

CHARTER  
OF THE  
CITY OF  
PERRY, MICHIGAN

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EDITOR'S NOTE: The revised Charter of the City of Perry, Michigan, was adopted by the Commission of the City of Perry on March 8, 1988, and by the voters on August 2, 1988. Dates appearing in parentheses following a section heading, if any, indicate that the section was enacted, amended or repealed on the date given.

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CHARTER OF THE CITY OF PERRY,  
STATE OF MICHIGAN

PREAMBLE

We, the People of the City of Perry, which was incorporated on September 8, 1964, pursuant to authority granted by the Constitution and statutes of the State of Michigan, and, in order to secure the benefits of efficient self government, and otherwise to promote our common welfare, do hereby ordain and establish this Charter.

CHAPTER 1  
NAME AND BOUNDARIES

Section 1.1 Name; Official Description and Map. The municipal corporation now existing as a home rule city under the name of the City of Perry shall continue as a municipal corporation, and shall include within its boundaries all territory now constituting said City of Perry on the effective date of this revised Charter, together with all territory that may hereafter be annexed thereto, and less any territory detached therefrom, all in accordance with prescribed law. The City Clerk shall maintain and keep available in the City Clerk's office, for public inspection, the official description, and a map of the current boundaries of the City.

Section 1.2 Ward; Precincts. The City shall constitute one ward which shall be divided into as many election precincts as the Council may by ordinance prescribe consistent with the general election law of the State.

CHAPTER 2  
GENERAL POWERS

Section 2.1 Powers of City. The City of Perry shall have, and by appropriate action of its Council shall exercise, all powers which home rule cities are required to exercise or are permitted to exercise in its Charter, and no specific enumeration of an authorized power shall be considered as exclusive of any other powers permitted by the laws of this State and this Charter.

The City and its officers shall have the power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; do any act to advance the interests of the City, the good government and prosperity of the Municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the Constitution and general laws of the State and provisions of this Charter.

Section 2.2 Further Definition of Powers. It is the purpose of this Charter to establish procedures for the exercise of control and management of all municipal affairs pertaining to the public health, safety and general welfare of its people. Where a power permitted to the City is not defined in this Charter, the Council, or the people through initiatory petition, may, by proper procedure, provide for the exercise and control of such power.

Section 2.3 Municipal Fire Protection. The City shall have the power to provide for fire protection for all property within the City, public or private:

(a) By establishing and providing a Fire Department together with all its needs and requirements; or

(b) By contracting with other corporations, firms or persons, municipal, public or private, for the furnishing of adequate fire protection.

Section 2.4 Outside Fire Protection. In the exercise of the powers contained in Section 2.1 herein, the Council shall have the right to contract with persons, firms, corporations or governing bodies to furnish fire protection to property outside the corporate limits of the City for a fair consideration, if the Council shall find that the financial interests of the City are advanced by obtaining payment therefor; and that the prosperity of the Municipality and inhabitants are advanced through preventing a conflagration which might spread within the limits or through protecting from fire, industrial or commercial properties which employ residents of the City.

Section 2.5 Intergovernment Contracts. The City may join with any other municipal corporation or with any number or combinations thereof, by contract or otherwise, as may be permitted by law, for the ownership, operation or performance, jointly, or by any 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.

Section 2.6 Acquisition and Sale of Real Estate. The City shall have the power to purchase, appropriate and own such real estate as may be necessary for public grounds, parks, boulevards, markets, public buildings, public works and other purposes necessary or convenient for the public good and for the execution of the powers conferred in this Charter or by the statutes of this State; and such buildings and grounds or any part thereof may be sold at public sale or leased as occasion may require; provided, however, no property of the value in excess of one percent of the assessed valuation of all property in the City nor any park nor any real estate used in carrying on a public utility or any part thereof shall be sold unless such sale be first approved by a simple majority of the electors voting thereon at any general or special elections.

### CHAPTER 3 ELECTIONS AND APPOINTMENTS

Section 3.1 Eligibility for Office. No person shall be eligible for an elective office of the City unless he shall be a qualified elector of the City. No person shall be eligible for an appointive office of the City unless he shall reside within a fifteen-mile radius of the City limits. Provided, however, that should there be any appointive office that requires specialized or professional training, and should there be no resident within a fifteen-mile radius of the City limits who possesses such specialized or professional training who is willing to accept such office, then and in that event the Council may appoint to that office any qualified elector of the State of Michigan who does possess such training, who as a term of appointment agrees to reside within a fifteen-mile radius of the City limits within one year. (Amended 11-3-98.)

#### Section 3.2 Vacancies in Office.

(a) A City office shall become vacant upon the occurrence of any of the following events:

- (1) Expiration of the term of office;
- (2) Death of the incumbent;
- (3) Resignation;
- (4) Removal from office;
- (5) Ceasing to possess the qualifications or eligibility required by this Charter for election or appointment to office, subject to subsection (b) of this section;
- (6) Conviction of a felony crime or of an offense involving a violation of an oath of office;
- (7) A decision of a competent tribunal declaring the officer's election or appointment void;

(8) Failure to take the oath or file or have furnished for him the bond required for the office within ten days from the date of election or appointment or within such other time, not exceeding twenty days thereafter, as the Council may fix;

(9) In the case of Councilmen, absence from four consecutive regular meetings of the Council, unless such absences be excused by the Council at the time they occur or at or prior to the fourth such absence, or absence from twenty-five percent of such meetings in any year, unless such absences shall be excused;

(10) Absence from the City or failure to perform the duties of his office for sixty consecutive days, unless such absence from the City or failure to perform the duties of such office shall be excused by the Council prior to the expiration of such sixty-day period; or

(11) Any other event which, by law, creates a vacancy.

