Clerk Swope: There is a standing City Attorney opinion on this. I think it would be beneficial to more clearly define it in the Charter.

Commissioner Washington: There must be a way to say your property taxes are current, all other taxes are current, and you don’t have tickets out there and everything else. There has to be a way to do that. Something like “all financial obligations”.

Attorney Rewa: Are you talking in default just to the government?

Commissioner Washington: Just to the City.

2-103.3

Commissioner Washington: What is the wisdom behind “a person who has held a city office cannot be eligible for an appointment or employment for which compensation is paid”?

Vice-Chair Adams Simon: I would think it’s a conflict of interest. If someone votes in favor of something an elected official wants done, and then that person is rewarded with an appointment.

2-104.3

Commissioner Boyd: As I read this, “the city may by ordinance by any time alter the procedure for determining compensation of any officer” what does this mean? Does this mean the City Council can override what the Officers Compensation Commission has recommended?

Commissioner Washington: An example might be turning down the proposed raise, or moving to a flat rate and per diem for every meeting attended.

Commissioner Lopez: I was thinking how could we say in the charter that there shall be a compensation commission to determine ... Now, city council doesn’t have to take it. In terms of the Council overriding, why can’t it just be a chartered position?

Clerk Swope: The Home Rule City Act (HRCA) provides for the opportunity to have an elected officers compensation commission. And the HRCA is specific to the number of days they can meet, and the amount of time the council has to reject the proposal by a 2/3 majority. This is saying the City Council could adopt an ordinance to completely change the process.

2-204.2

Commissioner Anderson: I don't understand why there is a cap on the number of signatures. I don't know that it needs to be in the Charter.

Clerk Swope: A point of election law is that someone can only sign the number of petitions equal to the number of people to be elected. I think part of the reason for the cap is to stop someone from blocking other people out by collecting a lot of signatures and turning them in.

2-204.4

Commissioner Lopez: There was discussion that we should up the filing fee to \$500. I'm not suggesting we do, just bringing it up for discussion.

Commissioner Bauer: I would hate to increase this, because it would perhaps discourage people via financial impediment to file for office. Does anyone know the mayor's rationale for increasing this?

Commissioner Boyd: By raising the fee, it would ensure that people are serious about running. I know we're talking about marginalized people and ensuring our elective offices are accessible. If you're serious about running, you'd come up with \$500, and I think that's the logic.

Commissioner Washington: This is the exact reason I want 7 or 9 wards and no at-large. As we increase the income of the elected officials, we are becoming elitist. I am against that 100%. I would vote to keep it at \$100 so anyone in public housing could run.

Commissioner Anderson: I think the idea that if people really wanted it, they would come up with the money is really hard for me to swallow. There are people struggling to pay their electric bill. I don't think that coming up with the money is contingent on whether you really want something. It's really about access. People don't just have access to \$500 leisurely to make an impact in their community and I think to require that is not okay at all.

Clerk Swope: I would like to remind everyone that the option exists to file signatures or to pay the fee.

Commissioner Boyd: It doesn't have to be \$500. I don't really care, but the logic is that it would take more than someone saying they're going to run.

Commissioner Washington moved to keep the filing fee at \$100.

Motion carried.

2-301

Commissioner Bauer: Has a person ever forfeited their office? How does this apply?

Commissioner Lopez: Is there a way we can clarify this and make it more definitive, and make it in line with state law, or applicable law?

Vice-Chair Adams Simon: It does note that there's a public hearing by City Council, so is that when it goes to the governor?

Clerk Swope: Attorney Rewa could weigh in as well. Michigan election law does allow the governor to remove someone, but I don't know that that precludes the City Council removing someone as well.

Vice-Chair Adams Simon: 2-302.3 would need some clarification as well.

2-304

Commissioner Washington: This is where the issue of Deputy Mayor comes up, which has no place in the City Charter. I think we either need to take it out that the City Council President is acting as mayor, but this has never been followed.

Vice-Chair Adams Simon: There have been situations where the mayor has bypassed the City Council president. a deputy mayor has been called on. With new technology, it is possible still perform duties. So, it needs to be clarified. Who is in charge?

Commissioner Dowd: we need to clarify what “temporary absence” means, so if we’re assuming does out of the City mean unavailable.

Attorney Rewa: Are there proposals about what the idea of this means? I hear incapacitation

Commissioner Dowd: I would suggest out of contact, like there is no ability to contact the person.

Commissioner Qawwee: Currently, we have an acting deputy mayor?

Clerk Swope: Whether a person has the title deputy mayor or not, that person has not been called on to perform statutory duties. The mayor’s position, which he stated here, is he is still in charge, whether he is here or not.

Commissioner Washington: We have talked about adding language for a chief administrative officer who has administrative, but not statutory duties. I think anything called Deputy Mayor is disingenuous, and that should be an elected position if we go that route. The mayor should still inform the Council President when they are out of town.

Commissioner Anderson: We should define “temporary absence”, and I am in favor of the Council President taking over.

2-400 Ballot Issues

Clerk Swope: State law no longer creates a vacancy when there is a recall. I think we need to clean the language up to comport with current state law, and in case state law changes back, be a little broader.

Attorney Rewa: We are reviewing the whole charter, this chapter in particular, to ensure alignment with state law.

2-410

Commissioner Boyd: I think this should be repealed; I don’t think it’s necessary. I think the charter can be amended by the council if needed. I think what we are doing is a lovely exercise, but it’s very costly, and I don’t think it’s important enough, so I would strongly recommend this be removed from the charter.

Commissioner Washington: I think the constitution of our city is incredibly important, and I think the people should elect the people that look at this charter. I would never vote to have this repealed. Does it have to be 12 years?

Vice-Chair Adams Simon: It does not.

Commissioner Lopez: Some cities have a standing charter commission, and I’m wondering if that’s something we should think about. Maybe every 6 months, every 3 months, whatever.

Vice-Chair Adams Simon: We’re going to have to come up with a way to position this, where maybe we have a standing commission. There is no way a charter should go unrevised for 48 years.

Commissioner Anderson: We can make it where we set a number of years, maybe it's 20 years, and we make it where it's not on the ballot it's automatic where people run for the commission every 20 years or so. Instead of having the actual revision on the ballot. People should still run to be a charter commissioner, but it shouldn't be on the ballot before that, to open the charter, if that makes sense.

Clerk Swope: To provide some context, The HRCA provides two ways for a City to elect a charter commission: one is by a 3/5 vote of council, the other way is by an initiative, so the voters can circulate petitions. That can be done at any time, in any year, whenever. So, the 12 years creates a false timeline, and we are one of six cities in Michigan that has a provision like this. If this isn't there, the City Council can still do this any year, and they can have more of a planned process. I think automatically going on the ballot is not necessarily meeting the needs of the City. I think this is something that should always be in the back pocket of the voters and the Council. That's why I think it benefits the City to remove this provision. You can also amend the Charter in the same ways outlined in HRCA. The state law allows the election of the commissioners to occur concurrently with the question of should there be a charter commission. It saves having two separate elections. I think that allows a city to have a more informed process.

Commissioner Boyd: If there is a change, there should be an effort made to have the two ballot items concurrently.

Commissioner Washington: I think voting for the two at once is a good idea. We shouldn't have lost those six months. I really want people to be able to vote on whether to review the Charter. For a local government it's good to review it in totality now and again.

Commissioner Dowd: We should add language that says this charter can be reviewed by the processes in HRCA and we put the ways it can be reviewed.

Attorney Rewa: MCL 117.18 is on revision, so if you're looking at ideas, look to that. This falls under the "unless otherwise provided by the charter" so if the section is removed, there are still ways to do a general revision. At the end of the day, the voters still need to decide.

Commissioner Bauer: I am intrigued by a study committee of the charter being formed, and then bring that recommendation to the City Council. We would have to look at who would be on the committee.

Vice-Chair Adams Simon: I think we should have an established charter commission that makes those recommendations to council, but it goes back to how do we make appointments, and there is a disconnect with our citizens there.

Commissioner Boyd: We should look to 1978 to how the study committee came to be.

Commissioner Lopez: I think my vision is a standing charter commission that would keep the charter updated.

Public Comment

Farhan Sheikh-Omar spoke about remarks made by Commissioner Boyd; Article 2-304; and Article 2-410.

Commissioner Remarks

Commissioner Washington congratulated Vice-Chair Adams Simon on her leadership during the meeting.

Adjournment

The meeting was adjourned by Vice-Chair Adams Simon at 9:26 PM.

Drever, Emery

From: Randy Dykhuis <randy@517cafe.org>
Sent: Friday, November 29, 2024 11:20 AM
To: Chartercommission
Subject: [EXTERNAL] Proposed charter amendments
Attachments: 2024 Nov letter to charter commission.docx

Please see the attached letter and document for changes to the charter from Capital Area Friends of the Environment.

November 29, 2024

Lansing Charter Commission
124 W. Michigan Avenue
Lansing, MI 48933

Dear Charter Commission Members:

I am writing on behalf of the board of Capital Area Friends of the Environment (CAFE). We would like to submit the attached amendments to the current charter for your consideration.

A few of our recommendations are highlighted below.

- Make the process and selection of members to all boards and commissions more transparent and a joint responsibility of the city council and the administration. Currently, the process is opaque and does not serve the residents well. We believe that a more open process will ensure better representation on all boards and commissions.
- The Board of Commissioners of the Lansing Board of Water and Light (BWL) should remain an independent administrative board, as it is now. However, the Board of Commissioners should be restructured to include two city council members or designees. BWL is a \$420 million a year company, and the owners, i.e. the residents of the city, deserve a governing board that will hold management accountable, not routinely approving their requests with no probing questions or independent analysis.

The Model City Charter Provisions that the BWL representatives cited during your November 12 meeting describes under its “General Provisions” on page 1 a structure that includes representatives of the administration and/or city council. Our proposal does not hew too far from that model.

- Members of boards and commissions should serve no more than two consecutive terms. Appointed positions are not the same as elected positions. Unlike elected offices where experience has shown that term limits do not lead to better governance, the direct opposite is true for appointed positions. The Model City Charter document explicitly supports this position by unequivocally saying: “No commissioner shall serve for more than two consecutive terms.” (p. 1, “Organization of the Board”, (b) Appointment and tenure)
- The internal auditor should be appointed by the city council rather than the Board of Commissioners. This would ensure that the auditor can offer a truly independent opinion when investigating processes and controls within BWL.

