



**RULES
of the
COUNCIL
AND PERTINENT
CHARTER
PROVISIONS**

As Approved and Adopted on December 3, 2018.

FOREWORD

Section 4.4(e) of the Ann Arbor City Charter provides that the City Council "shall determine its own rules and order of business." At its first meeting held under the new Charter, on April 16, 1956, Council formally adopted rules of procedure, which have from time to time been amended by resolution.

This revision date is December 3, 2018.

Certain charter provisions are listed in the appendix.

Jacqueline Beaudry

Clerk of the Council

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COUNCIL MEETING RULES

Organization of Council

RULE 1 Review and Adoption of the Rules

Rules shall be reviewed and adopted ~~annually,~~ by the third Council meeting after ~~the each~~ general election of Council members.

RULE 2 Acting Mayor and the Order of Succession

Council shall at the time the rules are adopted pass a resolution stating the order of succession of council members to be Acting Mayor in the event neither the Mayor nor Mayor Pro Tem is present for the convening of the scheduled meeting and to fill the need for the Emergency Preparedness Plan.

Setting the Meeting Time and Day

RULE 3 - Time of Council Meetings

Council shall establish a calendar of the time and place of regular meetings of Ann Arbor City Council by the third regular Council meeting after the general election.

Regular meetings of the Ann Arbor City Council shall be held on the first and third Monday of the month at 7:00 p.m., in the Council Chamber at City Hall, with exceptions as defined below:

- When the first or third Monday is a major holiday, in which case the meeting shall be held the next secular day (Tuesday), or a later day that same week as set by Council.
- When the first or third Monday precedes an election day, in which case it will be held on Thursday of that week.
- When Council Chambers at City Hall are unavailable due to construction or other reasons, Council Meetings shall be re-located to another suitable location.
- For the purpose of this rule, major holiday shall be defined as:
 - any civic holiday observed by the City of Ann Arbor.
- Council shall also avoid scheduling work sessions on major holidays and, when possible, avoid scheduling special sessions on major holidays.

Council may, by majority vote, adjust the schedule of regular meeting times and places to accommodate special elections, construction, or other external contingencies that were unanticipated when the calendar was initially set.

(City Charter, section 4.4)

RULE 4 Setting the Working Session Format

The second and fourth Monday of the month may be set-aside for the Council Work Session. The Council Work Session may be scheduled for other days if authorized by a majority vote of the Council. Public hearings may be scheduled for the first, second, third and fourth Monday.

A working session of the Council may be scheduled for any other day of the week or at other locations, provided that such change is given regular public and legal notice.

RULE 5 Setting the Agenda for Action Meetings

5A – Preparation of the Agenda

The agenda for each Regular Council meeting and Council Work Session shall be prepared by the City Administrator. A resolution approving a contract shall only be included on the agenda if the City Attorney has reviewed the contract and the result of that review is included or with the proposed resolution.

The agenda for Regular Council meetings will be prepared in accordance with the following order of business:

- Call to Order
- Moment of Silence
- Pledge of Allegiance
- Roll Call of Council
- Approval of the Agenda
- Communications from the City Administrator
- Introductions
- Public Commentary - Reserved Time
- Communications from Council
- Communications from the Mayor
- Consent Agenda
- Public Hearings
- Approval of Council Minutes
- Ordinances - Second Reading
- Ordinances - First Reading
- Motions and Resolutions
 - Council Business
 - Boards and Commissions
 - Staff
- Communications from the City Attorney
- Clerk's Report of Communications, Petitions and Referrals
- Public Commentary - General
- Communications from Council
- Adjournment

The agenda for Council Work Sessions will be prepared in accordance with the following order of business:

- Call to Order
- Work Session
- Public Commentary – General (Must begin no later than 8:45 p.m.)
- Adjournment

To the extent possible, multiple items addressing the same property or issue will be grouped together on the agenda.

5B – Review of the Draft Agenda

The City Administrator shall submit the draft agenda and supporting materials to all Council members at least 10 days prior to the regular meeting to which the agenda pertains. ~~the members of the Council Administration Committee for review and comment 10 days prior to the next Council meeting. Such review and comment shall be made no later than 7 days prior to the next Council meeting.~~ Council members shall submit all questions about the agenda to the City Administrator no later than noon on Wednesday of the week before the regular meeting and the City Administrator shall provide answers to those questions by 5:00 p.m. the next day (Thursday). If the City is closed on Wednesday or Thursday of the week prior to the regular meeting, Council members shall submit all questions no later than 10:00 a.m. and the City Administrator shall provide the answers by 5:00 p.m. of the following Monday. ~~Once the City Administrator has submitted the draft agenda to Council reviewed by the Council Administration Committee,~~ no matter from staff shall be placed on the agenda. Council members may add items to the agenda at any time, but will use best efforts to do so prior to 5:00 p.m. on the ~~Friday~~ Tuesday before the next Council meeting.

5C - Categories

Under each agenda category for action, Council shall place unfinished business of Council on the agenda for first consideration; then new business proposed by members of the Council shall be considered; then other new business shall be considered.

Communications from Council

This place on the agenda is reserved for Council Members to make announcements, request reports and speak on subjects, which they deem important, report out on committees and give notice of future proposed business.

Approval of the Agenda

Matters not on the published agenda may be added at the time of approval of the agenda with the consent of 3/4 of the members present. The Mayor or City Administrator may delete items from the published agenda at the request of the initiator of the proposed action prior to approval of the agenda.

Consent Agenda

The Consent Agenda shall consist of ordinances and resolutions considered routine. Items on the Consent Agenda may be approved by a single motion. The motion to approve the Consent Agenda shall not require the reading of the titles of items on that agenda other than ordinances. If any member of the Council objects to consideration of an item as part of the Consent Agenda, that item shall be moved to the end of the appropriate portion of the regular agenda.

Motions and Resolutions

DC - Council Resolutions: All resolutions from Council.

DB – Boards and Commissions: All resolutions from Advisory Committees, Boards and Commissions.

DS – Staff: All resolutions from Staff.

Communications and Petitions

The City Clerk, under the direction of City Administrator, shall prepare for each regular Council meeting a report containing all communications and other matters recommended to be filed, referred or otherwise handled and stating the recommended action for Council to take. Upon passage of a motion to accept the Clerk's Report, the action recommended for all matters listed in the report shall be the action of the Council unless objection is made, in which case the matter objected to shall be taken up and acted on separately. The Clerk's Report shall be limited to official correspondence addressed to the City. Individual Councilmembers wishing to share communications shall do so under Communications from Council.

~~5D – Delivery~~

~~All materials relevant to the agenda, which has been reviewed by the Council Administration Committee, shall be delivered to Councilmembers no later than 4:00 p.m. on the Thursday prior to said session.~~

~~5DE – Format of Agenda~~

The Administrator and Clerk shall prepare all documents and agenda materials in electronic format consistent with the technology used by City Council. Hard copy will be provided at the Council meeting and to the public upon request.