(b) No person who is in default to the City shall continue thereafter to hold any City office, unless he shall eliminate the same within thirty days after notice thereof is filed with the Clerk by the Attorney and a copy thereof is served on him. However, when an officer contests an alleged default by recognized means of legal procedure, brought prior to or within thirty days after notice is served on him, such thirty-day period shall not commence until a determination has been made by the court or tribunal in which the evidence of the default is contested.

Section 3.3 Resignations. Resignations of all City officers shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular or special meeting following receipt thereof by the Clerk.

Section 3.4 Filling Vacancies. Vacancies in elective offices shall, within sixty days, be filled by appointment by the Mayor, with approval of the Council, of a person possessing the qualifications for the office who shall hold such office until the next regular or special City election, at which election the vacancy shall be filled for the unexpired term of such office.

Section 3.5 Nepotism. Unless the Council shall, by four-fifths vote of the members elect thereof, other than the member involved, which vote shall be recorded as part of the official proceedings, determine that the best interests of the City shall be served, the following relatives of any elective or appointive

officer as defined in Section 4.6 of this Charter are disqualified from holding any appointive office or City employment during the term for which said officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother or half-sister, or the spouse of any of these. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the City at the time of the election or appointment of said official.

Section 3.6 Oath of Office and Bond. Every officer, elective or appointive, before entering upon the duties of his office, shall qualify by taking his oath of office prescribed for public officers by the Constitution of the State, and by filing the oath with the Clerk, together with any bond required by statute, by this Charter or by the Council. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 3.7 Qualifications of Electors. The residents of the City having qualifications of electors in the State of Michigan shall be eligible to vote in the City when duly registered.

Section 3.8 Election Procedure. The election of all City officers shall be on a nonpartisan basis. The general election laws of the State shall apply to and control, as near as may be, all procedures relating to registration and City elections, except as such general laws relate to political parties or partisan procedure and except as otherwise provided in this Charter.

Section 3.9 City Elections.

(a) Regular City Elections. A nonpartisan regular City election shall be held on the first Tuesday following the first Monday in November in each even-numbered year.

(b) City Primary Election. A nonpartisan City primary election shall be held on the same day of the regular fall State primary election in every even-numbered year, except as hereinafter provided.

(c) Candidates Nominated. Candidates in number equal to twice the number of persons to be elected to each City office, who shall receive the highest number of votes at such primary election, shall be declared the nominees for election to the respective offices for which they are candidates.

(d) When No Primary Election Necessary. If, upon the expiration of the time for filing nomination petitions, the number of candidates on said petitions does not exceed twice the number of candidates to be elected to such office, then no primary election shall be held in respect to such office and the Clerk shall publish notice of this fact.

Section 3.10 Special Elections. Special City elections shall be held when called by resolution of the Council at least sixty days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election.

Section 3.11 Election Commission. An Election Commission is hereby created, consisting of the Clerk, City Attorney and Assessor. The Clerk shall be the Chairman. The Commission shall have charge of all activities and duties required of it by State law and this Charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Council.

In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. Said Election Commission shall, before each election, appoint a Board of Inspectors of Election, which Board shall consist of not less than three qualified electors of the City. When a City election is held on the same day as a national, State or County election or primary, the same election officials shall act in both the City and the national, State or County election or primary.

Section 3.12 Notice of Elections. Notice of the time and place of holding any City election and of the officers to be nominated or elected and the questions to be voted upon shall be given by the Clerk in the same manner and at the same time as provided in the State election law for the giving of notice by township or city clerks.

Section 3.13 Voting Hours. The polls of all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at State elections. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

Section 3.14 Nominating Petitions. Persons desiring to qualify as candidates for any elective office under this Charter shall file a petition therefor with the City, signed by not less than fifteen nor more than thirty registered electors of the Clerk, not later than the date and time for the filing of nominating petitions for State and County offices. The form of the petition shall be substantially as that designated by the Secretary of State for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

The Clerk shall publish notice of the last day and time for filing nomination petitions at least one week before and not more than three weeks before that date.

No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to that office. Should he do so, the signatures bearing the most recent date shall be invalidated. If his signature bears the same date, such signature shall not be counted on any petitions for that office.

Section 3.15 Approval of Petitions. The Clerk shall accept only nomination petitions which conform with the forms provided and maintained by him and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective City officers by this Charter. When a petition is filed by persons other than the person whose name appears thereon as a candidate it may be accepted only when accompanied by the written consent of the candidate. The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within five days after the last date for filing petitions the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for those respective elective City offices by this Charter, and shall write his determinations thereof on the face of the petition and shall notify in writing the candidate whose name appears thereon of his determination.

Section 3.16 Public Inspection of Petitions. All nomination petitions shall be open to public inspection in the office of the Clerk beginning five days after the filing date for such petitions.

Section 3.17 Form of Ballot. The form of the ballot used in any City election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any City ballot. The names of qualified nominees for each office shall be listed in a single column and shall be rotated on the ballots as prescribed by State statute.

Section 3.18 Tie Vote. If, at any City election, there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the Board of Canvassers shall name a date for the appearance of such candidates for the purpose of determining the election of such candidates by lot as prescribed by State law.

Section 3.19 Recall. Any official may be removed from office by the electors in the manner prescribed by the general law of the State. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

Section 3.20 Recount. A recount of the votes cast at any City election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

Section 3.21 Change in Term of Office or Compensation. Except by procedures provided in this Charter, the terms of the elective officers of the City shall not be shortened during the term for which he was elected. The terms of elective officers of the City may not be extended beyond the period for which any such officer was elected, except that an elective officer of the City may, after his term has expired, continue to hold office until his successor is elected or appointed and has qualified. The Council shall not grant or authorize extra compensation to any City officer, agent or contractor after the service has been rendered or the contract entered into; nor shall the salary of any elective City officer be increased or decreased after his election during any fixed term of office for which he was elected.