- Reform the processes for rate setting and capital funding for large projects.
- Give the non-Lansing members of the Board of Commissioners a vote. It makes no sense to invite other municipalities to participate in the governance process but without a vote. That renders their presence nearly meaningless. At your November 26 meeting, you heard Bob Worthy, the Delta Township representative, express his frustration with the current situation. We strongly support his view that it must change.
- Create a Sustainability and Environmental Affairs Department within the city and a corresponding advisory board. It is long past time for Lansing to have such a city department and advisory board. The climate emergency will bring worse impacts to Lansing in the coming years, and the city should be taking all possible steps to make the area more sustainable and increase resilience among area residents. A city department with the mandate to coordinate sustainability activities is the best way to ensure that this will happen.

Thank you for your consideration. We would be happy to have a conversation with the Charter Commission about our proposals and the reasoning behind them. We look forward to hearing from you.

Sincerely,

Randy Dykhuis
Board President, Capital Area Friends of the Environment

New charter language is highlighted.

ARTICLE 3 – LEGISLATIVE BRANCH

Chapter 4. INTERNAL AND EXTERNAL AUDITS

3-401 Internal Auditor

.8 The Internal Auditor shall audit the activities of the Board of Water and Light. Whenever appropriate the Internal Auditor shall promptly make a report to the City Council on City agencies or any irregularities of practice and erroneous accounting methods with recommendations for improving the accounting procedures and systems of the agency. All requests for rate increases shall be audited to determine the necessity for the increase.

ARTICLE 4 – EXECUTIVE BRANCH

Chapter 3. DEPARTMENTS

4-309 Sustainability and Environmental Affairs Department

.1 The Director of Sustainability and Environmental Affairs shall be the administrative head of the Department of Sustainability and Environmental Affairs and shall be responsible to the Mayor for the sustainability, environmental affairs activities, and environmental justice within the City.

.2 Any agency, with the knowledge of the Director of Sustainability and Environmental Affairs, may undertake the study of any sustainability or environmental matter within the scope of its duties.

.3 The Department of Sustainability and Environmental Affairs shall receive all reports concerning sustainability or environmental matters, environmental justice, and other information that it requests.

.4 The director shall, with the head of any agency involved, evaluate all reports and information received by the department in the light of the policies, programs and priorities of the adopted sustainability plan.

.5 The director shall be responsible for providing the Sustainability and Environmental Affairs Board with staff and all information necessary for the Board to carry out its assigned duties under Sections 5-701 and 5-702 of this Charter.

.6 The department shall prepare plans for the City and its various departments when such plans involve the character, location and extent of activities and facilities which impact on the natural environment of the City.

ARTICLE 5 – BOARDS AND COMMISSIONS

Chapter 1. GENERAL PROVISIONS FOR BOARDS

5-103 Appointment of Board Members

.2 Except as otherwise specifically provided in this Charter or State law, the Mayor, Clerk and two City Council members, selected from sitting Council members, shall jointly appoint persons to all such boards, commissions and committees with the advice and consent of the Council. No such appointment shall be effective until the Council has confirmed it.

.8 With the exception of administrative boards, each Board established by this Charter shall be composed of eight members. Four members shall be from the City at-large and one member shall be appointed from each of the four wards of the City. Administrative boards shall be composed of eight members. Two members shall be from the City Council, two members from the City at-large and one member shall be appointed from each of the four wards of the City.

.12 The Board of Water and Light Board Members shall include three voting Board members representing utility customer communities outside the City of Lansing. Each voting Board member from outside the City of Lansing shall be a Board of Water and Light customer, shall reside in and be appointed by the governing body of the municipality. One member shall represent the City of East Lansing and shall serve a term of four (4) years commencing July 1. One member shall represent Delta Township and shall serve a term of four (4) years commencing July 1. One member shall be at-large and shall represent the remaining municipalities and shall serve a term of one (1) year commencing July 1. The at-large representative shall serve on a rotating annual basis and be appointed by the governing body of the following municipalities in succession: Meridian Township, Delhi Township, DeWitt Township and Lansing Township. Except as provided herein, Section 2-103, Section 5-105, or State law, the provisions of this Charter shall not apply to the voting Board members of the Board of Water and Light who reside outside the City of Lansing.

.13 No person shall be appointed for more than 2 consecutive terms to any board or commission. After 2 consecutive terms, board members shall not be eligible for reappointment for at least 1 year. Individuals are not precluded from appointment to a different board or commission at the end of their second consecutive term.

Chapter 2. BOARD OF WATER AND LIGHT

5-201 Board of Water and Light

.2 Members of the Board of Commissioners shall be compensated for their service on the Board. The City shall, by ordinance, determine the compensation or the procedure for determining the compensation of members of the Board of Commissioners.

5-202 Director, Secretary

REMOVE 5-202.2.

5-203 Powers of the Board

.12 The Board may issue bonds for capital improvement projects, such as but not limited to construction of new power plants, wastewater treatment facilities, etc. For any project that exceeds \$50,000,000 (\$50 million) in projected construction costs, the public hearing and comment process must be followed.

.13 Public Hearing and Comment

When required, the Board shall conduct a public hearing and accept written comments . The public hearing shall be conducted at least 10 business days prior to the date of the Board meeting immediately preceding the meeting for the vote on the matter by the Board of Commissioners. Notice of the public hearing shall be given 45 business days before the hearing. Written public comment shall be accepted up to the meeting date for the Board's vote on the matter. The Board shall publish on its website responses to all comments made at the hearing and submitted in writing more than 20 business days before the meeting for voting on the matter at least 5 business days before the meeting date for Board voting on the matter..

5-205 Rates

.4 The public hearing and comment process as stated in section 5-203.13 must be followed before any rate increases are voted on by the Board.

Chapter 7. BOARD OF SUSTAINABILITY & ENVIRONMENTAL AFFAIRS

5-701 Duties

.1 The Board of Sustainability and Environmental Affairs, hereinafter known as the Board, is established pursuant to Article 5, Chapter I of this Charter and shall have all the powers, duties and responsibilities of advisory boards in addition to the following duties:

.2 The Board shall review and approve the departmental budget before its submission to the Mayor.

.3 The Board shall render an annual report to the Mayor and City Council, which shall include a description and evaluation of the department's activities during the previous year and proposals for future plans.

5-702 Investigatory Power

Whenever necessary to carry out its assigned duties, the Board of Sustainability and Environmental Affairs shall have the same power to subpoena witnesses, administer oaths and require the production of evidence as the City Council.

Drever, Emery

From: Bob Worthy <bob@worthycompany.com>
Sent: Tuesday, December 3, 2024 12:30 PM
To: Jeffries, Brian; Chartercommission
Cc: Boyd, Elizabeth
Subject: RE: [EXTERNAL] Revision of section 5-102-12 of the city charter

Charter Revision Committee:

I wanted to thank you for allowing me an opportunity to make a verbal presentation to your committee on November 26th. And thank you for allowing me some additional time to answer questions. If you have any further questions, please feel free to reach out to me by email, phone or text.

Since my presentation, I have had a chance to review the LBWL Commissioner's chairs comments on the issue and wanted to just add some rebuttal. Mr. Price's **personal** opinion was that commissioners from outside the city should not vote because commissioners from the city are Fiduciaries to the city of Lansing when basic agency law states the **ALL** directors (or commissioners) of a corporation are Fiduciaries and owe a duty of care for the shareholders (or in this instance the city of Lansing) so the three non-city commissioners are also bound to act in the best interest of the city of Lansing.

Mr. Prices analogy of the non-Lansing commissioners being like Home Depo shoppers who think they should be on the board also misses the mark, as the three individuals in question are **ALREADY** commissioners by charter and just are asking the city to lift the current discrimination currently contained in the charter which prevents them from voting. I cannot see any real argument here except basic tribalism.

I did not see any opinion from the general manager except a discussion of his GM Roundtable which I have attended all offered since my addition to the commission

Again, thanks for your questions, and let me know if you have any more.

Best regards,

Bob Worthy
517-204-6430

From: Bob Worthy
Sent: Monday, November 11, 2024 12:28 PM
To: Jeffries, Brian <Brian.Jeffries@lansingmi.gov>; Chartercommission@lansingmi.gov
Cc: Boyd, Elizabeth <Elizabeth.Boyd@lansingmi.gov>
Subject: Revision of section 5-102-12 of the city charter

Brian and Lansing Charter revision committee:

Back in July, I submitted a proposal for a very minute revision to the Lansing city charter concerning the board for commissioners for the Lansing Board of Water and Light. In its simplest terms I am asking for the removal of all language that prevents the three commissioners from the Board's service outside the city limits from voting and granting the one commissioner with a one-year term a four-year term, which will provide that all commissioners have the exact same authority and not having the three classes of commissioners we now have by charter.

My goal was to stop in and make a in personal presentation, but my schedule has a lot of moving pieces, and that has not worked out to date.

Thuse I would like to forward the Commission my thought process in support on my proposal, and some relevant background to better understand how we got the current charter language.

My support document is attached above:

I will try to attend your November 26th meeting, to answer your questions in person.

Best regards,

Bob Worthy
Delta Township resident and LBWL customer
517-204-6430
8650 W MT Hope Hwy
Grand Ledge, Michigan 48837

Drever, Emery

From: Tyler Nicolas <tylernicolas@gmail.com>
Sent: Friday, December 6, 2024 8:00 AM
To: Chartercommission
Subject: [EXTERNAL] Future Charter Proposals

Greetings. As a constituent, I have reviewed the city charter and hope you'll consider my recommendations.

1. Every published city document should be available in multiple languages, particularly the languages most commonly spoken in the city.
2. Add protections for residents and city employees who are undocumented.
3. With the ELCRA terms recommended by Attorney Rewa, add protections for employees, interns, board members, and officers who are LGBT+.
4. The chapter 3 council-member vacancy period should be 31 days, instead of 60 (excluding new parents)
5. The city should ensure that its marijuana laws align with those of the state.
6. Citizen-led petitions should be publicly viewable online, on the city's website.
7. There should be one council ward per every 25,000 residents, regardless of the number of at-large members.
8. Mayoral vetoes should be overruled by a council supermajority vote of 66%.

In addition to my recommendations, the September 7th meeting minutes contain multiple great suggestions. Also, I'm happy to clarify any of my proposals to you all.

Thank you for reading.