~~5EF – Publication of Agenda, Minutes and Meeting Notices~~

After ~~review-submission~~ of the agenda ~~to Council~~ under 5B, the agenda for all meetings of Council, including Work Sessions, shall be published by prominent link on the home page of the City's Website, distributed electronically to each branch of the Ann Arbor District Libraries, and posted in the lobby of City Hall. The Clerk shall use best efforts to promptly disseminate amended agendas by the foregoing distribution channels.

All minutes of the proceedings of the Council, as well as the agendas of work sessions, shall be published by prominent link on the home page of the City's Website, distributed electronically and to each branch of the Ann Arbor District Libraries, and posted in the lobby of City Hall until the next Council meeting.

Council Meeting Procedures

RULE 6 - Call of Council Absentees

The Chair or any of the members may have a call of the Council, and the City Clerk shall note the names of the absentees.

RULE 7 - Addressing Council during Meetings

Public Commentary - Reserved Time:

A total of 10 speakers shall be allowed to address Council during the time designated as *Public Commentary - Reserved Time* by signing up with the City Clerk either in person or by telephone. Each

person may speak a maximum of 3 minutes. Speaking times are not transferable, and vacated speaking times shall be assigned to the two alternate speakers on the waiting list. *Speakers may not use public commentary-reserved time to address Council on an agenda item for which a public hearing is scheduled for the same meeting.*

On the morning of the regular meeting of the City Council, the City Clerk shall sign up persons interested in speaking during the time designated as *Public Commentary - Reserved Time* as follows:

- a. Between 8 a.m. and 1 p.m. the clerk shall accept requests for speaking times. At 1 p.m. speaking times will be allocated to people who have requested them in the following order of priority:
 - Persons wishing to address Council on agenda items who have not spoken during the previous two public comment reserved times.
 - Other persons wishing to address Council on agenda items.
 - Persons wishing to address Council on any other matter.
- b. After 1 p.m. on that same day, speakers wishing to address Council on any matter will be signed up strictly on a first come, first served basis for any remaining times. Two alternates may also be designated. The Clerk shall inform people who have requested but not received speaking times of the status of their request.

Public Speaking Rules

Speakers and the public shall obey all rules announced by the Chair or his or her designee, including the following general rules:

1. All public speakers must speak from the podium.
- ~~2.~~ Members of the public shall not disturb speakers at the podium.
- ~~2-3.~~ Members of the public shall not interrupt Council members or staff while they are speaking during a meeting or otherwise disrupt a Council meeting.
- ~~3-4.~~ The public should sit on the benches and not stand. If members must stand, then it will be at a designated area.
- ~~4-5.~~ Members of the public holding up signs must sit on the back benches so that their signs do not interfere with others. Signs must be hand held and not attached to any pole or stick.
- ~~5-6.~~ If speakers have materials they wish to hand out, they must signal to the clerk who will come forward to the speaker and hand them out.
- ~~6-7.~~ When speakers are finished, they shall not disturb other speakers or disrupt the council meeting as they leave.

Public Commentary - General:

During the time designated as *Public Commentary - General*, those wishing to address Council will be recognized by the Chair to speak for up to 3 minutes.

Public Hearings

Persons speaking at a Public Hearing must limit their remarks to the subject of the public hearing and shall not speak for more than 3 minutes.

Time Limit Waiver

The Council may, by majority vote, modify or waive the 3-minute speaking limitation.

Members of Audience Addressing Council

Upon the request of a member of the Council, a member of the audience shall be permitted to address the Council at a time other than during public commentary, unless a majority of members of Council object.

Disorderly Conduct at Meetings

The Chair may call to order any person who engages in personal attacks, (which are unrelated to Council Business) who uses obscene or grossly indecent language, who speaks longer than the allotted time, who disrupts the proceedings or who otherwise violates the rules of this Council. Failure to come to order may result in the microphone being shut off, the forfeiture of any remaining speaking time, or, at the request of the Chair, expulsion from the meeting.

Furthermore, if a speaker or a member of the public does not follow applicable rules during a Council meeting, disturbs the peace at a Council meeting or endangers the safety of the Council or the public at a council meeting, that individual may also have further restrictions placed upon them as necessary, including forfeiture of their right to speak at or right to attend future Council meetings. Such actions are to be determined by Council and shall be consistent with the Michigan Open Meetings Act.

RULE 8- Voting

In all cases where a vote is taken, the Chair shall decide that result. A roll call vote shall be called upon the request of any member of the Council. The roll call voting order shall rotate around the council table with the Mayor voting in the rotation.

RULE 9 - Nominations or Appointments to Boards, Commissions or Committees

Nominations or appointments to boards, commissions, or committees, which require the confirmation or approval of Council, shall not be confirmed or approved before the next regular meeting of the Council except with the consent of 8 of the members of the Council. When required by ordinance or otherwise deemed in the best interest of the City, the Charter residency requirement for nomination or appointment of an individual to a board, commission or committee is waived by a resolution concurred in by not less than seven members of Council.

RULE 10 – Council Conduct of Discussion and Debate

- No member shall speak until recognized for that purpose by the Chair.
- The member shall confine comments to the question at hand and avoid personal attack.
- A member shall not speak more than two times on a given question, three minutes the first time, three minutes the second time, except with the concurring vote of 3/4 of the members present. A motion to call the previous question (call for cloture) is in order after thirty (30) minutes of discussion on the question. Upon a motion to call the previous question, all discussion is ended, provided that each member who has not yet held the floor

will have an opportunity to do so. A motion to call the previous question shall require a concurring vote of 3/4 of the members present.

- Electronic communication during Council meetings shall pertain only to City matters.
- During Council meetings, members shall not send private electronic communication to persons other than City Staff; provided however, that members may send draft motions, resolutions, and amendments to the City Clerk who will forward them to members of Council. Members shall not respond to member-distributed draft language via electronic communication. All draft language sent by electronic communication during Council meetings shall be read into the record prior to discussion by Council. Members **will not** send publicly-accessible electronic communications (e.g. Twitter and FaceBook posts) **during meetings.**
- Electronic communication sent and received by a member during a Council meeting shall be included in the minutes of such meeting, provided that the minutes shall not include electronic communication received by a member that clearly does not relate to the subject matter of the meeting.
- A member shall not use their personal mobile devices to answer phone calls or send electronic communications, including text messages, while seated at the Council table. Members who have a need to attend to personal business shall step away from the Council table to do so.

RULE 11 - Resolutions and Motions to Be Made In Writing

Every resolution and ordinance shall be in writing. Resolution titles shall, unless impractical or required by law, be twenty (20) words or less and describe in plain language the subject matter thereof. When any motion has been made and seconded, it shall be stated by the Chair and shall not be withdrawn thereafter except by consent of the majority of the members of the Council present.