#### CHAPTER 4 GOVERNMENTAL ORGANIZATION

Section 4.1 City Governing Body. The legislative and policy forming powers of the City shall be vested in a Council of six members and a Mayor.

**Section 4.2 Terms of Office.** At each regular City election there shall be elected from the City at large a Mayor and three Councilmen. The person elected to the office of Mayor shall hold office for two years and each of the Councilmen so elected shall hold office for four years. The terms of office of the Mayor and each Councilman shall commence at 12:00 noon on December 1 following the election.

**Section 4.3 Qualifications of Councilmen.** Members of the Council shall meet the eligibility requirements contained in Section 3.1 and the Council shall be the sole judge of the election and qualifications of its own members.

**Section 4.4 Compensation of Councilmen.** The compensation of the Mayor and Council shall be determined by a Local Officers Compensation Committee as established in Home Rule Cities Act 117, Section 5c. The Mayor and Council may be paid such necessary bona fide expenses incurred in service on behalf of the City as are authorized and itemized.

**Section 4.5 Functional Duties of Mayor.**

(a) The Mayor shall be the executive head of the City. He shall have no vote in the proceedings of the Council, except to break a tie. He shall have veto power and shall be the presiding officer of the Council.

(b) The Mayor shall have power to veto any ordinance or resolution adopted by the Council by writing thereon the word "vetoed" and then signing and dating the same, at any time before the beginning of the next regular meeting. Any ordinance or resolution not so marked by the time the next Council meeting is called to order shall stand approved.

(c) In the event of the veto of any ordinance or resolution the Mayor shall, during the next regular Council meeting, inform the Council of such veto, and may at such time state his reasons and grounds for such veto.

(d) Any member of the Council then at such meeting or at any of the next two succeeding meetings may make a motion to override the Mayor's veto, which motion must have an affirmative vote of four of the six Councilmen to prevail. If the motion prevails, the ordinance or resolution shall stand as originally adopted; if not, the ordinance or resolution shall be null and void.

(e) He shall be a conservator of the peace and may exercise within the City the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City, and to suppress riots and disorderly conduct.

(f) He shall authenticate by his signature such instruments as the Council, this Charter or the laws of the State of Michigan or the United States shall require.  
(Amended 11-7-06)

**Section 4.6 Administrative Services.** There shall be, within the administrative service of the City, a Clerk, Treasurer, Assessor, Chief of Police, Superintendent of Public Works, Health Officer, Attorney and such additional administrative officers as may be created by ordinance or resolution. The Council may combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City. The City Council shall fix the rate of compensation for all administrative officers of the City within the limits of budget appropriations.

Except as hereinafter provided, all administrative officers of the City shall be appointed by the Mayor with the approval of the Council, for an indefinite period, and shall serve at the pleasure of the Council.

If a vacancy occurs in any administrative office and the Mayor fails to make an appointment thereto approved by the Council within sixty days from the date the vacancy occurs, then such vacancy shall be filled by the Council.

Except as may be otherwise provided by statute or this Charter, the Council shall establish by ordinance or resolution such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department.

The City may by initiatory ordinance, to be approved by a majority vote of the electors of the City, create the office of City Manager. The City Manager shall be responsible to the Council for the efficient administration of all departments of the City government under his jurisdiction.

**Section 4.7 Mayor Pro Tem.** The Mayor shall, at the first regular meeting of the Council following each regular biennial City election, appoint one of the Council members to serve as Mayor Pro Tem. The Mayor Pro Tem 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 his office, and in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. The Mayor Pro Tem shall preside over meetings of the Council at the call of the Mayor. In the event of vacancy in the office of Mayor, the Mayor Pro Tem shall assume the duties of the Mayor, and shall then, within a reasonable time, appoint a Mayor Pro Tem.

Section 4.8 Duties of Administrative Officers. All appointive officers of the City shall perform such duties as are provided for such officers by State law, this Charter, the City ordinances and the administrative directives of the Council. All such administrative officers shall be responsible to the Council in and for the performance of the duties of their several offices.

(b) The City Clerk shall be the Clerk and clerical officer of the Council and shall keep its Journal. He shall keep a record of all actions of the Council at its regular and special meetings. He shall certify all ordinances and resolutions adopted by the Council.

The Clerk shall have the power to administer all oaths required by law and by the ordinances of the City. He shall be the custodian of the City Seal and shall affix the same to documents required to be sealed. He shall be the custodian of all papers, documents and records pertaining to the City, the custody of which is not otherwise provided by this Charter. He shall give the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the City is a part, and he shall notify the Council of the failure of any officer or employee required to take an oath of office or furnish any bond required of him.

(c) The City Treasurer shall have the custody of all moneys of the City, the Clerk's bond and all evidences of value or indebtedness belonging to or held in trust by the City. He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine, and shall report the same to the Council.

The Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of State, County, School District and City taxes and moneys as are provided by law.

(d) The City Assessor shall possess all the power vested in and shall be charged with the duties imposed upon assessing officers by law. He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the City.

Section 4.9 City Officer and Employee Benefits. The Council may provide, by ordinance or resolution, for a merit system of personnel management for employees in the service of the City, for the pensioning of its elective and appointive officers and employees and a recognized standard plan of group life, hospital, health or accident insurance.