Tyler Nicolas

To: Charter Commissioners

From: Emery Drever, Deputy Clerk

Date: December 12, 2024

Re: Actions Update

The Commission has taken the following actions on the text of the Charter:

Article 1- General	
Status	Chapter
Adopted as presented	1. Government
Pending	2. Interpretation of Charter <i>Pending review of definitions of “officer” and “publish”</i> Passed amended definition of person; passed current language for definitions overview and definition of statute
Pending	3. Rights of Public <i>Pending vote on amended chapter</i> Passed amended language in 1-301.1; 1-302
Adopted as presented	4. Governmental Cooperation
Pending	5. Penalties <i>Pending review of attorney-proposed language</i>

In Article 1, Chapters 2 and 3 contain amendments passed by the Commission; the amended language is in the packet under 7. A. Old Business: Article 1 line-by-line review.

Article 2- Officers and Elections	
Status	Chapter
Pending	1. Officers <i>101.1; .3 suspended until the conversation of wards is revisited after the holidays, to allow for additional public comment</i> <i>101.1 pending enumeration of elective officers</i> <i>101.2; 102; 103.2 pending review of attorney-proposed language</i>
Pending	2. Election of Officers <i>2-203 Wards: suspended until the conversation of wards is revisited after the holidays, to allow for additional public comment</i>
Pending	3. Vacancies <i>301; 302 pending reviews of legal opinion</i> <i>304 pending reviews of attorney-proposed language</i>
Pending	4. Ballot Issues <i>401; 406 pending reviews of legal opinion</i> <i>410 pending new policy by commissioners; attorney-proposed language</i>

Additional Actions	
Status	Section: action
Passed	Article 4: Moved to maintain current form of government, mayor-council

ARTICLE 1 – GENERAL

Chapter 1. GOVERNMENT (approved as presented 11/12/24)

1-101 Establishment Of Government

The people of the City of Lansing, by adoption of this home rule Charter, create and continue a body corporate known as the "City of Lansing" and provide for continuing control of their municipal corporation.

1-102 Boundaries

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

Chapter 2. INTERPRETATION OF CHARTER

1-201 Powers Of The City

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

1-202 Liberal Construction

The powers of the City under this Charter shall be construed liberally in favor of the City. The specific mention of particular powers in the Charter shall not be construed as limiting in any way the powers of the City as stated in Section 1-201.

1-203 Severability

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

1-204 Article, Chapter And Section Headings

The article, chapter and section headings and catch lines used in this Charter are for convenience only, and shall not add or subtract from the meaning of the words of this Charter.

1-205 Definitions

The definitions provided in this section shall control the interpretation of the defined words when used in this Charter unless the context clearly indicates otherwise. (12/3/2024)

AGENCY means any board, commission, department, division, office or other organization of City government and includes any elective officer, appointee, or person acting or purporting to act in the exercise of official duties.

AGENCY OF THE EXECUTIVE BRANCH means those instrumentalities of government under the direction of the Mayor in Article 4 of this Charter and does not refer to any elected officer.

1 BOARD means a group of persons organized for governmental purpose and includes commissions
2 and committees.

3 ELECTORS means persons registered to vote in the City. Percentages of electors shall be
4 determined as of the most recent election.

5 FRANCHISE means the grant of a right by the City pursuant to law. The Board of Water and Light as
6 a permanent agency of Lansing City Government is not the recipient of a franchise of the City of
7 Lansing.

8 INQUIRY means a request for information. There is no intention in this Charter to distinguish between
9 inquiries made by City officials and inquiries made by private citizens.

10 LAW refers to principles of conduct, which must be obeyed. There is no intention in this Charter to
11 distinguish among those jurisdictions with power to declare the law unless specific reference is made
12 to federal law, state law or local law. There is no intention to limit the meaning of LAW to those laws in
13 effect on the effective date of the Charter.

14 MEMBERS ELECT means that all seats are counted in determining an ordinary or extraordinary
15 majority.

16 MEMBERS PRESENT means that neither vacant seats nor seats of absent members are counted in
17 determining an ordinary or extraordinary majority.

18 MEMBERS SERVING means that seats of absent members are counted in determining an ordinary
19 or extraordinary majority, but vacant seats are not counted.

20 OFFICER includes, but is not limited to, the elected officials of the City, the members of boards and
21 commissions, and their executive staffs, all heads of departments and divisions.

22 ORDINANCE means a local law enacted by the legislative body of the City of Lansing either prior to
23 the effective date of this Charter or subsequently.

24 PERSON means a human being regarded as an individual and artificial entities recognized as
25 persons by state law. ~~means both men and women and artificial entities, recognized as persons by~~
26 ~~state law.~~ (11/26/24)

27 PUBLISH means making something public in the manner stated in or authorized by this Charter, or if
28 no direction is given in this Charter, in one or more newspapers circulated in the City or by posting on
29 the official bulletin boards of the City.

30 SECTION means the basic unit of this Charter. RELATED SECTIONS are grouped into CHAPTERS.
31 RELATED CHAPTERS are grouped into nine ARTICLES. (12/3/2024)

32 STATUTE means a Public Act of the State of Michigan as it exists at the time the provision containing
33 the word STATUTE is to be applied.

Chapter 3 RIGHTS OF PUBLIC

1-301 City Records To Be Public

.1 All records of the City shall be public, in accordance with State law, and shall be kept in City offices, except when required for official reasons to be elsewhere, ~~and shall be available for inspection during regular business hours and shall be available pursuant to law.~~ (12/3/2024)

.2 No person shall dispose of, mutilate, or destroy any records of the City, except as provided by law.

1-302 Non-Discrimination And Civil Rights

.1 ~~It is the intent of the City that no person or group be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights or be discriminated against because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, gender identity or expression, pregnancy, breastfeeding a child or expressing human milk, veteran status, medical condition including genetic characteristics, HIV status, source of income, ancestry, student status, housing status, political affiliation or belief, service in armed forces in sovereign nations, linguistic characteristics such as accent or limited English, English proficiency, or other characteristic as defined by law, or any other basis prohibited by law, including any additional protections identified by law, as all forms of discrimination adversely affect Lansing citizens and the quality of life and opportunities available to all people. In the exercise of its powers or in the performance of its duties the City and all of its agencies shall ensure that no person or group engaged in the conduct of official business or seeking to do business with the City is discriminated against because of race, creed, political orientation, color, national origin, marital status, sex, age, handicap or for any cause not reasonably related to the accomplishment of a legitimate governmental purpose, and shall take whatever action is necessary to accomplish this purpose.~~ (11/26/2024)

.2 The City and all its agencies shall ensure that the civil and constitutional rights of all persons are not denied or abridged.

~~.3 The City shall take such action, and shall adopt such ordinances, as shall be necessary to accomplish the purpose of this section.~~ (11/26/24)

Chapter 4. GOVERNMENTAL COOPERATION (approved as presented 11/12/24)

1-401 Intergovernmental Cooperation

.1 The City shall, whenever it is feasible and beneficial, adopt a cooperative intergovernmental approach to the solution of urban problems. For this purpose the City shall have the power to join with any unit of government whether local, state or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the financing, ownership, operation or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

.2 The City may participate in organizations, both governmental and non-governmental in or beyond the corporate limits of the City. The participation of the City in those organizations is not subject to the



ATTORNEYS AND COUNSELORS AT LAW

2851 CHARLEVOIX DRIVE, S.E., SUITE 203 • GRAND RAPIDS, MICHIGAN 49546 • PHONE: (616) 975-7470 • FACSIMILE: (616) 975-7471

Kristen L. Rewa
krewa@cmda-law.com

December 13, 2024

Via Email

Mr. Brian C. Jeffries
Chairperson
Lansing Charter Commission
124 W. Michigan Ave., 9th Floor
Lansing, MI 48933
Brian.Jeffries@lansingmi.gov

Re: Article I, 1-205 (definitions) and 1-501

Dear Mr. Jeffries:

This letter addresses questions regarding:

1-205 Definitions

OFFICER includes, but is not limited to, the elected officials of the City, the members of boards and commissions, and their executive staffs, all heads of departments and divisions.

Discussion: a suggestion was made to remove the language “the members of boards and commissions” because those individuals are not paid by the City, they are volunteers. Does removal of that section create any issues with the later provisions of the Charter?

Response: Removing “members of boards and commissions” from this definition impacts other provisions of the Charter, often creating ambiguity or removing members of boards and commissions from other provisions of the Charter.

- Sec 3-207 provides the members of the City Council has “the right to make inquiries of City officers and employees” but shall “give no direct orders to any other city officer or employee”. If the “officer” definition is changed, it would create ambiguity in this provision and in the scope of the powers of City Council regarding these non-elected boards and commissions.
- 4-304, “[t]he City Attorney shall advise the officers and agencies of the City, in writing, on matters relating to their official duties upon request.” Further, the City Attorney may, with council approval, “represent any officer or employee of the City” in lawsuits

concerning official duties. Change in the “officer” definition could create ambiguity regarding legal assistance and representation of board members.

- 5-103 Appointment Of Board Members provides:

“.1 Every member of a board, commission or committee established by Charter or ordinance shall be an officer of the City and shall possess the qualifications required by this Charter for holding office, except that a felony conviction shall not render an individual ineligible for appointment or membership.”

This provision of the Charter would need to be revised if the Charter Commission’s goal is to remove board members from the definitions.

- Article 5, Chapter 5, Board of Ethics, provides that the Board of Ethics reviews matters concerning “public officers and employees”. Changing the definition of “officer” would create ambiguity as to the authority of the Board of Ethics concerning other city boards and commissions.
- Article 9, Transition – provides for the continuation of officers, compensation, and existing rules/regulations upon approval of the Charter. Provisions refers to “each officer”, and “any officer or agency.” Changing the definition of “officer” could impact transition rules upon adoption of the Charter.

Recommendation: Although members of boards and commissions are appointed, and in many instances may be unpaid volunteers, there are several members that serve on boards that have the authority to establish official city action or control funds. We recommend leaving “members of boards and commissions” in the definition of “officer”. Removal can create ambiguity in several other provisions of the Charter that would require additional revisions throughout the Charter to remedy.

PUBLISH means making something public in the manner stated in or authorized by this Charter, or if no direction is given in this Charter, in one or more newspapers circulated in the City or by posting on the official bulletin boards of the City.

Discussion: Based on Commission discussions at the December 3, 2024 meeting, the following is proposed revised language for publish, which blends the desired language from the Ann Arbor and Pontiac Charters:

PUBLISH means making something public in the manner stated in or authorized by this Charter or law, or if no direction is given in this Charter, by posting to the City’s website and by any means determined by the City to achieve widespread dissemination to the general public in the City to inform on matters of municipal concerns.