RULE 12 - Motion to Lay on the Table

A motion to table shall only be in order “when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed” (RROR Newly Revised in Brief, p. 119) and the name of the person making the motion and the rationale for tabling should appear in the minutes.

RULE 13 - Consideration of Questions

When a question has been taken, it shall be in order for any member voting with the prevailing side to move a reconsideration thereof at the same or the next regular meeting; but, no question shall a second time be reconsidered.

Agenda items – Introduction, Referral, and Approval

RULE 14 – Amending a Motion

To promote expediency, motions may be amended by with a "friendly amendment" with the concurrence of the council members who moved and seconded the motion. However, as the motion belongs to the Council and not the movers, any other Council member may object to a friendly amendment and request a vote on the proposed amendment.

RULE 15 - Ordinances, How Introduced

Proposed ordinances shall be introduced by one or more individual members of Council. Ordinances may be referred to any or all of the following: the City Attorney, the City Administrator, appropriate agencies, and Council committees, for study and recommendation.

RULE 16 - Demise of Ordinances and Resolutions

An ordinance passed at First Reading that is not placed on the Council's agenda (for whatever reason) for Second Reading within six months of First Reading passage is deemed demised and must be reintroduced at First Reading if it is to be reconsidered.

A resolution that has been tabled for six months shall be considered demised and may not be the subject of a motion to take from the table.

RULE 17 - Committees and Officers Must Report

All committees and officers shall make immediate report on matters referred to them at the first stated meeting of Council after such referrals are first addressed by the committee or the officer unless another time shall be given them by the Council or unless requested to report to the work committee. In any event, a status report should be given to the Council by a committee after each meeting of the committee at which the referred matter is discussed.

RULE 18 – Council Email

Councilmembers shall use the City electronic mail system for their electronic mail communications for City business.

RULE 19 - How Rules may be Altered

Council-adopted rules may be altered or amended by a vote of the members at the time of their annual adoption under Rule 1. Council-adopted rules may be altered or adopted at any other regular Council meeting, if notice of the changes proposed to be made shall have been distributed to all members of the Council in advance of the meeting as part of the distribution of the Council agenda and materials. The notice requirement does not preclude Council Members from offering amendments to the proposed rule changes from the floor.

Council-adopted rules may be suspended for the time being by a vote of two-thirds of the members present.

RULE 20 - What Other Rules Shall Govern

The rules of parliamentary practice, comprised in Robert's Rules of Order, shall govern the Council in all cases to which they are applicable, provided they are not in conflict with these rules or with the charter of the City.

Council Administrative Rules

COUNCIL ADMINISTRATIVE RULE 1–ADMINISTRATIVE RESPONSIBILITY

A councilmember shall not encroach on administrative responsibilities. City Council provides direction to the City Administrator, who then provides direction to staff. A councilmember shall not give orders or directives to staff, either publicly or privately. Councilmembers may make inquiries or exchange or request information according to the “Interaction with City Staff” guidelines developed by the City Administrator.

Rationale – The daily business of government involves responding to correspondence, emails, and constituent requests. Establishing a practice of how to handle these items ensures fair treatment among all members of the governing body. Councilmembers shall follow the “Interaction with City Staff” guidelines stated in the “City of Ann Arbor Elected Officials Handbook”.

Source: City Charter, Section 5.1(b)(1). The Charter provides broad authority to the City Administrator to direct, supervise, and coordinate the work of the City.

Example:

A Councilmember should not contact the Director of Human Resources about a personnel issue involving a City employee.

COUNCIL ADMINISTRATIVE RULE 2–WRITTEN COMMUNICATIONS TO COUNCIL – REQUIRED FORWARD TO CITY ATTORNEY

Councilmembers shall immediately forward to the City Attorney all written communications concerning pending litigation sent to, or received from, 1) any party to litigation against the City or 2) any attorney who is representing a party in that litigation.

Councilmembers shall immediately forward to the City Attorney all written communications sent to or received from any attorney who is threatening litigation against the City of Ann Arbor.

Council Ethics Rules

COUNCIL ETHICS RULE 1 -- CONFLICTS OF INTEREST – RELATING TO CONTRACTS

A Councilmember shall not vote on any contract in which the Councilmember has a conflict as set forth in MCL 15.321, the state contracts statute. This statute is the sole definition of conflicts as related to contracts and it states:

- (1) Except as provided in sections 3 and 3a of the state statute,¹ **a public servant shall not be a party, directly or indirectly, to any contract** between himself or herself and the public entity of which he or she is an officer or employee.
- (2) Except as provided in section 3, **a public servant shall not directly or indirectly solicit any contract** between the public entity of which he or she is an officer or employee and any of the following:
 - (a) Him or herself.
 - (b) Any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee.
 - (c) Any private corporation in which he or she is a stockholder owning more than 1% of the total outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer, or employee.
 - (d) Any trust of which he or she is a beneficiary or trustee.
- (3) In regard to a contract described in subsection (2), **a public servant shall not do either of the following:**
 - (a) Take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract.
 - (b) Represent either party in the transaction.

The conflict restrictions of this statute **do not apply to “contracts between public entities.”**

Rationale: All Councilmembers are governed by the state conflicts law and it is helpful to remind the public that this is the only applicable law on this topic, notwithstanding anything to the contrary in the City Charter.

Source: MCL 15.321 (See statute at “Contracts” tab attached)

Example:

A Councilmember employed by the University of Michigan would properly vote on a contract between the City and the University as the conflict prohibition does not apply to a contract between two public entities as set forth in MCL 15.324(1)(a).

A spousal “relationship” is not a contract conflict that has been recognized under Act 317. The Attorney General found that no conflict existed under Act 317 where an attorney represented the school district (under a contract) where his wife worked as a teacher (under a contract.) Mich AG No. 6736. So while the attorney’s wife has a contract with the school district, he is not a party to her contract **directly or indirectly** under the statute.

COUNCIL ETHICS RULE 2 -- CONFLICTS OF INTEREST – FINANCIAL MATTERS

A Councilmember shall not vote on a question in which the member has a financial interest, other than a financial interest which is part of the general public interest. In other words, the Councilmember’s financial interest must be direct and unique to the councilmember and not a financial interest shared by other members of the public. This rule does not apply to a vote on a contract, which is governed by Rule 1.

Rationale: The provision makes clear that the Charter provision language only applies to matters other than contracts.

Source: Charter, Section 4.4(i).

Examples:

A Councilmember should not vote on a resolution for the City to condemn his or her own property because he or she has a financial interest in this matter.

A Councilmember is not disqualified from voting on an assessment, even when the assessment is limited to the street the Councilmember lives on. This has been held to be a legislative vote, where the Councilmember’s interest is in common with the public subject to the taxation.