Section 4.10 City Library. The City Library shall be a department of the City government under the direction of a Library Board comprised of six members who shall be appointed by the Mayor subject to confirmation by the City Council. The terms of the members of the Library Board shall be for three years, commencing on January 1, and shall be so arranged that the term of one member shall expire in each year. The Library Board shall possess such powers as are conferred upon such boards by State law, and as are granted under ordinances already enacted, or which may be enacted under the provisions of this Charter.

Section 4.11 Judiciary System. The Council may provide for a judiciary system in accordance with statutory provisions.

## CHAPTER 5 FUNCTIONS OF THE COUNCIL

Section 5.1 Providing for Public Health and Safety. Through the departments and agencies of the City government, the Council shall provide for the public peace and health and for the safety of persons and property.

Section 5.2 Procedures, Powers and Duties. All meetings will be in compliance with the Michigan Open Meeting Act No. 267 of 1976.

Section 5.3 Meetings; Conflicts of Interest.

(a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month.

(b) Special meetings shall be called by the Clerk on the written request of the Mayor, or any two members of the Council, on at least twenty-four hours written notice to each member of the Council served personally or left at his usual place of residence; but any special meeting at which all members of the Council are present or have waived notice thereof in writing shall be a legal meeting.

(c) No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

(d) The Council shall determine its own rules and order of business and shall keep a journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(e) The Council may, by a vote of not less than two of its members, compel the attendance of its members and other officers of the City at its regular and special meetings and enforce orderly conduct therein, and any member of the Council or other officer of the City who refuses to attend such meeting or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in the office. The presiding officer shall enforce the provisions of this section.

(f) No Councilman shall vote on any question in which he has a financial interest other than the common public interest or any question concerning his own conduct, but on all other questions each member who is present shall vote unless excused by unanimous consent of the remaining members present.

(g) The proceedings of the Council shall be published in a local newspaper in accordance with the Open Meetings Act.

Section 5.4 Effect of Prior Legislation. All bylaws, ordinances, resolutions, rules and regulations of the City of Perry which are not inconsistent with this Charter and which are in force and effect on the effective date of this Charter shall continue in full force and effect until repealed or amended.

Section 5.5 Ordinances and Resolutions. All legislation of the City of Perry shall be by ordinance or by resolution. The word "resolution," as used in this Charter, shall be the official action of the Council in the form of a motion and such action shall be limited to matters required or permitted to be done by resolution of this Charter, or by State or Federal law, and to matters pertaining

to the internal affairs or concerns of the City government. All other acts of the Council and all acts carrying a penalty for the violation thereof shall be by ordinance. Ordinances may be enacted, amended or repealed by the affirmative vote of not less than four members of the Council. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be: "The City of Perry Ordains:". Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it was introduced. No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the Clerk in a book to be called "The Ordinance Book;" and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures thereon.

Section 5.6 Publication of Ordinances. Each ordinance passed by the Council shall be published at least once within fifteen days after the adoption of the ordinance by the Council. All ordinances of the City shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective which is subsequent to the date of the publication thereof is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as part of the published proceedings of the Council shall constitute publication of such ordinance as required herein. An ordinance which is declared therein to be immediately necessary for the preservation of the public peace, health or safety may be given effect before publication as otherwise required by this Charter, if preliminary publication is accomplished by posting copies thereof in conspicuous locations in five public places in the City; and the Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance, a certificate under his hand stating the time and place of such publication by posting, which certificate shall be prima-facie evidence of such publication by posting; however, such ordinance shall also be published in the manner required for other ordinances within fifteen days after its adoption.

Section 5.7 Adoption of Technical Codes by Reference. All technical codes and other ordinance subject matter which are, or may be permitted by law to be, adopted by reference shall be adopted and published in the manner permitted and required by law.

Section 5.8 Initiative and Referendum. An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had by a petition, as hereinafter provided.

Section 5.9 Petitions. An initiatory or referendary petition shall be signed by not less than ten percent of the registered electors of the City who have signed said petition within six months before the date of filing the petition with the Clerk. Before being circulated for signatures, all such petitions shall be approved as to form by the Clerk. No such petition need be on one paper but may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten days, canvass the signatures thereof to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the City, or to be improper as to form, or compliance with the provisions of this section, the Clerk shall notify forthwith the persons filing such petition and ten days from such notification shall be allowed for filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

Section 5.10 Council Procedure. Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days, either:

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the City;

(b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

Section 5.11 Submission to Electors. Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any purpose, or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.

Section 5.12 Ordinance Suspended. The certification by the Clerk of the sufficiency of a referendary petition filed within ninety days after the passage of the ordinance to which such petition refers shall automatically suspend the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years, and then only by the affirmative vote of the majority of the Councilmen elect. Should two or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

Section 5.13 Franchises, Contracts and Leases Remain in Effect. All franchises, contracts and leases to which the City is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

Section 5.14 Granting of Public Utility Franchise. Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

No franchise ordinance which is not subject to revocation at the will of the City shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after publication thereof has been filed with the Council, nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered by the Council unless the expenses of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

A franchise ordinance which is subject to a revocation at the will of the City may be enacted by the Council without referral to the voters, but shall not be enacted nor become operative unless it shall have been complete in the form in which it is finally enacted and remain on file with the Clerk for public inspection for at least four weeks before the final enactment thereof.

**Section 5.15 Conditions of Public Utility Franchise.** All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City:

- (a) To repeal the same for misuse, non-use or failure to comply with the provision thereof;
- (b) To require reasonable and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (c) To establish reasonable and practicable standards for service and quality of products and prevent unjust discrimination in service or rates;
- (d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (e) To impose such other reasonable regulations as may be conducive to the health, safety and accommodation of the public;
- (f) To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. The above enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the City to impose or require.