1-501 Penalties For Violation Of Charter

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

Discussion:

- a. Proposed language defining violation as misdemeanor;
- b. Raise the fee to 1,000?
- c. Change imprisonment to 93 days, because it mandates fingerprinting and appointment of attorney;
- d. Who is liable to violation of the Charter?
 - i. Is it possible to hold city officers and elected officials, accountable under such a provision?
- e. Civil and criminal penalties? And what does the last sentence mean regarding removal and discharge?

Response: The Home Rule City Act does not contain any language regarding mandatory or permissive charter provisions penalizing violation of a charter, but it does have such a provision related to the violation of city ordinances.

MCL 117.3 provides, in relevant part, that a city charter shall provide for the adoption of city ordinances. The statute further states, “A charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days.” MCL 117.3(k). Additionally, MCL 117.4i(k) provides, in relevant part, that a city charter may contain a provision regarding “[t]he punishment of persons who violate **city ordinances** other than ordinances described in section 4I. **The penalty for a violation of such a city ordinance must not exceed a fine of \$500.00 or imprisonment for 90 days, or both.**” Elsewhere, the Home Rule City Act mentions in passing violation of city charter violations. See e.g. MCL 117.31 (providing, in relevant part, “[a]ll fines collected or received by the district court for or **on account of violations of the charter or ordinances of the city**, shall be distributed by the district court pursuant to section 8379 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8379 of the Michigan Compiled Laws”).

We found one example of a city whose charter contains a criminal penalty provision for charter violations. The City of Dearborn imposes a penalty of up to \$500 and/or imprisonment up to 90 days. That provision relies on a prior version of MCL 117.4i that allowed for charter provisions “[f]or the punishment of those who violate [the city’s] laws or ordinances”, which would encompass charter provisions.

If the Charter Commission wants to keep this penalty provision, the current language is consistent with the Home Rule City Act's limitation on the allowable penalty for a local ordinance violation.

- a. Because the penalty includes the possibility of jail time and is not designated a felony, it is by definition a misdemeanor. MCL 750.8.
- b. Raise fee \$1,000. If the violation remains a criminal offense, the HRCA likely prevents this change because it limits criminal penalties for violations of city ordinances to \$500 and/or 90 days in jail. However, if the offense is designated a municipal civil infraction, there is no prohibition on establishing the maximum fine to \$1,000.
- c. Change imprisonment to 93 days. The HRCA likely prevents this change because it limits penalties for violations of city ordinances to \$500 and/or 90 days in jail. However, if the charter violation substantially corresponds to a 93-day misdemeanor under state law, then an argument could be made that those provisions could be a 93-day misdemeanor.
- d. Who is liable to violate the Charter will depend on the specific provision of the Charter at issue. The Charter governs the conduct of City elected officials, appointed officials, and employees. As such, those individuals could violate the charter.
- e. The last sentence in this section makes clear that if a criminal action is pursued for a violation of a charter, the City may also pursue other actions, including removal or discharge. A case may not be a good candidate for a criminal action, which must be proven beyond a reasonable doubt. Only the City Attorney has authority to initiate criminal charges. The judge determines the sentence. However, the situation may warrant other action, like removal of a board member or discharge of an employee, which does not require proof beyond a reasonable doubt.

Very truly yours,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.



Kristen L. Rewa

KLR/car

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December 13, 2024

Via Email

Mr. Brian C. Jeffries
Chairperson
Lansing Charter Commission
124 W. Michigan Ave., 9th Floor
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Re: Article II – Officers and Elections

Dear Mr. Jeffries:

This letter addresses questions that arose during the December 3, 2024 Charter Commission meeting during its review of Article 2 of the Charter for which attorney advice was sought. The questions are taken in the order of where the language appears in the Charter.

General Style Note:

In preparing this document, we noticed that the Charter uses the words “voters” and “electors” apparently interchangeably throughout the document, sometimes in the same section. Example:

2-405 Council Action On Petitions

.1 Upon receiving an initiative or referendum petition from the City Clerk, the City Council shall within 30 days either:

(a) if it is an initiative petition

(1) adopt the ordinance as submitted in the petition, or

(2) direct the submission of the proposal to the electors; or

(b) if it is a referendum petition,

(1) repeal the ordinance to which the petition refers, or

(2) direct the submission of the proposal to the electors.

.2 Submission to the voters shall take place at the next regular election, or at a special election held prior to the next regular election.

The words are used in the following Charter provisions:

Voters: 2-104.2 &.3, 2-204, 2-405, 2-206, 2-207, 2-408, 2-409, 8-201, 9-402

Electors: 1-205 (definition), 2-1022, 2-204.3, 2-403, 2-405, 2-411, 5-207, 8-302, 9-401

Michigan Election law appears to use both terms as well, although it appears to favor elector. The Commission may wish to consider addressing this to avoid any ambiguity in the Charter. The Commission could decide to choose one word over the other. If the Commission wishes to use one word, we recommend that “voters” be changed to “electors”, which is defined in Sec 2-205 (“ELECTORS means persons registered to vote in the City. Percentages of electors shall be determined as of the most recent election.”). Alternatively, the Commission could add “voters” to the 1-205 definition section to make clear that the words have the same meaning. The definition can be as simple as:

VOTERS means ELECTORS.

2-101 Elective Officers

- 1. The elective officers shall be the Mayor, eight members of the City Council and the City Clerk.**

This is a mandatory charter provision under the Home Rule City Act (“HRCA”). See MCL 117.3(a). However, the HRCA does not dictate how many members the legislative body can have, which leaves open the possibility of amending this provision to expand the number of City Council members beyond eight.

The Commission has asked whether the City Charter can be revised to make the City Attorney an elected, rather than appointed, position. See City Charter, Sec. 4-304(1) (providing that the “City Attorney may be appointed by the Mayor and confirmed by the City Council”). The HRCA provides that the City Charter must include for “[t]he election of a mayor..., and of a body vested with legislative power, and for the **election or appointment** of a clerk, a treasurer, an assessor or board of assessors, a board of review, **and other officers considered necessary.**” MCL 117.3(a) (emphasis added). There is no prohibition on establishing the City Attorney as an elected official. We are unaware of any other Michigan city that has done so.

- 2. Each officer shall have a term of four years terminating at 12 Noon on January first and shall serve until the election and qualification of a successor.**

Michigan Election Law provides that “the qualifications, nomination, election, appointment, **term of office**, and removal from office of a city officer must be in accordance with the charter provisions governing the city.” MCL 168.321(1) (emphasis added).

The Commission has asked whether the phrase “and shall serve until the election and

qualification of a successor” can be removed and when this language would apply. We were able to find only one other home rule city in Michigan whose charter contains similar language—the City of Linden. Despite this phrase being a bit of a novelty amongst home rule city charters, the phrase “elected and qualified” appears in numerous provisions of Michigan Election Law.¹ This language would apply where a councilperson has served the term prescribed by law, or perhaps lost an election or decided not to run for reelection, and a successor has not been elected and qualified. For example, the incoming City Council member-elect is determined to be unqualified to assume the seat because they have not been a registered elector in the City of Lansing for one year prior to taking office. See City Charter, Sec. 2-102. In such a scenario, the departing City Council member would be able to remain on City Council until another successor can be elected and qualified to assume the seat.

The phrase “and shall serve until the election and qualification of a successor” can be removed. In the event one of the aforementioned scenarios comes to pass, the City will have the option of allowing the outgoing councilperson to remain as a holdover member until a successor is elected and qualified, or, if the outgoing councilperson is unwilling or unable to remain a holdover member the seat can be declared vacant and a replacement appointed. See City Charter, Sec. 2-301 and 2-303.

For simpler language that accomplishes the same goal of dictating when one person’s term end and another’s begins, see below from the Detroit City Charter:

Sec. 2-102. Term of Office. The term of every elective city officer is four (4) years and commences at noon on the first (1st) day of January after the regular city general election.²

3. The terms of office of the Council Members shall be staggered so that two City Council Members elected from wards shall stand for elections every two years and two City Council Members elected at large shall stand for election every two years.

The City of Lansing is not the only major city in the state with a charter provision calling for staggered terms. See also Ann Arbor City Charter, Sec. 12.4(a). Staggered terms are not required, but if the desire is to move away from staggered terms, we would need to discuss revised language to coordinate the expiration of all terms while ensuring that the terms of office of those already elected and serving are not shortened. The terms of the current City Council expire 12/31/2025 or 12/31/2027.

To ensure all seats will become vacant at the same time so terms are no longer

¹ See e.g. MCL 168.321(3) (providing a method for appointing members to the legislative body of a home rule city in the absence of a charter provision governing the appointment of members where appointment is necessary for the body to have a quorum and requiring that the appointed member “shall hold the office only until the member’s successor is elected and qualified”).

² This language dictating when a term of office commences is consistent with Michigan Election Law. See MCL 168.644h (providing that “[a]ll persons elected at the odd year general election shall take office at 12 noon on January 1 following the election”). However, this provision allows some flexibility for home rule cities, providing that “if the charter provides for an earlier date for taking office or if prior to April 1, 1971, the council provides by ordinance for an earlier date for taking office, the earlier date shall prevail.” *Id.*

staggered, I recommend the following revision to this provision:

In 2025, there will be four (4) vacancies upon the council to be filled. The four (4) qualified candidates receiving the highest number of votes shall be elected to a term of office of two (2) years. Beginning in 2027, each councilperson shall be elected to a four-year term.

This provision may need further revision if the Commission decides to alter the number of council members.

2-102 Qualifications for Elective Office

Every city official holding elective office shall be a registered elector in the City of Lansing and shall have been a resident of the city for one year prior to taking office. A ward Council Member shall be a resident of the ward from which elected or chosen.

Michigan Election Law empowers a home rule city to provide in its charter for “the qualifications, nomination, election, appointment, term of office, and removal from office of a city officer.” MCL 168.321(1). This stands in stark contrast to other provisions of Michigan Election Law, which expressly provide the minimum eligibility for certain offices. See MCL 168.191 (providing that a person is not eligible to be county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner if not a registered and qualified elector of the county by the filing deadline); MCL 168.302 (providing that a person is not eligible to be a school board member if not a registered and qualified elector of the school district the individual seeks to represent by the filing deadline); and MCL 168.342 (providing that a person is not eligible for township office if not a registered and qualified elector of the township in which election is sought by the filing deadline).