COUNCIL ETHICS RULE 3 -- CONFLICTS OF INTEREST – COUNCILMEMBER’S OWN CONDUCT

A Councilmember shall not vote on any questions involving the Councilmember’s own conduct including those of excusal and discipline of that Councilmember. This rule does not apply to a vote on a contract, which is governed by Rule 1.

Rationale: The provision makes clear that the Charter provision language only applies to matters other than contracts.

Source: Charter, Section 4.4(i).

Example:

To the extent there was a vote to excuse a Councilmember from voting or a vote to discipline a Councilmember that Councilmember could not vote on that excusal or on his discipline.

COUNCIL ETHICS RULE 4 -- CONFLICTS OF INTEREST – OTHER REASONS FOR EXCUSAL FROM VOTING

It is required that all Councilmembers vote on all matters, unless excused after a vote of the Council. Other than conflicts governed by the state conflicts statute, conflicts involving financial interest (but not governed by the contracts statute), and matters involving the Councilmember's own conduct, other requests for excusal shall generally be weighed against the policy expressed in the City Charter in favor of voting on all matters. A Councilmember may be excused if the Councilmember asserts that he or she has a personal relationship with the matter at issue that 1) impairs his or her exercise of independence of judgment on the matter, or 2) creates a situation with conflicting fiduciary duties.

Rationale: This provision provides the reasons for which a Councilmember may ask for excusal from voting on a matter not governed by Rules 1 through 3.

Source: Charter, Section 4.4(f)

Example: A Councilmember is the chairperson for a non-profit organization's fundraising committee for a new building. If the site-plan is before the Council for approval and the Councilmember asserts conflicting fiduciary duties, the Council could excuse the Councilmember from voting on the site-plan.

COUNCIL ETHICS RULE 5 -- IMPROPER USE OF POSITION -- GIFTS

Proposed Rule: A Councilmember shall not accept a gift or loan of money, goods, services, or item of value from any individual, company, or organization that is given to a Councilmember because of his or her Council position; nor shall a Councilmember solicit any such gift or loan.

This rule does not apply and is not intended to apply to personal gifts or loans from family members or friends, unrelated to the Councilmember's position on Council, except if the family member or friend has an existing business relationship with the City or has had such a relationship with the City within the past 3 years. This rule does not apply and is not intended to apply to business or personal loans relating to the personal or business finances of a Councilmember, such as a home mortgage received from a bank.

This rule does not apply to political contributions obtained in compliance with state campaign finance law.

This rule does not apply to food or beverages provided at social events sponsored by individuals, companies, or organizations and attended by Councilmembers as well as other invited members of the public. This rule does not apply to other products with an estimated value under \$20 that are generally distributed at an educational seminar or event. This rule does not apply to written materials received for educational or informational purposes.

This rule does not apply to attendance at educational events hosted by non-profit or governmental entities to which Councilmembers are invited or attend. Nor does it apply to reimbursement for, or fee waiver for, travel, food, and lodging expenses to an educational event related to municipal issues provided by a non-profit or governmental entity. If a Councilmember attends such an event, the Councilmember shall provide to the City Clerk for posting as a Council communication: a list of expenses reimbursed and provided and the nature of the educational event.

When a fee waiver or reimbursement for travel, food, and lodging expenses is offered by an entity whose governing body is composed of members a majority of whom are appointed or approved by the Mayor or Council, this rule shall be applied as follows: A Councilmember shall not accept any fee waiver or reimbursement from that entity, unless the entity has communicated the availability of the reimbursement opportunity to the full Council and Council has determined by a vote at an open meeting which Councilmember(s) can accept the offer of reimbursement, and the Councilmember is among those voted to accept the offer of reimbursement.

This rule does not apply to minor refreshments (such as bottles of water or cups of coffee) under any circumstance. This rule does not apply to a waiver of fees to attend a political, governmental, or charitable or non-profit event.

Rationale: This provision attempts to provide a reasonable and definition of gift, recognizing that a Councilmember also has a personal life in which gifts are customarily given and received and recognizing that a Councilmember attends social functions along with other members of the public at which food and beverages are served.

Source: City Employee Rule 2.3
Act 196, MCL 15.342 (4)
Model Ethics Rules, Rule 4

Examples:

A Councilmember may accept food served at an open house for a non-profit at which Councilmembers attend.

A Councilmember may accept a ticket to attend a political event whether or not the Councilmember has a role in the program at the event.

A Councilmember may not accept tickets to sporting events from the University of Michigan.

A Councilmember may accept tickets to a sporting event from a friend or family member, except if the friend or family member has an existing business relationship with the City or has had such a relationship in the prior 3 years.

COUNCIL ETHICS RULE 6 -- IMPROPER USE OF OFFICIAL POSITION – DISCLOSURE OF CONFIDENTIAL INFORMATION

A Councilmember shall not divulge to an unauthorized person, confidential information acquired by virtue of his or her position as a Councilmember until a time that that information becomes public information. Furthermore, a Councilmember may not use confidential information, obtained by virtue of his or her position, for his or her own benefit or for the benefit of any other person or entity. Confidential information is information acquired by a Councilmember in the course of holding public office that is not available to members of the public and which the Councilmember is prohibited to disclose by statute or fiduciary duty or other common law duty.

Rationale: Councilmembers obtain confidential information based on their position. They have a fiduciary obligation to keep that information confidential.

Source: City Employee Rule 3.4
Act 196, MCL 15.342, Rule 1
Model Ethics, Section 7

Examples:

A Councilmember shall not disclose, for example, the following:

- a) Investigating records compiled for law enforcement purposes, as set forth in MCL 15.243(1)(b).
- b) A record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime as set forth in MCL 15.243(1)(c).
- c) Records or information specifically described and exempted from disclosure by statute. MCL 15.243(1)(d)
- d) Information or records subject to the attorney-client privilege as set forth in MCL 15.243(1)(g).
- e) Appraisals of real property to be acquired by the City until conditions set forth in MCL 15.243(1)(j) are met.

A Councilmember shall not disclose matters discussed in closed session, as governed by the Michigan Open Meetings Act, including but not limited to :

- a) Labor and negotiation strategy connected to a collective bargaining agreement;
- b) Possible purchase or lease of real property;
- c) Matters regarding trial or settlement strategy in connection with pending litigation;
- d) Material exempt from discussion or disclosure by state or federal statute.

COUNCIL ETHICS RULE 7 - IMPROPER USE OF OFFICIAL POSITION – MISUSE OF CITY RESOURCES

A Councilmember shall not use or authorize the use of City funds, property, personnel, office space, equipment, supplies, or vehicles for personal benefit or the benefit of others. However, a Councilmember may use City property on the same terms and conditions as it is available to the public generally. A Councilmember can use the city provided computer for personal use as set forth in the City computer use policy, but not for personal business use or political activity.