**Section 5.16 Restrictions on Council.** The Council shall not have the power to make any contract with or give any official position to one who is in default to the City. Further, the Council shall not have the power to sell any park, cemetery or any part thereof, except where such park is not required under an official master plan of the City, or to engage in any business enterprise requiring an investment of money in excess of one-half percent of the assessed valuation, unless these actions are approved by a simple majority of the electors voting thereon at a regular or special election.

Unless by the affirmative vote of four Councilmen, no office shall be created or abolished, no tax or assessment shall be imposed, no street, alley or public ground shall be vacated, no real estate or any interest therein shall be sold or disposed of, no action shall be taken to condemn private property for public use, no money shall be appropriated, nor shall any vote of the Council be reconsidered or rescinded.

**Section 5.17 Investigations.** The Council, or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office or officer of the City and to make investigations as to Municipal affairs, and for that

purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure on the part of any officer of the City to obey such subpoena to produce books, papers or other evidence as ordered under the provisions of this section shall constitute and may be deemed cause for removal. A majority vote of the members elect of the Council, exclusive of any member whose removal may be being considered, shall be required for any such removal.

**Section 5.18 Severability of Ordinances.** Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

## CHAPTER 6 GENERAL FINANCE AND TAXATION

**Section 6.1 Fiscal Year.** The fiscal year of the City and all of its agencies shall begin at the beginning of the first day of January each year and end at the end of the thirty-first day of December of that year, so that the fiscal year shall be the same as the calendar year.

**Section 6.2 Budget Procedures.** The Mayor of the City shall be the Budget Officer. Each board, commission, officer and department head shall submit his recommended budget with support explanation for the fiscal year to the Budget Officer on or before March 15 of each year.

The Budget Officer shall prepare and submit to the Council, on or before the first regular meeting in May of each year, a budget document covering the next fiscal year tabulating the recommendations of the several department heads and officials, and shall include therein at least the following information:

- (a) Detailed estimates with supporting explanations of all proposed expenditures for each department and office of the City, together with the expenditures for corresponding items for the last preceding fiscal year in full and for the current year to October 1 and estimated expenditures for the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued and the condition of sinking funds, if any;

- (c) Detailed estimates of all anticipated revenues of the City from sources other than taxes, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding fiscal year in full and for the current fiscal year to October 1 and estimated revenues for the balance of the current fiscal year;
- (d) A statement of the estimated balance or deficit for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- (f) The City shall maintain a system of accounts as required by the Uniform Accounting System Act, being Public Act 2 of 1968, or such statute as may apply.
- (g) Such other supporting schedules as the Council may request and in accordance with 1968 PA 2, S 15, MCL 141.435; MSA 5.3228(35).  
(Amended 11-7-06)

**Section 6.3 Adoption of Budget; Tax Limit.** Not later than the last meeting in May, the Council shall, by ordinance, adopt the budget for the next fiscal year and shall provide, by resolution, for a levy of the amount necessary to be raised by taxation for Municipal purposes, which amount shall not exceed two percent (twenty mills) of the assessed valuation of all real and personal property subject to taxation by the City.  
(Amended 11-7-06)

**Section 6.4 Transfer of Appropriations.** After the budget has been adopted, no money shall be drawn from the Treasury of the City, nor shall any obligation for the expenditure of such money be incurred, except pursuant to the budget appropriation. The Council may transfer any unencumbered appropriation balance or any portion thereof from one department fund or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the General Fund and be reappropriated during the next fiscal year. In the case of emergency arising from a pressing need other than a regular or recurring requirement and necessary to protect the public health, welfare or safety, the Council may make additional appropriations to cover unanticipated expenditures required of the City because of such emergency.

**Section 6.5 Budget Control.** At the first regular Council meeting of each quarter (unless requested more often by the Council), the Treasurer shall submit to the Council, data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is less than anticipated, the Council may

reduce appropriations, except amounts required for debt and interest charges, to such degree as may be necessary to keep expenditures within the cash income. If the revenues exceed the amounts estimated in the budget, the Council may make supplemental appropriations if all six of the members of Council affirmatively approve the supplemental appropriations; otherwise, excessive revenue shall be carried forward as surplus to the next fiscal year.

**Section 6.6 Purchasing Agent.** The Council may designate one of the administrative officers of the City as Purchasing Agent, and he shall be responsible for the purchase of City personal property within budget limitations and the sale of all City property except real estate. In all sales or purchases in excess of five hundred dollars (\$500.00), the sale or purchase shall be approved by the Council and formal sealed bids shall be obtained unless the Council, by formal unanimous resolution of those present at the meeting, determines that no advantage to the City would result from competitive bidding. The Council may authorize the making of public improvements or the performance of any other City work by a City agency without competitive bidding. The Council may establish detailed purchasing, sale and contract procedure by ordinance or resolution.

**Section 6.7 Depository.** The Council shall designate the depository or depositories for City funds, and shall provide for the regular deposit of all City moneys. The Council shall provide for such security for City deposits as is authorized or permitted by the general laws of the State, except that personal security bonds shall not be deemed proper security.

**Section 6.8 Independent Audit.** An independent audit shall be made of all accounts of the City government at the close of each fiscal year, and shall be completed within ninety days thereafter. Special independent audits may be made at any time that the Council may designate. All such audits may be made at any time that the Council may designate. All such audits shall be made to the Council by a certified public accountant designated by it. Each audit and reports supplemental thereto shall be made public in the manner that the Council determines and copies thereof shall be placed in the office of the Clerk.

**Section 6.9 Power to Tax.** The City shall have the power to assess taxes and levy and collect rents, tolls and excises.