The above makes clear that the Michigan Legislature gave some measure of discretion to home rule cities to dictate eligibility to hold elective office. The current language requiring residency for one year prior to taking office is fairly common, and within the City’s authority. The same is true if the City wanted to alter this requirement to require someone be a registered and qualified elector of the City of Lansing for one year prior to the filing deadline. In fact, tying the requirement to the filing deadline and not the date of taking office would be consistent with the above cited provisions of Michigan Election Law. This is the exact approach taken by the City of Detroit in its Charter, which provides:

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

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

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

Consistent with the foregoing, if the Commission wishes to alter this requirement, we suggest the following language:

A person seeking elective office must be a citizen of the United States, a resident and a qualified and registered voter of the City of Lansing for one (1) year by the deadline for filing for office, and retain that status throughout their tenure in any such elective office. In addition, a ward Council Member shall be a resident of the ward from which elected or chosen.

We also note that it is not clear from this section how long a ward council member must be a resident of that ward. An argument can be made that there is no requirement that the member be a resident *of the ward* for one year from the deadline for filing because the second sentence is silent as to a durational requirement. If the Commission also wishes to clearly require a residency duration for the *ward*, it should do so in the second sentence. The following language is provided for your review:

In addition, a ward Council Member shall be a resident of the ward from which elected or chosen for one (1) year by the deadline for filing for office, and retain that status throughout their tenure as a ward Council Member.

2-103 Ineligibility for Office

.2 No person who is in default to the City shall be eligible to hold any City office.

As an initial matter, this limitation is commonplace in city charters and, as noted above, the City has the authority to enact such a provision that pertains to qualifications of a city officer. However, the Commission has asked for clarification as to what it means to be “in default to the City.” Although “default” is not defined in the charter, it is commonly understood to mean “[t]he omission or failure to perform a legal or contractual duty.” DEFAULT, Black’s Law Dictionary (12th ed. 2024). To make this clear, we recommend an amendment to Sec. 1-205 (Definitions) to include the following:

DEFAULT TO THE CITY means the omission or failure to timely perform a legal or contractual duty owed to the City of Lansing. This includes, but is not limited to, failure to pay any monetary obligation, including taxes, fees, or fines.

This admittedly would allow for someone in default to the county to hold office so long as they are not in default to the city. While the commission could attempt to close this loophole by revising this section to “[n]o person who is in default to the City **or Ingham County** shall be eligible to hold any City office”, expanding this language could lead to a legal challenge, but we

believe the language to be defensible.

Notably, the City of Plymouth's charter used to contain such a provision,³ but that language has since been removed.⁴ Neither our courts nor the federal judiciary have found a fundamental right to be a candidate for elective or appointive office. See e.g. *Molina-Crespo v. U.S. Merit Sys. Prot. Bd.*, 547 F.3d 651, 660 (6th Cir. 2008). As a result, any due process challenge to this charter provision would be reviewed under the highly deferential rational basis test which simply requires the provision "be rationally related to a legitimate governmental interest." *Electronic Data Sys. Corp. v. Flint Twp.*, 253 Mich. App. 538, 549 (2002).

Consistent with the foregoing, if the commission is considering an amendment to this provision to exclude those in default to the city or the county, there should be robust discussion regarding the reason for expanding the exclusion and how it relates to the City of Lansing's legitimate governmental interest of determining the qualifications for those seeking elective or appointive office.

2-104 Compensation of Officers

The Commission has asked whether City Council could reject the Officers' Compensation Commission "recommendation", as this has been done in the past. For the answer to this question, we must refer to the corresponding ordinance provisions found in Chapter 280 of the Code of Ordinances. Specifically, Sec. 280.01 sets forth the powers and duties of the compensation commission and provides, in relevant part: "The Commission shall determine the salaries of all elected officials, and such determinations shall be controlling, unless Council, by resolution adopted by two-thirds of the members, rejects them." That section goes on to provide that "[i]n case of rejection [by Council], the existing salary shall prevail." *Id.*

In sum, City Council may reject the compensation commission's determinations, but only by a resolution adopted by a 2/3 majority. If City Council rejects the compensation commission's determinations, the salary remains the same.

2-301 - Absence from Office.

The Commission asked whether it was only the Governor that could remove a person from office pursuant to MCL 168.327. Can the Charter provide other methods for removal or forfeiture of an office? It is true that MCL 168.327 only enables the governor to remove someone from office under that statute, but it is not the only mechanism to remove someone from office.

³ See *Schweitzer v. Clerk for City of Plymouth*, 381 Mich. 485, 489 (1969) (quoting former iteration of City of Plymouth Charter, Sec. 4.4 as providing, in relevant part, "[e]xcept as otherwise provided in this charter, an elector of the city shall be eligible to hold elective or appointive office, if he shall have been a resident of the city for two years immediately prior to the date of his election or appointment to office, **and shall not be in default to the city, the County of Wayne, or to any school district located within the city**") (emphasis added).

⁴ The closest the current version of the City of Plymouth Charter comes to this provision states that "[t]he [City] Commission shall not have the power to make any contract with or give any official position to any person who is in default to the city." City of Plymouth Charter, Sec. 5-17(a).

MCL 168.327 provides that “The governor shall remove all city officers chosen by the electors of a city or any ward or voting district of a city, when the governor is satisfied from sufficient evidence submitted to the governor that the officer has been guilty of official misconduct, wilful neglect of duty, extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it appears by a certified copy of the judgment of a court of record of this state that a city officer, after the officer's election or appointment, has been convicted of a felony. . .”

However, nothing in the language of the statute precludes removal or forfeiture by an alternative means. In fact, the Michigan Constitution explicitly provides that any elected officer of a political subdivision may be removed from office for the causes provided by law. Mich. Const., Art. 7, § 33.

2-302 - Forfeiture and removal for cause.

The Commission asked whether is only the governor who is allowed to remove someone from office. As explained above, there is no conflict with MCL 168.327 because although the statute does enable the governor to remove someone from office, it is not the only mechanism to remove someone from office. The Michigan Constitution explicitly provides that any elected officer of a political subdivision may be removed from office for the causes provided by law. Mich. Const., Art. 7, § 33. Thus, a charter provision permitting the discharge of an elective or appointive officer for misconduct in office is considered constitutional.

Michigan law has long recognized that a municipal corporation has inherent power to remove its officers: “It is evident that no power is given cities and villages to remove their officers under said section 8 of the old Constitution, but it does not follow that they had no such power. Their officers are corporate, legislative officers, not constitutional. ***The power to remove their officers is, and was long before the adoption of our Constitution, inherent in municipal corporations.***” *Hawkins v. Common Council of City of Grand Rapids*, 192 Mich. 276, 283 (1916) (emphasis added). See also *McComb v. City Council of Lansing*, 264 Mich. 609, 613 (1933) (finding city council had sufficient authority for the removal of alderman because the City “charter provision, together with section 17218, Comp. Laws 1929, constituted sufficient authorization for the proceedings, provided that, in pursuance thereof, plaintiff was given a fair hearing following presentation of the charges.”) Secondary sources also confirm this. See, e.g., 18 Mich. Civ. Jur. Municipal Corporations § 134.

The grounds for removal of an officer are particularly spelled out in the charter and so the removals must be exercised under those express legal provisions. In other words, when a city charter specifies the grounds that will be sufficient for the removal of an officer, those grounds must be the basis of the dismissal as the city does not have the power to remove a person from office on any other ground. See e.g., *Dick v. City of Melvindale*, 271 Mich. 419 (1935) (removal proceeding was void where council removed an officer for lack of citizenship, but the council's jurisdiction was only to try officers for incompetency).

Here, the Lansing Charter Section 2-302(2) provides that “The position of an elective City officer or an appointee shall be forfeited if he or she: (a) Lacks at any time any qualifications required by this Charter, (b) Is convicted of a felony while holding the office or appointment, (c)

Violates a provision of this Charter punishable by forfeiture.” Thus, removal and forfeiture should be based on one of those three grounds.

The provision likely contains sufficient due process protections as it explicitly provides for “public hearing before the City Council with notice published in the same manner as notices of proposed ordinances.” The language that the “Council member charged with conduct constituting grounds for forfeiture may not participate in the resolution of the charge” essentially prevents the city Council member in question from voting on his or her own removal. However, in an abundance of caution, the City may want to update subsection (1) to include language that specifies that the council member is permitted to attend and speak at the hearing but may not may not participate in the resolution of the charge. This alteration would ensure the Council member has an opportunity to be heard and right to speak in their own defense and thus guard against any allegations of insufficient due process. Thus, if the Commission wishes to amend 2-302(1), we suggest the following language:

.1 The City Council shall declare the forfeiture of the office of any elective officer or appointee and may remove for cause any person appointed to an office for a fixed term. In every case there shall be a public hearing before the City Council with notice published in the same manner as notices of proposed ordinances. A Council member charged with conduct constituting grounds for forfeiture is permitted to attend and speak at the hearing but may not participate in the resolution of the charge.

The Commission also requested information more definition of what “**removal for cause**” means and whether this provision conforms with state law (i.e. what are all of the ways in which an elected City Officer can be removed for cause. Any other issues seen in this provision that should be changed?)

In *Speed v. Common Council of City of Detroit*, 98 Mich. 360 (1894), the Michigan Supreme Court addressed the issue of removal for cause. The court emphasized that removal from office **must be based on legitimate grounds** and follow due process. Specifically, the court noted that the common council could not arbitrarily refuse to consider an appointment or remove an official without proper justification: “The subject of removals is completely covered by [the Charter] provisions, and excludes removals in any other manner than is there provided. Elective officers, with few exceptions, can be removed for cause. This, under the well-established rule, excludes the power to remove at will.” *Id.* at 371. There is no presumption allowing for the removal of appointed officers without cause. *Hallgrene v. Campbell*, 82 Mich. 255, 261–62 (1890). With regard to the removal of municipal officers and employees, “for cause” “legal cause” and “sufficient cause” are sometimes used interchangeably with “grounds,” but all mean that the cause for dismissal relates to and directly affects the administration of the office involved. See 18 Mich. Civ. Jur. Municipal Corporations § 134.