Rationale: A Councilmember may have access to City resources and should use those resources only for City business.

Source: City Employee Conflict of Interest policy 2.3, para. 3.4

Act 196, MCL 15.342 (3)

Model Ethics Code, Rule 11

Act 388, MCL 169.201 (1) (Michigan Campaign Finance Act)

Examples:

A Councilmember may not use City office supplies for political campaign or other personal purposes.

A Councilmember may not use a City car to make a personal trip.

A Councilmember may rent a City facility for a personal event (for example at Cobblestone farm) on the same terms and conditions as it is available to the public generally.

A Councilmember may not intervene directly with a police officer concerning a ticket given to a resident as it would be an improper use of the Councilmember's position and improper use of personnel on behalf of another person. (However, it would not be improper for a Councilmember to raise a policy issue concerning policing practices with the Council, Police Chief, or City Administrator.)

COUNCIL ETHICS RULE 8 -- IMPROPER USE OF OFFICIAL POSITION -- REPRESENTATIONS

A Councilmember shall not represent that he or she is authorized to speak for the entire Council.

Rationale: An individual Councilmember has no authority to bind the City and decisions of the Council must be made in open session, so therefore any representation of the City's position would be inaccurate and misleading.

Source: Act 196, MCL 15.341(2)

Example: A Councilmember shall not represent to a developer that a development project would be acceptable to the entire City Council if proposed.

COUNCIL ETHICS RULE 9 -- IMPROPER USE OF OFFICIAL POSITION – POLITICAL SOLICITATION

A Councilmember shall not request any City employee (that the Councilmember knows to be a City employee) to participate, or not participate, in any political activity, including the making of a campaign contribution. This rule does not prohibit a Councilmember from providing political literature to City employees at their residence, or away from the work site, in the same manner as other residents. A Councilmember shall not knowingly send unsolicited political e-mail to City employees at their City e-mail addresses.

Rationale: Solicitation of employees creates the appearance of coercion. Employees may feel compelled to act in a certain manner if requested by a Councilmember. Moreover, employees have the legal right to engage in political activities, including those related to City politics. MCL 15.403(1). Therefore, Councilmember may not request that an employee cease political activity.

Source: Model Ethics Code, Rule 8.

Example:

A Councilmember cannot request that a City employee make a contribution to his political campaign.

COUNCIL ETHICS RULE 10 -- IMPROPER USE OF OFFICIAL POSITION – NEPOTISM

No Councilmember shall influence or attempt to influence the hiring by the City of any member of the Councilmember’s family.

Rationale: This rule sustains the fairness of the City’s hiring and employment practices.

Source: Model Ethics Code, Rule 12.

Example:

A Councilmember cannot ask a Service Area Administrator to hire his daughter for an open position.

COUNCIL ETHICS RULE 11 -- IMPROPER USE OF POSITION – APPEARANCE BEFORE BOARDS AND COMMISSIONS

A Councilmember shall not appear before the following boards and commissions on his or her own behalf or on behalf of another:

- Building Board of Appeals
- Design Review Board
- Historic District Commission
- Liquor License Review Committee

- Planning Commission
- Zoning Board of Appeals

Rationale: Quasi-judicial boards and commissions, such as the Zoning Board of Appeals and Building Board of Appeals, as well as boards and commissions that take quasi-judicial actions, or are required by Michigan law to make recommendations to the Council, should be able to make their decisions independent of the influence of individual Councilmembers. Under this rule, a Councilmember may file a petition or an appeal with a listed board or commission and may send a representative to act on his or her behalf for the petition or appeal.

Source: Michigan Case Law.

Example:

A Councilmember shall not appear at a Liquor License Review Committee and speak on behalf of, or against a bar regarding a liquor license renewal.

COUNCIL ETHICS RULE 12 – COUNCIL SELF-GOVERNANCE

City Council has determined that the internal regulation of the behavior of City Councilmembers through counseling or reprimand should be done according to the following procedure.

1. **Counseling.** Counseling refers to the meeting by the Council Administration Committee with a Councilmember for the purpose of discussing a Councilmember’s action or actions that are considered a violation of a law, Council Ethics Rules, or Council Administrative Rules, but considered by the Council to be not sufficiently serious to require reprimand. Matters eligible for Counseling include: A first violation of the Council ethics or administrative rules.
2. **Reprimand.** A reprimand is a formal public statement by the Council that a Councilmember’s actions are in violation of law or Council Ethics Rules or Council Administrative Rules., but considered by the Council not sufficiently serious to require removal. It is not necessary that counseling precede a reprimand depending on the nature of the violation. A reprimand may be issued based upon the Council's review and consideration of a written allegation of one or more violations. Matters eligible for reprimand include the following: Repeated violations of the Council Ethics or Administrative rules within a term of office. Failure to attend counseling when determined by the Council that counseling was warranted.

3. Requests for Counseling for a Councilmember

a. Any Councilmember may raise with the Chairperson, either in writing or orally, a question whether an action of a Councilmember warrants an informal discussion with a Councilmember about the conduct in question. The Chairperson shall within 14 days determine whether to take no action, to have an informal discussion with the Councilmember with one other member of the Administration Committee present, or, because of the nature of the conduct, to request that a written, sworn, and signed statement of the Councilmember raising the issue be required. If no action is taken or an informal discussion takes place, the Chairperson shall report the general details of the complaint and action taken, absent identifying information of the Councilmember who raised the issue and the Councilmember who is the subject of the complaint; this report shall be made at the next meeting of the Administrative Committee.

b. Any Councilmember may file a written, sworn, and signed statement with the Council Administration Committee requesting counseling of another Councilmember for allegations concerning violations of law, ordinance, Council Ethics Rules or Council Administrative Rules. The sworn statement must be on personal knowledge and state fully the matter to be subject to consideration.

c. On receipt of a Councilmember's sworn statement seeking counseling of another Councilmember for alleged violation(s), the Chairperson of the Council Administration Committee will:

i. Review the sworn statement as to proper form, determining whether the allegation(s) fall under the scope of the Council Administration Committee as defined through this Rule, and if proper:

ii. Provide a copy of the sworn statement to the named Councilmember with a request to provide the Chairperson of the Council Administration Committee within fourteen (14) days receipt of the request with a written, sworn response to the allegation(s).

d. On receipt of the Councilmember's sworn response, the Chairperson shall determine whether to send the request to the Council Administration Committee for an investigation as set forth below, to have informal discussion with the Councilmember with one other member of the Administration Committee present, or to take no action. The Chairperson shall be required to decide upon a course of action not more than 10 days from the date of receipt of the Councilmember's sworn response to the allegation(s).