Section 6.10 Subjects of Taxation. The subjects of ad valorem taxation for Municipal purposes shall be the same as for State, County and school purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by statute.

Section 6.11 Exemptions. No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.

Section 6.12 Tax Day. Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day. Values on the assessment roll shall be determined according to the facts existing on the tax day for the year for which such roll is made, and no change in the status or location of any such property after that day shall be considered by the Assessor or the Board of Review.

Section 6.13 Preparation of Assessment Roll. On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of the personal property; and the method of estimating all such values shall be as nearly uniform as possible.

On or before the first Monday in March, the Assessor shall give by first class mail a notice of any increase over the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Section 6.14 Personal Property; Jeopardy Assessment. If the Treasurer finds or reasonably believes that any person who is or may be liable for taxes upon personal property, the taxable situs of which was in the City on tax day, intends to depart or has departed from the City; or to remove or has removed therefrom personal property which is or may be liable for taxation; or to conceal or conceals himself or his property; or does any other act tending to prejudice, or to render wholly or partly ineffectual the proceedings to collect such tax, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

Section 6.15 Board of Review.

(a) A Board of Review is hereby created, composed of three members who are taxpayers and who own property in the City of Perry as set forth in Section 3.1 of this Charter.

(b) The members of the Board of Review shall be appointed by the Council and may be removed for reasons of nonfeasance or misfeasance by the vote of five members of the Council. One member shall be appointed in the month of January of each year for a term of three years, commencing on the following February 1.

(c) The Board shall, annually, on the first day of its meeting, select one of its members as Chairman for the ensuing year. The Assessor shall be Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question.

Section 6.16 Meetings of the Board of Review. The Board of Review shall convene as prescribed by State laws. One of the sessions of the Board of Review shall be an evening session. Two members of the Board of Review shall constitute a quorum.

Section 6.17 Notice of Meetings. Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least ten days prior to the Board's first session. In each case where assessed value of any property is increased or any property added to the rolls by the Board, the City Assessor shall give notice to the owners thereof, according to the first assessment roll, by letter mailed first class not later than midnight following the end of the session at which the Board made the increase or addition. Such notice shall state the date, time and place that the Board of Review will hear objections to the changes made by the Board of Review, which date shall be not less than five days after the mailing of such notice. The failure of the owner to receive such notice shall not invalidate any assessment roll or assessment thereof.

Section 6.18 Duties and Functions of Board of Review. For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of review in townships, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has

been wrongfully assessed or omitted from the roll the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon or additions or corrections to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

Section 6.19 Endorsement of Roll. After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

Section 6.20 Certification of Taxation and Assessments. Within three days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

Section 6.21 City Tax Roll. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" and upon receiving the certification of the several amounts to be raised as provided in Section 6.19, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax rolls shall belong to the City.

Section 6.22 City Tax Roll Certified for Collection. After spreading the taxes the Assessor shall certify the tax roll and attach his warrant thereto directing and requiring the City Treasurer to collect, prior to the date required by statute, from the several persons named in said roll, the several sums

mentioned therein opposite their respective names as a tax or assessment and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. The tax roll shall be delivered to the Treasurer for collection on or before the first day of June.

Section 6.23 Taxes a Lien. On June 15 the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed. On July 1 the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed.

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

Section 6.24 Taxes Due; Notification. City taxes shall be due on the first day of July of the year when levied. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the taxpayers of the City by publication in a newspaper at least twice, the last of which publication of notice shall be made at least ten days prior to the first day of July in each year, of the time when said taxes will be due collection, or shall give such notice by first class mail addressed to the owners of the property upon which taxes are assessed according to the names of such owners and their addresses as indicated on the tax roll, which notice shall be deemed sufficient for the payments of all taxes on said roll. Failure on the part of the Treasurer to give said notice shall not invalidate the taxes on said tax roll nor release any person or property assessed from the penalty provided in this Charter in case of nonpayment of the same.

Section 6.25 Collection of City Taxes. City taxes shall be due and payable on the first day of July of each year. To all taxes there shall be added one percent as an administrative fee. To all taxes paid after September 30, there shall be added a two percent penalty. The added administrative fee, penalties and interest herein provided shall belong to the City and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

Section 6.26 Return to County Treasurer. All City taxes on real property remaining uncollected by the City Treasurer at the end of the last day for collection of County and School taxes shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the County Treasurer is no longer charged with the collection of delinquent real property taxes, such taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

Section 6.27 Failure or Refusal to Pay Personal Property Tax.

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

Section 6.28 Protection of City Lien. The City shall have the power to acquire by purchase any premises within the City at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City, lease or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose. The Council may adopt any ordinances that may be necessary to make this section effective.

Section 6.29 State, County and School Taxes. For the purpose of assessing, levying and collecting taxes for State, County and School purposes, the City shall be considered the same as a township, and all provisions of the law relative to the collection and accounting for such taxes shall apply. For these purposes, the City Treasurer shall perform the same duties and have the same powers as are granted and imposed upon township treasurers by law.

Section 6.30 Municipal Borrowing Power.

(a) Subject to the applicable provisions of law, the City may borrow money for any purpose within the scope of its powers or which may be permitted by law, and may issue bonds or other evidences of indebtedness therefor.

(b) All collections on special assessment rolls or on any combination of such rolls shall be set apart in a separate fund and shall be used for the purpose for which levied, and for the payment of the principal and interest of bonds issued in anticipation of such special assessments. As to such of said bonds as are also a general obligation of the City, if there is any deficiency in any special assessment fund to meet the payment of the principal or interest to be paid therefrom, moneys shall be advanced from the general funds of the City to meet such deficiency, and shall be replaced in the general funds when the special assessment fund shall be sufficient therefor.