Case law also does not differentiate between removal of elected versus appointed officials. For example, *Nichols v. City of Fraser*, No. 341699, 2019 WL 208030, at *1 (Mich. Ct. App. Jan. 15, 2019) concerned the removal of the plaintiff mayor by the city council following allegations of sexual harassment made by city employees and a subsequent city council

hearing. The court affirmed the city council's actions. The court explained "The city of Fraser is a municipal corporation with a home rule charter which provides that the city council constitutes the legislative and governing body of the city. The city council is expressly authorized by the city charter to remove an officer from elected office." *Id.* at *7. The court noted that "[c]learly the city charter mandates that removal of an officer shall be for cause only. . . . Likewise, the charter permits removal for "misconduct in office." Thus, the cause stated for removal 'must have direct relation to and be connected with the performance of official duties' " *Id.* at *8 (quoting *Wilson v. Council of City of Highland Park*, 284 Mich. 96, 98 (1938)).

In other words, the cause specified for removal generally must relate to the officer in his or her official capacity. The Michigan Supreme Court addressed this concept in the case *Wilson v. Council of City of Highland Park*, 284 Mich. 96, 98 (1938) by explaining: "It is well settled the misconduct, misfeasance, or malfeasance, under our law to warrant plaintiff's removal from office, must have direct relation to and be connected with the performance of official duties and amount either to maladministration or to willful and intentional neglect and failure to discharge the duties of the office at all. It does not include acts and conduct which, though amounting to a violation of the criminal laws of the state, have no connection with the discharge of official duties. The misconduct which will warrant the removal of an officer must be such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it is necessary to separate the character of the man from the character of the office. The misconduct charged and established must be something which plaintiff did, or did not do, in his official capacity." *Id.*

Taken together, statutory, constitutional and case law shows that "for cause" removals of both appointed and elected officials from office are in accordance with state law and may be made for gross neglect of duty, for corrupt conduct in office, for misfeasance (committing a wrongful act) or malfeasance (performing a lawful act in a wrongful manner), willful neglect of duty by a public officer, or for failure to perform their duties in the manner provided by law. See, e.g., 19 Mich. Civ. Jur. Officers and Public Employees § 253 (collecting cases).

2-304 Temporary Absence of Mayor

The Commission has noted that they would like to make changes to this provision but it is unclear exactly what changes they are seeking to make. The Commission has also asked for better clarity on what "temporary absence" means and what "inability of the Mayor to perform the duties of the office" means.

Case law provides some guidance on the meaning of "temporary absence" and "inability of the Mayor to perform the duties of the office." In *Cytacki v. Buscko*, 226 Mich. 524 (1924) the court addressed the issue of absence from the city in the context of the mayor's duties. The Hamtramck City Charter provision under review provided that "In case of a vacancy in the office of the mayor or his inability to perform the duties of the office by reason of sickness, absence from the city, or other cause, the president of the city council shall be acting mayor, and in case at that time there shall be a vacancy in the office of the president of the city council or he shall be unable to perform the duties of his office by reason of sickness, absence from the city, or other cause, the president pro tem. of the city council shall be acting mayor of the city. . . . " When the Mayor made a trip to New York the president of the city assumed the duties

of the office of mayor and attempted to remove from office the director of public works, a mayoral appointee. The court addressed the meaning of absence and explained:

No effort has been made to specifically define the term 'absence' as used in city charters, statutes, and constitutions by the framers thereof. Literally, it may be said that a person is absent from a place when he is not physically present therein. To hold that it was intended to be so used in this charter would lead to results which might seriously impair the efficiency of the city government. Should the mayor of this city cross its boundary line, he would literally be absent from the city. If, when so absent, the acting mayor has the power to assume the office and discharge its duties, other than those arising out of an emergency, *an unseemly scramble for power and patronage would follow which could but result in impairing the usefulness of both such officers in the discharge of their official duties and seriously affect the government of the city as a whole. An interpretation should not be given to the words 'absence from the city' which might lead to such results.* When, however, as here, the mayor has left the city and the state, intending to remain away for a number of days, we think it must be held that he was 'absent from the city' within the meaning of the charter provision. *Id.* at 527–28 (emphasis added).

The court then addressed what power was to be given to the acting mayor under such circumstances and the absurdity that could result if the acting mayor assumed power every time the mayor left the state:

There was clearly no intention to interfere with him in the discharge of his duties by the provision empowering the president of the council to act in case of his 'inability to perform the duties of the office by reason of sickness, absence from the city, or other cause.' There are few people who are not absent from their homes several times during each year on account of business engagements, illness of relatives, or other causes, and at times such absences are necessarily somewhat protracted. If a mayor may not leave his city under such circumstances without having his plans for the conduct of the city business interfered with by the removal of his appointees, few self-respecting men would be willing to accept such an office. *Id.* at 528-529.

In defining the word "absence" the court explained:

Under such a system, it would be intolerable to permit such officers to be removed by the acting mayor unless the absence of the mayor was so prolonged as in effect to make the acting mayor the actual mayor of the city. ***We think a fair interpretation of the word 'absence,' as here used, means such an absence as constitutes inability on the part of the mayor to perform the***

particular duty which the acting mayor has assumed to perform. He may, of course, perform the routine duties of the office and meet such cases of emergency as may arise. While, as before stated, the absence might be so protracted as would justify him in removing an official, there was no justification for removing the plaintiff on the second day after the mayor had left the city, as was here done. *Id.* at 530.

In other words, the absence contemplated by the Charter is not merely a physical absence of the mayor from the city, “but is such an absence as renders him incapable for the time being of performing the act that may be in question, which act must present such a necessity for immediate attention as to require it to be then executed.” *Id.* at 531 (quoting *Watkins v. Mooney*, 114 Ky. 646, 71 S.W. 622 (1903)).

However, if the Mayor is truly absent as contemplated by the Charter, the acting mayor will have the powers of the elected mayor. Such cases are different from *Cytacki* because “[t]here a mere temporary absence of the mayor of the city of Hamtramck was seized as an opportunity for ousting one of his appointees.” *Nagel v. Martin*, 229 Mich. 282, 284 (1924). In *Nagel*, the city controller was removed from his position by the acting mayor. The controller sought to prevent his removal in court, arguing that the acting mayor should not have the same powers as the elected mayor. However, the court distinguished *Cytacki* and affirmed the acting mayor's authority to remove the controller, stating that the city charter vested the acting mayor with all the powers of the mayor. “A mayor may, be reason of sickness, be unable for one or several days to perform the duties of his office without bringing an acting mayor to the office. Common sense runs along with charter provisions and prevents absurd application thereof. In the case at bar defendant Martin has for many months performed all the duties of mayor.” *Id.* at 284. Fortunately, the current Lansing City Charter prevents some of these issues because it states “[a]ny appointment or removals by an Acting Mayor are subject to confirmation by the permanent Mayor.” Sec 2-304.4.

The Charter provision ensuring that the president of the city council (or any other individual) can act as mayor in the mayor's absence ensures that the city's executive functions continue smoothly even if the mayor is temporarily unavailable due to sickness, absence, or other reasons. This helps maintain stability and prevents any disruption in city operations. Michigan cities handle these provisions in a variety of ways so there is no one “right” way to do this; however, having the President of City Council serve as acting mayor is fairly common:

- In Chapter IV, Section 6 of the Livonia City Charter permits the City Council President to Serve as the Mayor: “The President shall perform the duties of the Mayor when on account of absence from the City, disability, or otherwise, the Mayor is temporarily unable to perform the duties of the office, and in case of vacancy in the office of Mayor, until such vacancy is filled by election.” <https://livonia.gov/DocumentCenter/View/2009/City-of-Livonia-Charter-PDF>
- In Grand Rapids, Title VI, Section 3 of the city charter provides that the president of the City Commission will perform the duties of the mayor during any temporary absence or disability of the mayor: “The President of the City Commission shall perform all the duties of Mayor, whenever the Mayor is absent from the City, or

is temporarily unable from any cause to perform the duties of his office.”
<https://www.grandrapidsmi.gov/Government/Departments/Office-of-the-City-Clerk/City-Charter>

- The Ann Arbor City Charter Section 4.3 states that if the mayor is temporarily absent or unable to perform their duties, the mayor pro tempore, who is elected by the city council, will act as mayor. (“The Mayor Pro Tem shall perform the duties and have the powers of the Mayor when, on account of a vacancy in the office, absence from the City, disability, or for any other reason, the Mayor is unable to perform the duties of office.”) <https://www.a2gov.org/departments/city-clerk/Documents/Charter.pdf>
- In contrast, The City Charter of Detroit provides for a Deputy Mayor in Sec.5-108 of its City Charter and the Mayor is required to “designate a member of the Mayoral staff or the director of a department of the executive branch as the deputy Mayor.” (“During the absence or temporary disability of the Mayor, the Deputy Mayor shall be acting Mayor and shall exercise all the powers and perform all the duties of the Mayor to the full extent permitted by law, except that the Deputy Mayor may not . . .”). <https://www.detcharter.com/charter/charter-05-00.php>

If the Commission wishes to provide further definition and bounds to the meanings of temporary absence and inability, we recommend added definitions to this subsection. Below is suggested language for review and discussion.

- .6 **For purposes of this section, “temporary absence of the Mayor from the City or inability of the Mayor to perform the duties of office” shall mean such an absence, condition, sickness, or other cause that renders the Mayor incapable for the time being of performing the act that may be in question, which act must present such a necessity for immediate attention as to require it to be then executed.**

2-401 Recall

A question arose whether changes to state law on elected official recalls require changes to this provision of the ordinance. Specifically, whether there is no longer a “vacancy” when a recall is successful.

The constitution permits laws to be passed providing for the recall of all elective officers, except judges, upon petition of the electors. Mich. Const. 1963, art. 2, § 8. Municipalities are permitted to provide by charter for the recall of all its officials. MCL 119.4(h) (permitting a charter for the initiative and referendum on all matters within the scope of its powers). Recall elections are governed by Chapter 36 of the Michigan Election Law, MCL 168.951 *et seq.* *Gleason v Kincaid*, 323 Mich App 308, 320 n 5; 917 NW2d 685 (2018). The Clerk is correct that Michigan's recall laws underwent significant changes in 2012 and a recall no longer creates a vacancy but rather triggers a special recall election.

According to MCL 168.951(1), “[e]ach elective officer, except a judicial officer, is subject to recall by the voters of the electoral district in which the officer is elected” A recall petition cannot be initiated or circulated against an official during a “safe haven” period at the beginning and end of the officeholder’s term. If the official’s term of office is two years or less, a recall petition cannot be filed against the official during the first six months or last six months of their term. If the official’s term of office is more than two years, a recall petition cannot be filed against the official during the first or last year of their term. MCL 168.951(1). Additionally, if a recall election is held and the officeholder’s recall fails, no additional recall petitions may be filed against the officeholder for the remainder of the term during which the officeholder’s recall was sought.