If the Chairperson decides to take no action, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

If the Chairperson decides to have informal counseling, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

e. If the request is sent forward to the Council Administration Committee, the Council Administrative Committee shall set a date for the hearing not more than 28 days from the date of the Chairperson's notice to the Council Administrative Committee. Notice of the hearing shall be given to the Councilmembers involved by personal service or by email service. Notice shall be given not less than 10 days prior to the hearing date. The accused Councilmember named in the allegation shall attend the hearing and have the right to present a defense. Hearings shall be informal. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the Chairperson of the Council Administrative Committee. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

f. After the hearing, the Council Administration Committee shall by written motion make a determination whether the allegations warrant, by a preponderance of the evidence, a determination that the Councilmember should be counseled by the Council Administration Committee. The determination shall be adopted by not less than a majority of the members appointed to and serving on the Council Administration Committee.

g. If such a motion is approved, the Chairperson of the Council Administrative Committee shall inform City Council of the determination.

h. If a Councilmember does not appear at a set time for counseling, then the Council Administration Committee shall inform City Council of that fact.

i. If a Councilmember seeks to appeal this determination by the Council Administrative Committee, the Councilmember shall file a written request for appeal with the City Clerk. The Council shall review the sworn statement and a transcript of the hearing held by the Council Administrative Committee. The Council by written motion shall make a determination whether, based on a preponderance of the evidence, the Councilmember should be counseled by the Council Administration Committee. If the determination is that counseling should proceed, and the Councilmember does not appear at a set time for counseling, such an action would warrant Reprimand as set forth below.

j. If any matter is presented to Chairperson or later review by the Council Administrative Committee which is determined to be outside of the scope of the Council Administrative Committee, it shall refer the matter to the appropriate Council or other governmental body.

4. Requests for Reprimand of a Councilmember

a. The Council Administrative Committee shall act as investigative staff for the City Council in any allegation of act(s) by a Councilmember which may be grounds for reprimand of that Councilmember.

b. Any Councilmember may file a written, sworn and signed complaint with the Chair of the Council Administrative Committee alleging a violation of law, ordinance, Council Ethics Rules or Council Administrative Rules on his or her personal knowledge which allegation(s) may be grounds for reprimand of the named Councilmember. The statement must state fully the matter to be subject to consideration.

c. On receipt of a Councilmember's sworn complaint, the Chairperson of the Council Administrative Committee shall:

i. Review the sworn complaint as to proper form, determining whether the complaint alleged falls under the scope of Council as defined by statute, Charter, and through this Ordinance, as is proper,

ii. Inform Council and the named Councilmember of receipt of the Complaint and

A. Request the City Attorney or other Administrative personnel to assist in the investigation of the complaint and report all findings back to the Chair of the Council Administrative Committee for further review by the Council Administrative Committee; or

B. Schedule the complaint for further review and consideration by the Council Administrative Committee

d. On completion of investigation and review of the Complaint by the Council Administrative Committee, it shall make a written report and recommendation to City Council that the matter should be:

i.. Dismissed as without merit, or

ii. Scheduled for a hearing before Council, or

iii. Referred for other action to the appropriate governmental or law enforcement agency.

e. On receipt of the recommendation of the Council Administrative Committee, Council shall, at a regular or special meeting of the public body, act on the recommendations made, which decision shall be adopted by not less than 7 votes.

f. If a hearing on the Complaint is determined appropriate by Council, the Council shall set a date for the hearing not more than 30 days from the date of the Council meeting at which the determination was made. Notice of the hearing shall be given to the Councilmembers involved by personal service or certified mail return receipt requested. Notice shall be given not less than 14 days prior to the hearing date. The Councilmember named in the allegation shall attend the hearing and have the right to present a defense.

i. The accused Councilmember shall have the right and opportunity to make an opening and closing statement. If any of the alleged conduct occurred outside the Council's proceedings, the Councilmember accused may present witnesses at the hearing and question his or her accusers and any other witnesses that are presented. If the alleged conduct occurred within the Council's proceedings, then witnesses are not necessary. However, in either case, evidence may be presented and responded to.

ii. The Councilmember accused may be represented by an attorney and may have the representative speak or question witnesses. The City Attorney or outside counsel will provide legal advice to the City Council during the hearing.

iii. The hearing shall be informal. Judicial rules of evidence do not apply at the hearing, which is not a formal adversarial proceeding. Any witnesses presented by the Councilmember

named in the allegation as part of his or her defense shall be sworn in by the Hearing officer that Council may from time to time appoint as provided in this section. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

g. The Mayor shall preside over the hearing. If the hearing involves the Mayor, the Mayor pro tem shall preside over the hearing unless another Councilmember is appointed by Council. The Chairperson of the Council Administrative Committee (or another person or member of the Administrative Committee designated by the Administrative Committee) shall present evidence to the Council and call witnesses, if necessary.

h. After the hearing, the Council shall bring the request to reprimand a Councilmember by a Resolution outlining the specific charges. A Resolution to reprimand a Councilmember must be approved by at least seven Councilmembers and they must use a preponderance of the evidence standard.

Source: Section 4.4(e) Ann Arbor City Charter

Appendix – Charter Provisions

Section 4.1. The Council

- (a) The Council shall be composed of the Mayor and ten Council Members.
- (b) Subject only to limitations and exceptions provided by this charter or other provisions of law, all powers of the City shall be vested in and exercised by the Council.
- (c) The Council shall be the judge of the eligibility, election, and qualification of its members.

Section 4.2. The Mayor

In addition to any powers and duties otherwise provided by law, the Mayor shall:

- (1) be the presiding officer of the Council;
- (2) have all the powers and duties of a Council Member, including the power and the duty to vote;
- (3) have the veto powers as provided in Section 4.5 of this charter;
- (4) give the Council information concerning the affairs of the City and recommend such measures as deemed expedient;
- (5) in emergencies, have the powers conferred by law upon sheriffs to prevent disorder, preserve the public peace and health, and provide for the safety of persons and property;
- (6) execute or authenticate by signature such instruments as the Council, this charter, or any state or federal law shall require;
- (7) be the ceremonial head of the City;
- (8) appoint all Council Committees and be a member thereof and make other appointments as provided in this charter or by the Council.

Section 4.3. The Mayor Pro Tem

- (a) At its first meeting after the newly elected members have taken office following each regular city election, the Council shall elect one of its members Mayor Pro Tem for a term expiring at the first Council meeting following the next regular city election. The election of the Mayor Pro Tem shall be by the concurring vote of at least six members of the Council.
- (b) 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. If both the Mayor and Mayor Pro Tem are temporarily unable to perform the duties of the office of Mayor, the Council shall designate another of its members as Acting Mayor to perform such duties temporarily.
- (c) When acting as Mayor, the Mayor Pro Tem or the Acting Mayor shall vote as a Council Member, and shall not possess the veto power.