(c) Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and the proceeds thereof shall not be used for any other purpose, except that whenever the proceeds of any bond issued, or a part thereof, remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by a unanimous vote, authorize the use of such unexpended and unencumbered funds:

- (1) For the retirement of such bond issue; or
- (2) If such bond issue has been fully retired, then for the retirement of other bonds or obligations of the City provided for by this section; provided that in the case of special assessment bonds, such funds shall be refunded to the owners of property against which special assessments therefor were made, pro rata according to payments made toward the total cost of the improvement for which the bonds were issued; or

(3) For such other purposes as may be permitted by law, subject to the proviso in paragraph (2) above; or

(4) If such funds cannot be used as above permitted, then in any manner approved by a unanimous vote of the Council.

(d) No bond or other evidence of indebtedness, regardless of type or purpose, shall bear interest at a rate exceeding that fixed by law.

(e) All bonds and other evidences of indebtedness shall be signed by the Mayor and countersigned by the Clerk, under the Seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness shall be kept by the City Treasurer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "cancelled" or otherwise defaced by the City Treasurer to indicate payment.

#### Section 6.31 Limitations Upon Borrowing Power.

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the City; provided that in computing such net bonded indebtedness, there shall be excluded all money borrowed which, by law, does not constitute an indebtedness of the City within any constitutional or statutory debt limitation or which is permitted by law to be in excess thereof. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

(b) No bonds shall be sold to obtain funds for any purpose other than for which they were specifically authorized, and, if such bonds are not sold within three years after authorization, such authorization shall be null and void.

### CHAPTER 7

#### PUBLIC IMPROVEMENTS, CONTRACTS AND UTILITIES

Section 7.1 General Power Re Special Assessments. The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited and shall so declare by resolution, provided that all special assessments levied shall be based upon or be

in proportion to the benefits derived or to be derived. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment and what part, if any, shall be a general obligation of the City, and the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Section 7.2 Detailed Procedure to be Fixed by Ordinance. The Council shall prescribe by general ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings, making and confirming assessment rolls in advance of starting the improvement, correction of errors therein, collection of special assessments and any other matters concerning the making of improvements by the special assessment method, subject to the provisions of this Charter.

Section 7.3 Objection to Improvements. If, at or prior to final confirmation of any special assessment, more than fifty percent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements, more than fifty percent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement it shall not be made by the proceedings authorized in this Charter without a five-sixths vote of the members of the Council, provided that this section shall not apply to sidewalk construction.

Section 7.4 Disposition of Excessive Special Assessments. The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the General Fund of the City if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent, the entire excess shall be refunded on a pro rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

Section 7.5 Contested Assessments. No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment (a) unless, within thirty days after confirmation of the special assessment roll, written notice is given to the Clerk for attention of the Council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty days after the confirmation of the roll. If the City Attorney submits a written opinion finding said roll illegal, in whole or in part, the Council may revoke its confirmation, correct the illegality if possible and reconfirm the same as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without future notice and hearing thereon.

Section 7.6 Delinquent Special Assessments. Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for the State and County taxes and by this Charter for City taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same collection fees, penalties and interest shall be paid on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this Charter to be paid on delinquent City taxes. In case any assessment or any part thereof shall remain unpaid on the first Monday of May following the date when the same became delinquent, the same shall be reported unpaid by the Treasurer to the Council, and such delinquent assessments, together with all accrued interest, shall be transferred and reassessed on the next annual City tax roll in a column headed "special assessments" with a penalty of four percent upon such total amount added thereto, and when so transferred and reassessed upon said tax roll shall be collected in all respects as provided for the collection of City taxes.

Section 7.7 Deferred Payment of Special Assessments. The Council may provide by ordinance for the deferred payment of special assessments.

Section 7.8 Implementation of Chapter. The City Council shall have and is hereby given the power to pass ordinances implementing the provisions of this chapter and detailing the procedures relative thereto.

Section 7.9 General Powers Respecting Utilities. The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, maintain, encumber, convey, dispose of or sell, either within or without its corporate limits, public utilities, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, garbage disposal and facilities for the parking of vehicles, and also to sell and deliver the products or service thereof, both within and without its corporate limits, subject to limitations provided by State law. The power to supply utility service shall include the power to purchase such services from others.

Section 7.10 Control of Utilities. The Council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the City may in any manner acquire, own or operate, and all fixtures, appurtenances, apparatus, building and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the City by the provisions of this Charter.

Section 7.11 Power to Fix Rates. The Council shall have the power to fix, from time to time, said just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water and sewer, with electricity for light, heat and power and with such other utility services as the City may provide.

Section 7.12 Management of Municipal Utilities. Municipally owned utilities shall be administered as a regular department of the City government and not by an independent board or commission.

Section 7.13 Collection of Utility Charges. The Council shall provide by ordinance or resolution for the collection of all public utility charges made by the City under Act 178 of the Public Acts of 1939, as amended. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the City any sums due on utility bills, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction. The City shall have as security for the collection of such utility rates and charges for utility service furnished any person or persons, or any firm or corporation, a lien upon the real property for which such utility service is supplied, which lien shall become effective immediately upon the supply of such utility service, and may be enforced in accordance with the provisions of said Act No. 178 of the Public Acts of 1939, as amended.

Section 7.14 Disposal of Utility Plants and Property. Unless approved by a three-fifths majority vote of the electors voting thereon at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege or asset belonging to and appertaining to any Municipally owned utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the City. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any City owned utility which are worn out or useless or which have been or could with advantage to the service be replaced by new and improved machinery or equipment.