A recall petition must be filed and approved based on clear and factual reasons. MCL 168.952(1). Petitioners need to collect signatures equal to 25% of the votes cast in the last general election for that office. MCL 168.955. If the petition is approved, a special recall election is scheduled to be held not less than 95 days after the petition is filed, on the next regular election date in May or November. MCL 168.963(2).⁵

The recall election operates as a normal election—the officeholder whose recall is sought appears on the ballot with all other candidates seeking to fill the officeholder’s office, and voters vote for the candidate they would prefer fill the office for the remainder of the term. The candidate who receives the most votes in the recall election becomes the officeholder and finishes the remainder of the officeholder’s term. A voter who does not wish the officeholder to be recalled should cast a vote for the officeholder during the recall election. The officeholder is automatically a candidate in the recall election unless the officeholder withdraws their candidacy from the recall election within 10 calendar days of the recall petition’s filing.

Other municipalities have addressed this topic in various ways in their Charters and the Commission will have to decide whether they would like a provision that goes more in depth in explaining the recall process verses a simpler provision that refers to state law.

For example, Section 12.13 of the Ann Arbor City Charter governs recall and simply provides: “An elective officer may be recalled in the manner provided by the general laws of the State. A vacancy created by recall shall be filled in the manner prescribed by law.”⁶ By contrast, the Grand Rapids City Charter, recall is governed by Sections 6 to 16 of Title IV “INITIATIVE—REFERENDUM—RECALL” and goes much more in depth and contains specific sections addressing, among other things, who is subject to recall, where to file the petition, when the recall election is to be schedule and how to become a candidate in a recall election.⁷

We recommend the following proposed language change:

⁵ “If a recall petition is filed under section 960, immediately upon determining that the recall petition is sufficient, but not later than 35 days after the date of filing of the recall petition, the county clerk with whom the recall petition is filed shall call the recall election and proceed under sections 971c to 975. The recall election shall be held not less than 95 days after the date the recall petition is filed and shall be held on the next May regular election date or the next November regular election date, whichever occurs first.” MCL 168.963(2).

⁶ See Ann Arbor City Charter, § 12.13 at p. 51 (available at <https://www.a2gov.org/departments/city-clerk/Documents/Charter.pdf>).

⁷ Sections 6 to 16 of Title IV “INITIATIVE—REFERENDUM—RECALL (See https://library.municode.com/mi/grand_rapids/codes/code_of_ordinances?nodeId=PT1CH_TITIVINEFEC).

Any official holding an elective office may be recalled and the office be filled in the manner provided by law.

2-406 Special Elections

The Clerk recommended looking at the number of days required to fill the vacancies due to changes in state law.

Under Michigan law, whenever a vacancy occurs in an elective or appointive city office, it must be filled in the manner provided by the law or charter governing the filling of vacancies in the city in which the vacancy occurs. MCL 201.37.

MCL 168.631 outlines the timing for special primary elections in Michigan. If a special election is called to fill a vacancy in any office, a special primary must be held for all political parties in the relevant county, district, or city. *Id.* The date for this special primary is set by the official or legislative body calling the special election, but it must be at least 45 days before the special election date. *Id.*

In Michigan, the time frame to fill a vacancy varies depending on the office. For example, if a vacancy occurs in a county office, it must be filled by appointment within 30 days. MCL 46.412. At the state level, special elections are held to fill vacancies in the state legislature. When a vacancy occurs, the Governor must call for a special election to fill the vacancy or direct that it be filled at the next general election. MCL 168.634(1). The timing of this election is determined by the governor, but it must align with the regular election dates unless an exception is made. MCL 168.209. Special elections called by the governor to fill an office vacancy may but are not required to be held on a regular election day. MCL 168.641(3). For other public offices, “notice of that vacancy and of the facts why the vacancy exists” must be given in writing within 10 days to “to the officer, board or body, having power to fill the vacancy by appointment.” MCL 201.91.

2-410 Charter Revision Question

The Commission engaged in a robust discussion regarding a wide number of potential changes to this section, from eliminating it, to modifying the cycle from 12 years to a longer period of time, to creating a standing charter revision commission. The Commission also discussed the possibility of requiring the charter revision question to be placed on the ballot at the same time as the election for commissioners. More guidance is needed from the Commission on which changes it would like to consider.

Under the general laws enacted for the incorporation of cities and villages, the electors of each city and village have the “power and authority to frame, adopt and amend its charter.” Mich. Const. 1963, art. 7, § 22. This language demonstrates the wide latitude a city has in developing the process for a charter revision.

This is clearly a big topic of discussion; however, as an initial matter, any consideration of this provision (and/or consideration of Section 2-411 regarding charter amendments) first needs to distinguish between charter revisions and charter amendments.

Michigan case law has found that "amendment" and "revision" are distinguishable terms. For example, *Kelly v. Laing*, 259 Mich. 212, 242 N.W. 891 (1932) revolved around whether proposed amendments to the city charter of Bay City, Michigan, could be submitted to voters via an initiative petition. The case specifically addressed the distinction between a charter amendment and a charter revision. Amendments are typically smaller, specific changes, while revisions are more comprehensive overhauls of the charter. The court explained:

‘Revision’ and ‘amendment’ have the common characteristics of working changes in the charter, and are sometimes used inexactly, but there is an essential difference between them. **Revision implies a re-examination of the whole law and a redraft without obligation to maintain the form, scheme, or structure of the old.** As applied to fundamental law, such as a constitution or charter, it suggests a convention **to examine the whole subject and to prepare and submit a new instrument**, whether the desired changes from the old be few or many. **Amendment implies continuance of the general plan and purport of the law, with corrections** to better accomplish its purpose. Basically, revision suggests fundamental change, while amendment is a correction of detail.

Id. at 217 (emphasis added.) Because charter revisions “implies a re-examination of the whole law” a standing charter commission seems unfeasible.

The HRCA provides a method by which a revision is placed on the ballot, but also provides “unless otherwise provided by charter”. MCL 117.8. The City has the authority to place the question of a charter amendment on the ballot at regular intervals, as it currently does, or eliminate this provision all together. The City also has the authority to change length of the interval. If the City removes this provision from the Charter, the City and the electorate still have the ability to call for a charter revision through an initiative petition or by a 3/5 vote of the elected council per MCL 117.8.

The HRCA provides that when the electors declare for a general revision of the charter, a charter commission shall be elected within 60 days. MCL 117.18. Alternatively, when the question is put to ballot by an initiative petition or by the 3/5 vote of the council, they “may provide that the charter commission be elected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted.” *Id.* Since this current charter revision was initiated through a Lansing-specific process (i.e. the automatic 12-year cycle), this process was not available. However, we believe the City has the authority to add this language to allow for this election process, if the City continues to maintain the process of automatically placing the revision question on the ballot. We recommend the following language for consideration:

- .1 The question of whether there shall be a general revision of the City Charter shall be submitted to the voters of the City of Lansing at the November general election held in 1987 and every twelve (12) years thereafter and may be submitted at other times in the manner provided by law.
- .2 When the question of having a general revision of this Charter shall be submitted to the voters as required pursuant to subsection .1, the charter commission shall be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted.
- .3 No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

If the Commission wishes to eliminate the automatic 12-year cycle, we recommend the following language:

The question of whether there shall be a general revision of the City Charter may be submitted to the voters in the manner provided by law.

Very truly yours,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.



Kristen L. Rewa

KLR/car

cc: Vice Chair Lori Adams Simon (lori.simon@lansingmi.gov)
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ARTICLE 3 – LEGISLATIVE BRANCH

Chapter 1. STRUCTURE

3-101 City Council

The legislative power of the City is vested in the City Council. The City Council shall have the powers and duties provided by law or this Charter.

3-102 Organization Of Council

.1 The City Council shall meet and organize each year at its first regularly scheduled meeting in January.

.2 At its annual organizational meeting the City Council shall select from its members a presiding officer and a person to act in the absence of the presiding officer. They shall be known as the Council President and the Council Vice-President, respectively, and each shall serve a one year term.

.3 The City Clerk shall preside until the City Council has chosen a Council President. Thereafter, the Council President shall preside at all formal sessions of the City Council when present.

.4 The Council may establish special or ad hoc committees limited in time and purpose.

.5 The Council may also establish such other committees as it may deem appropriate. For the performance of its legislative responsibilities, standing committees may be established. No standing committee shall be administrative in nature, nor shall it parallel the administrative structure of City government.

.6 The Chairperson and members of each committee established by Council shall be named by the Council President not later than the next regular City Council meeting after the establishment of the committee.

.7 The City Council may, at any of its Meetings deliberate as a committee of the whole.

3-103 Rules

.1 The Council shall by resolution adopt rules of procedure for the orderly conduct of its meetings.

.2 The rules shall direct the City Clerk to prepare the agenda for the Council meetings and make it public in the manner set forth in the rules.

.3 The rules shall provide that there shall be a time on the agenda of each Council meeting for a report from the Mayor and a time for the Mayor or a representative of the Mayor to respond to questions.

.4 The rules shall provide a reasonable opportunity for members of the public to be heard at Council meetings.

3-104 Maintenance Of Order

The City Council shall have the authority to maintain order at meetings of the Council and its committees, and shall have the assistance of City police whenever the Council deems it necessary.

1 Chapter 2. MEETINGS OF COUNCIL

2 3-201 Meetings

- 3 .1 The City Council shall meet at least 26 times each year, at such times and places as shall be
4 stated in the Council rules. The public shall have a reasonable opportunity to be heard.
5 .2 Meetings of the City Council shall be open to the public except in those limited instances where
6 State law authorizes closed meetings.
7 .3 Notices of all meetings of the City Council shall be posted at City Hall and such other locations
8 considered appropriate by the Council and shall set forth the topics of business to be discussed, the
9 dates, times and locations of the meetings.

10 3-202 Special Meetings

- 11 .1 Special meetings of the Council shall be held at the call of the Clerk upon the written request of the
12 Mayor or any two members of the Council.
13 .2 At least 18 hours before the meeting, the clerk shall give public notice of the meeting and shall
14 cause each Council member to be served personally with a notice of the meeting or shall cause the
15 notice to be left at the usual place of residence of the Council member.
16 .3 No business shall be transacted at any special meeting of the Council except that stated in the
17 notice of the meeting.