Section 4.4. Meetings of the Council

- (a) The Council shall fix the time and place of its regular meetings and shall hold at least two regular meetings in each month. If any day prescribed for a regular meeting of the Council is a holiday, such regular meeting shall be held at the same time and place on the next secular day, except that when such holiday is an election day, the meeting shall be held on the following Thursday.
- (b) Special meetings of the Council shall be held at the regular meeting place thereof and shall be called by the Clerk on written request of the Mayor or any three members of the Council. Written notice stating the time and purpose of a special meeting shall be delivered to each member of the Council or left at the member's usual place of residence at least three hours prior to the time set for the meeting. The Clerk shall record a certificate of service of notice in

the journal of such meeting. A special meeting may be held notwithstanding lack of notice if all members are present, or if a quorum is present and each absent member has filed with the Clerk a written waiver of notice. A vote taken by the Council at a prior meeting shall not be reconsidered at a special meeting, unless as many members are present as were present when the original vote was taken. Except by unanimous consent of all members of the Council, a matter shall not be acted upon at any special meeting unless it has been included in the notice of the meeting.

- (c) All meetings of the Council shall be open to the public and the rules of the Council shall provide that persons shall have a reasonable opportunity to be heard. The public shall have access to the minutes and records of all meetings. Within ten days after any meeting, all proceedings shall be printed in such form as shall be prescribed by rule of the Council.
- (d) Six members of the Council shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn to a later time.
- (e) The Council shall determine its own rules and order of business. It shall keep a journal, in the English language, of its proceedings. The Clerk shall sign the journal after approval by the Council.
- (f) Except as otherwise provided in this charter, each member of the Council present shall cast a "yes" or "no" vote on each question before the Council, unless excused therefrom by a vote of at least six members.
- (g) The affirmative vote of at least six members of the Council, or of such greater number as may be required by this charter, or other provisions of law, shall be required for the adoption or passage of any resolution or ordinance, or the taking of any official Council action. No office may be created or abolished, nor any street, alley, or public ground vacated, nor private property taken for public use, unless by a concurring vote of at least eight members of the Council.
- (h) The Council may compel the attendance of its members and other officers of the City at its meetings, may take disciplinary action for non-attendance as prescribed by ordinance or by Council rules, and may prescribe, by ordinance, the punishment for any misbehavior or the contemptuous or disorderly conduct of any member or any person present at any meeting of the Council.
- (i) A member of the Council shall not vote on a question in which the member has a financial interest, other than the general public interest, or on any question involving the member's own conduct. If a question is raised under this section at any Council meeting concerning the eligibility of a member of the council to vote on any matter, such question shall be finally determined by the concurring vote of at least six members of the Council, not including such member.

Section 4.5. Veto Power of Mayor

- (a) Within seventy-two hours, exclusive of Sundays and holidays, after a meeting of the Council, the Clerk shall present the record of the meeting to the Mayor for approval. Except in cases of appointment or removal of officers by the Council, the Mayor may disapprove, in whole or in part, any action taken by the Council by resolution, order, or otherwise. The Mayor shall file the disapproval and reasons therefor, in writing, with the Clerk within seventy-two hours, exclusive of Sundays and holidays, following presentation of the record to the Mayor. Such disapproval shall be reported by the Clerk at the next regular meeting of the Council or at a special meeting called for consideration thereof. Council action disapproved by the Mayor shall be of no effect, unless re-affirmed by the concurring vote of at least eight members of the Council within thirty days from the time such disapproval is reported by the Clerk.

- (b) Within seventy-two hours, exclusive of Sundays and holidays, after the adoption of an ordinance, the Clerk shall present it to the Mayor. The Mayor may approve or disapprove. If the Mayor disapproves, the Mayor shall return the ordinance to the Clerk with the objections thereto in writing. The Clerk shall lay the ordinance and the objections of the Mayor before the Council at its next regular meeting or at a special meeting called for consideration thereof. If, within thirty days thereafter, at least eight members of the Council vote to readopt the ordinance, it shall become effective without the approval of the Mayor. If the Mayor fails to act within ten days after an ordinance is presented, it shall be deemed to have been approved. The Clerk shall certify on each ordinance and also in the journal the actions taken under this section and the dates thereof.

Section 7.1. Legislative Power

The legislative power of the City is vested exclusively in the Council, except as otherwise provided by this charter or by law.

Section 7.3. Introduction, Consideration, and Style of Ordinances

- (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, "The City of Ann Arbor Ordains:".
- (b) Each proposed ordinance shall receive two readings, which may be by title only, unless ordered by the Council to be read in full or in part. After the first reading of a proposed ordinance, the Council shall determine whether it shall be advanced to a second reading. The second reading shall not be given earlier than the next regular Council meeting.
- (c) Each proposed ordinance advanced to a second reading shall be printed and distributed to each member of the Council at least twenty-four hours before the meeting at which it is to be presented for a second reading.
- (d) A zoning ordinance or an amendment or revision thereof shall be published in one or more newspapers of general circulation in the City, and opportunity for a public hearing allowed thereon before final action is taken by the Council.
- (e) Each ordinance adopted by the Council shall be identified by a number.
- (f) An ordinance may be repealed, revised, altered, or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number and title only.
- (g) If a section of an ordinance is amended or revised it shall be reenacted and published at length.
- (h) Each ordinance shall be recorded by the Clerk, forthwith, in the "Record of Ordinances", and the enactment of such ordinance shall be certified by the Clerk therein.

Section 7.4. Publications of Ordinances

- (a) Each ordinance shall be published within ten days after its enactment in one of the following two methods:
 - (1) The full text thereof may be published in a newspaper of general circulation in the City of Ann Arbor, or
 - (2) In cases of ordinances over five hundred words in length, a digest, summary or statement of the purpose of the ordinance, approved by the Council, may be published in a newspaper of general circulation in the City of Ann Arbor, including with such newspaper publication, a notice that printed copies of the full text of the ordinance are available for inspection by, and distribution to, the public, at the office of the City Clerk. If Method (2) is used, then printed copies shall promptly be so made available, as stated in such notice.

The effective date of an ordinance shall be stated therein, but shall not be less than ten days from the date of its publication if such ordinance imposes a penalty. (Amended 5-22-56).

- (b) In the event of the codification or compilation of the ordinances, the deposit of two hundred printed copies in the office of the Clerk, available for public inspection and sale at cost, shall constitute publication thereof.

Section 7.5. Penalties

The Council may provide in any ordinance adopted by it for punishment of violations thereof by a fine not to exceed five hundred dollars or imprisonment for not more than ninety days, or both, in the discretion of the court. Imprisonment for violations of ordinances may be in the City or the County jail, or in any work house of the State which is authorized by law to receive prisoners of the City.