18 3-203 Quorum

19 Five members of the Council shall be a quorum for the transaction of business at all of its meetings.
20 In the absence of a quorum, any number less than a quorum may recess any meeting or hearing to a
21 later time. 3-204 Attendance At Meetings

- 22 .1 The City Council may compel the attendance of absent members at a duly called meeting by a
23 majority vote of the Council members present whether or not quorum is present.
24 .2 The City Council may by ordinance provide penalties for non-attendance, including the penalty of
25 forfeiture of office.

26 3-205 Voting

- 27 .1 An action of the Council shall become effective with an affirmative vote of five Council members
28 voting, except as otherwise provided by this Charter for the filling of vacancies and resolving a conflict
29 of interest of a Council member. A vote of two-thirds of the Council members serving shall require the
30 affirmative vote of six of the eight serving Council members. If there are one or more vacancies
31 existing on the Council and a vote of two-thirds of the Council members serving is required, an
32 affirmative vote of five Council members shall be sufficient to adopt.
33 .2 Each member of the Council shall vote on each question before the Council for a determination,
34 unless excused there from by the affirmative vote of two-thirds of the members serving, except that
35 no member shall vote on any question upon which that member has a conflict of interest or a financial
36 interest other than as a citizen of the City. If a conflict of interest question is raised under this section
37 at any Council meeting, such question shall be determined by a majority of those Council members
38 present and qualified to vote before the main question shall be voted on, but the Council member
39 affected shall not vote on such determination.

.3 The affirmative and negative votes shall be taken and recorded on all ordinances, and whenever requested by one or more Council members, on any other matter.

3-206 Investigations

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

.2 The City Council may subpoena witnesses, administer oaths, take testimony and require the production of evidence in any matter pending before it.

.3 To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the City Council shall apply to the appropriate court.

3-207 Rights And Responsibilities Of Council Members

.1 Members of the City Council shall have all of the rights appropriate to city legislators as established by this Charter or by statute, including the right to make inquiries of City officers and employees and receive specific information in response.

.2 The responsibilities and activities shall be to establish policy of the City and shall be legislative in nature.

.3 Except as may otherwise be provided by law or this Charter, the administrative activities of the City Council and its members shall be limited to its own staff and they shall give no direct orders to any other city officer or employee.

Chapter 3. LEGISLATION

3-301 City Action Requiring An Ordinance

.1 In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City shall be by ordinance which:

(a) provide a penalty or establish a rule or regulation for violation of which a penalty is imposed;

(b) provide for the levying and collecting of rents, tolls, excises and taxes, except for taxes levied in the annual appropriation resolution; or

(c) amend or repeal any ordinance previously adopted.

.2 Other Council actions may be taken either by ordinance or resolution.

3-302 Introduction Of Ordinances

.1 Every proposed ordinance shall be introduced in writing.

.2 No ordinance may contain more than one subject, which shall be clearly stated in its title.

.3 The enacting clause shall be "The City of Lansing ordains"

.4 An ordinance which only amends the schedules related to the regulation of traffic and parking need not be republished in full. The sections to be amended of all other ordinances shall be re-enacted and published in their entirety clearly indicating the matter to be omitted and the matter to be added.

.5 An ordinance which repeals an existing ordinance may state the number, title, a brief description of the ordinance and the reasons for the repeal without restating the text of the ordinance being repealed.

.6 Objections to the form of an ordinance, which are raised for the first time after the effective date of the ordinance shall not invalidate the ordinance.

3-303 Public Hearing On Ordinance

.1 Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council Member and to the Mayor. A reasonable number of copies shall be filed in the office of the City Clerk and such other public places as the City Council may designate.

.2 Notice to the public of a public hearing on the consideration of the proposed ordinance shall be given by publication or in the manner determined by the City Council.

.3 The public hearing may be held not sooner than five days after the public has been provided notice of the hearing. The public hearing may be held separately or at a regular or special meeting of the City Council.

.4 All interested persons shall have an opportunity to be heard.

3-304 Publication After Enactment

.1 The City Clerk shall authenticate by signature and record all ordinances and resolutions in a properly indexed book kept for the purpose.

.2 After enactment of any ordinance or resolution having the effect of law, the City Clerk shall have it published as soon as possible, in a newspaper of general circulation in the City together with a notice of its adoption.

.3 No ordinance or emergency ordinance shall be effective until it has been published.

.4 Every ordinance or resolution having the effect of law, and amendment to this Charter, shall be printed after enactment and copies shall be distributed or sold to the public at reasonable prices to be fixed by the City Council.

3-305 Veto

.1 Every ordinance and resolution passed by the City Council is subject to veto by the Mayor.

.2 No ordinance or resolution of the City Council subject to review by the Mayor shall have any force or effect if the Mayor prepares and signs a notice in writing suspending the operation of such ordinance or resolution which sets forth reasons for the veto, and the notice is filed in the office of the City Clerk before five o'clock on the afternoon of the third working day following the adoption of the ordinance or resolution.

.3 If a notice of veto is filed, the ordinance or resolution shall not become law without further affirmative vote of two-thirds of the Council members serving at a meeting held within two weeks of the notice of veto.

3-306 Effective Date Of Ordinance

.1 Every published ordinance shall become effective at 12:01 a.m. on the 30th day after enactment or at any later date specified.

.2 The City Council may give immediate effect to any ordinance by an affirmative vote of two-thirds of the Council members serving whenever it finds that there is a public necessity for eliminating delay in making an ordinance effective.

3-307 Expiration Of Ordinances

.1 Every ordinance which creates a regulatory function, an agency of the City or provided for a service to be rendered to the public shall state that it shall expire on a specific date not more than ten years after the date of adoption.

1 .2 Six months prior to the expiration date of each such ordinance the Clerk shall notify the Council of
2 the expiration date.

3 .3 Two months prior to the expiration date the Council shall take formal action, either to re-enact the
4 ordinance, or by resolution, state its intent that the ordinance shall expire.

5 .4 The failure of the Clerk or Council to act shall not extend the life of any ordinance covered by this
6 section.

7 3-308 Emergency Ordinances

8 .1 Emergency ordinances may be enacted to meet a public emergency affecting life, health, property
9 or the public peace. However, an emergency ordinance may not levy taxes; grant, renew or extend a
10 franchise; or regulate the rate charged by any public utility for its services.

11 .2 An emergency ordinance shall be introduced in the form and manner required for ordinances
12 generally, except that it shall contain, after the enacting clause, a declaration stating that an
13 emergency exists and describing it in clear and specific terms.

14 .3 An emergency ordinance may be adopted and given immediate effect at the meeting at which it is
15 introduced by an affirmative vote of two-thirds of Council Members present.

16 .4 No emergency ordinance shall be effective for more than 60 days.

17 3-309 Codification Of Ordinances

18 .1 Within three years after the effective date of this Charter and at least every 10 years thereafter, the
19 City Council shall provide for and adopt a codification of all City ordinances.

20 .2 The codification shall be enacted by ordinance and shall be published promptly in loose leaf form,
21 together with this Charter and commentary and any amendments, pertinent provisions of the State
22 Constitution and other laws of Michigan, and other rules and regulations as the City Council may
23 specify.

24 .3 This compilation shall be known as the Lansing City Code and copies shall be: furnished to City
25 officers, placed in libraries and public offices for free public reference, and made available for
26 purchase by the public at a reasonable price fixed by the City Council.

27 .4 After publication of the first Lansing City Code under this Charter, the ordinances and Charter
28 amendments shall be printed in a form suitable for integration with the Code currently in effect.

29 3-310 Public Peace, Health And Safety

30 The City shall take such action, and adopt such ordinances, as shall be necessary to provide for the
31 public peace and health and for the safety of persons and property within the City.

32 Chapter 4 - INTERNAL AND EXTERNAL AUDITS

33 3-401 Internal Auditor

34 .1 The City Council shall appoint a qualified person as the Internal Auditor.

35 .2 The Internal Auditor shall be responsible to the City Council and may be removed by a majority of
36 the City Council members serving.

3-402 Powers And Duties

.1 The Internal Auditor shall devote full time to the services of the City and shall assist the City Council in evaluating the planning and budgeting affairs of the City in order to develop and maintain unified City policies.

.2 The Internal Auditor shall make audits of financial transactions of all City agencies at least once every year or as otherwise directed by the City Council. The Internal Auditor shall have access to the financial and other records of all City agencies at any time.

.3 The Internal Auditor shall make a full report to the City Council of each individual audit and file a copy with the Mayor and City Clerk. The report shall include any or all of the following as directed by Council:

(a) An examination of financial transactions, accounts, contracts and reports, including an evaluation of compliance with applicable laws and regulations;

(b) a review of efficiency and economy in the use of resources with recommendations for improvement;

(c) a report as to whether desired results are effectively achieved in City programs, services and activities.

.4 As soon as possible after the close of each fiscal year, the Internal Auditor shall provide an analysis of the financial position of the City. The report shall be a public record.

.5 The Internal Auditor shall review the administration and performance of any City agency and report findings and recommendations to the City Council and file a copy with the Mayor and the Clerk.

.6 Whenever appropriate the Internal Auditor shall promptly make a report to the City Council on City agencies or any irregularities of practice and erroneous accounting methods with recommendations for improving the accounting procedures and systems of the agency. A copy of each report on irregularities and erroneous accounting methods shall be referred to the Mayor.

.7 The Internal Auditor shall evaluate the Capital Improvement Plan.

.8 The Internal Auditor shall have no authority to audit the activities of the Board of Water and Light except as requested in writing by the Board.

.9 The Internal Auditor may be authorized by City Council to hire adequate staff to perform the internal auditing functions. The staff shall serve at the pleasure of the Internal Auditor.

3-403 Limitations

Except as otherwise provided in this Charter, the Internal Auditor shall not have any connection with any City agency, nor be custodian of any cash or securities belonging to the City.

3-404 External Audit

.1 An independent audit shall be made of all accounts of the City government, including the Board of Water and Light, at the close of each fiscal year, and shall be completed by October 15th. Special independent audits may be made at any time that the Council may designate. All such audits shall be made by a Certified Public Accountant designated by the Council. The results of each such audit shall be made public in the shall be placed in the office of the Clerk for public inspection.

.2 The External Auditor shall report on the activities and accounts of the Internal Auditor.

1 Chapter 5. COUNCIL STAFF

2 3-501 Council Staff

3 .1 The City Council may employ staff and contract for services as it may deem necessary to assist it
4 in its functions.

5 .2 Persons appointed by the Council shall serve at the pleasure of the Council.