Section 7.8. Technical Codes

The Council may adopt by ordinance, any provision of state law or any detailed technical code or set of regulations promulgated by the State, or by a department, board, or agency thereof, or by any organization or association organized and conducted for the purpose of developing any such code or set of regulations, by reference thereto in the adopting ordinance and without publishing the technical code or set of regulations in full. The code or set of regulations shall be fully identified in the ordinance, and a statement of the purpose of the code or set of regulations shall be published with the adopting ordinance. Such publication shall contain notice that a copy of the code or set of regulations is available for public inspection in the office of the Clerk. Printed copies of the code or set of regulations shall be kept in the office of the Clerk, available for public distribution at cost.

Section 8.6. Adoption of Budget

Not later than its second meeting in May, the Council shall, by resolution concurred in by at least seven members, adopt the budget for the next fiscal year. The Council shall, in such resolution, make an appropriation of the money needed for municipal purposes during the next fiscal year. The Council shall, in such resolution, make an appropriation of the money needed for municipal purposes during the next fiscal year and determine the amount necessary to be raised by taxes upon real and personal property for such purposes.

Section 8.9. Effects of Adoption of Budget

- (a) Upon the adoption of any budget, the several amounts stated therein as proposed expenditures shall be appropriated to the respective objects and purposes named therein.
- (b) A copy of the budget so adopted, certified by the Clerk, shall be filed in the office of the Controller. A copy of the budget as adopted, or of appropriate portions thereof, shall be furnished by the Clerk to the head of each administrative unit and, upon request, shall be furnished at cost to interested persons and civic organizations.

Section 8.10. Transfer of Appropriations

After the budget has been adopted, no money shall be drawn from the treasury nor shall any obligation for the expenditure of money be incurred for payment during the fiscal year to which the budget applies, except pursuant to an appropriation therefor. The Council may, however, transfer any unencumbered operating appropriation balance, or any portion thereof, from one operating fund or account to another, upon the concurring vote of not less than eight members of the Council. Council shall determine the disposition of any unencumbered balance remaining in any budget appropriation at the end of the fiscal year.

Section 8.11. Budget Control

- (a) If, when the City Administrator submits to the Council data showing the financial position of the City, it appears that the income of the City is less than anticipated, the Council may, except as to amounts required for debt and interest charges, revise or amend the budget as may be necessary to keep expenditures within the income of the City, after a public hearing thereon which shall be held and notice thereof given as required by this charter before the adoption of the budget.

Section 8.12. Contractual Claims against City

- (a) All contractual claims against the City shall be filed with the Clerk, who shall transmit them to the Controller.
- (b) The Controller shall verify the correctness of each claim and, subject to further procedure established by the Council for auditing and approving claims, shall approve for payment each claim so verified, if a sufficient appropriation is available for the purpose, and shall draw and sign a check or warrant therefor. A certificate of the Controller's approval shall be filed with the Treasurer before the Treasurer countersigns any check on the funds of the City therefor. Any officer who signs or countersigns a check on any funds of the City, except as herein provided, shall be deemed guilty of a violation of this charter.

Section 8.13. Notice to City of Claim for Injuries

The City shall not be liable in damages for injury to person or property by reason of negligence of the City, its officers, or employees, or by reason of any defective highway, public work, public service improvement, or facility of the City's or by reason of any obstruction, ice, snow, or other encumbrance thereon, unless, within sixty days after such injury occurred, the person damaged or that person's representative causes to be served upon the Clerk a written notice, stating that such person intends to hold the City liable for such damages. Such notice shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. No person shall bring action against the City for damages to person or property arising out of any of the reasons or circumstances aforesaid, unless brought within the period prescribed by law, nor unless the person has first presented to the Clerk a claim in writing and under oath, setting forth specifically the nature and presented to the Council for action. It shall be a sufficient bar to any action upon any such claim that the notice of injury and the verified proof of claim required by this section were not filed within the time and in the manner herein provided.

Section 8.14. Withdrawal of City Funds

All funds of the City drawn from the treasury shall be drawn pursuant to an appropriation by the Council and by checks signed by the Controller and countersigned by the Treasurer. Each check shall specify the fund or funds from which it is payable.

Section 8.17. Municipal Borrowing

- (a) The Council, subject to the applicable provisions of law and this charter, may, by proper ordinance or resolution, authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created thereby.
- (b) The Council, subject to the applicable provisions of law and this charter, may authorize the borrowing of money in anticipation of the payment of special assessments made for the

purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and the issuing of bonds therefor. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose.

- (c) The Council may, subject to law and the State Constitution, authorize the issuance and sale of mortgage bonds for the purpose of acquiring, owning, purchasing, constructing, or operating any public utility beyond the general limit of bonded indebtedness prescribed by law: Provided that such mortgage bonds, issued beyond the general limit of bonded indebtedness prescribed by law, shall not impose any liability on the City but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility, which franchise shall in no case extend for a long period than twenty years from the date of sale of such public utility and franchise on foreclosure. In the event of the issuance of such bonds, there shall be created, in such cases as may be required by law, a sinking fund by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.
- (d) In case of fire, flood, or other calamity, the Council may, subject to law, authorize the issuance of emergency bonds, which shall be general obligations of the City for the relief of the inhabitants of the City and for the preservation of municipal property.
- (e) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and, if any such bonds are not sold within three years after authorization, such authorization shall be null and void.
- (f) Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and no officer of the City shall use the proceeds thereof for any other purpose, except as hereinafter provided.
- (g) Whenever the proceeds of any bond issue, or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the affirmative vote of a majority of the members elect, authorize the use of such unexpended and unencumbered funds in any manner permitted by law or for the retirement of such bond issue, or, if such bond issue shall have been fully retired or if any of such funds remain after such retirement, then for the retirement of other bonds or obligations of the City.
- (h) All bonds and other evidences of indebtedness by the City shall be executed with the facsimile signature of the Mayor and signed by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signature of the Mayor and Clerk. (Amended April 1, 1968)
- (i) A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Controller. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Canceled."
- (j) A violation of any of the provisions of this section shall constitute a violation of this charter.

Section 10.1. General Powers Relative to Special Assessments

The Council may determine the necessity for any public improvement, and determine that the whole or any part of the cost thereof shall be defrayed by special assessment upon the property especially benefited. The Council may authorize public improvements other than those for which petitions have

been filed, whether the cost thereof is to be defrayed from the general funds of the City or by special assessments upon the property especially benefited.

Section 14.1. Authority of Council

- (a) The authority to authorize the making of contracts on behalf of the City is vested in the Council and, except as otherwise provided by this charter, shall be exercised in accordance with the provisions of law and this chapter.
- (b) All contracts, except as otherwise provided in this charter or by ordinance of the Council in accordance with the provisions of Section 14.2 of this charter, shall be approved by the Council and shall be signed on behalf of the City by the Mayor and Clerk.