Section 7.15 Utility Accounts. Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to or rendered by other City departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

Section 7.16 Contracts Generally. The authority to contract on behalf of the City is vested in the Council, and shall be exercised in accordance with the provisions of the statutes and this Charter. The Council shall establish procedures for the letting and making of contracts. No contract, except an agreement of employment or an agreement for the purchase or sale of goods, wares or merchandise in an amount of five hundred dollars (\$500.00) or more, shall be made unless the same shall have first been submitted to the Attorney and his opinion obtained with respect to its legality and form. Any such contract in an amount of less than five hundred dollars (\$500.00) may be approved by the head of the department to be charged. Department heads shall certify that sufficient funds are available in the budget or that an appropriation has been made for the payment of all contracts thereof. In the case of a contract obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover payments on the contract which will be due in future fiscal years, but this exception shall not apply to a contract for the construction of a public improvement. A copy of all contracts requiring such opinion and certification shall be filed in the office of the Clerk.

No contract shall be amended after the same has been made except upon the authority of the Council.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation who is in default to the City.

Section 7.17 Deferred Payment Contracts. The City Council may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than ten years, nor shall the total amounts of principal payment under all such contracts exceed a sum permitted by law. Each such deferred payment shall be included in the budget for the year in which each respective installment is payable.

Section 7.18 Conflicts of Interest. An officer or employee of the City who intends to have business dealings with the City whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties, shall file with the Clerk a statement, under oath, setting forth the nature of such business dealings and his interest therein. The statement shall be filed with the Clerk not less than ten days before the date when action may be taken by the Council or any other officer or agency of the City upon the matter involved. The statement shall be spread upon the proceedings of the Council for the meeting at which it is received and published in full therewith. In each case where the type of dealings with the City is on a continuing basis, involving more than one or a sequence of transactions described in the statement, each such statement shall stand for and apply to such transactions for a period of one year and may be renewed at the end of each one-year period for so long as such transactions continue. Each such renewal shall be spread upon the proceedings of the Council and published as in the case of the original statement. In the event that the interest of any officer or employee of the City in any business dealings with the City changes at any time, he shall file a statement thereof as herein required, which statement shall also be spread upon the proceedings of the Council and published as herein required. Any business dealing made in violation of this section shall be void.

## CHAPTER 8 STREETS AND PUBLIC GROUNDS

Section 8.1 Use and Vacation. Except insofar as limited by State law and the provisions of this Charter, the Council shall have the power to establish, vacate and use, and to patrol and regulate the use of, its streets, alleys, bridges and public grounds whether such public places be located within or without the limits of the City, and space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof; the licensing and regulation, the prohibition of the placing of signs, awnings, awning posts and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets of the City; and the licensing and regulation of the construction and use of openings of sidewalks and streets and of all vaults, structures and excavations under the same.

Provided that when the Council shall deem it advisable to vacate, discontinue or abolish any highway, street, lane, alley or public ground or any part thereof, it shall appoint a time, not less than four weeks thereafter, and hear objections thereto; notice of such meetings, with a copy of said resolution, shall be given in such manner as shall be prescribed by ordinance or resolution. Objections to such proposed action of the Council may be filed with the Clerk in writing, and if such shall be filed, the street, alley or public ground or any part thereof shall not be vacated or discontinued except by vote of four of the members of the Council.

## CHAPTER 9 MISCELLANEOUS

Section 9.1 Records to be Public. All papers, books or other records of the City shall be public, unless otherwise provided by law; shall be kept in City Hall; and shall be available for inspection and copying at all reasonable times.

Section 9.2 Ownership of City Records. All books, records, compilations, etc., in and pertaining to any City office, elective or appointive, shall be and remain the property of the City.

Each officer of the City, elective or appointive, shall, at the close of his tenure of office, surrender all such books, records, compilations, etc., to his successor in office or to the Clerk of the City.

Section 9.3 Validity. Should any portion of this Charter be declared void, illegal and unconstitutional, such finding shall not invalidate the remainder of this Charter.

Section 9.4 Amendments. This Charter may be amended at any time in the manner provided in Act Number 279 of the Public Acts of 1909, as amended. Should two or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Section 9.5 City Liability. When applicable under statute, the City shall not be liable for damages sustained by any person to his person or property by reason of the negligence of the City, its officers or employees, nor by reason of any defective condition of or obstruction in any public place, unless such person shall serve or cause to be served upon the Clerk within 120 days after the event causing the alleged injury shall have occurred a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant and a statement that the person sustaining such damages intends to hold the City liable for such damage as may have been sustained by him.

The City shall not be liable for any damages to person or property arising out of such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the City for any such damages until such claim shall have been filed with the Clerk and until the Council shall have been given not more than 120 days to act thereon either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of injury and verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided.

Section 9.6 Process Against City. A process against the City shall run against the City in the corporate name thereof and may be served by leaving a certified copy with the Mayor, Clerk or Attorney.

Section 9.7 Effect of Charter. After adoption of this Charter, the City shall be vested with all the property, moneys, contracts, rights, credits, effects and records, files, books and papers belonging to the City of Perry and with any additional property and rights as herein prescribed. No right or liability, either in favor of or against the City of Perry, existing at the time this Charter becomes effective, and no suit or prosecution of any character, shall in any manner be affected by any change, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be debts and liabilities of the City, and all fines and penalties imposed at the time of such change shall be collected and all licenses issued by the City shall be and remain in the same manner. All acts done by the City Council and other officers pertaining to the raising of taxes, spreading of assessment rolls and appropriations shall be binding on the City of Perry and the taxpayers thereof.

The status or seniority of any employee of the City of Perry shall in no way be changed by reason of incorporation as a City.

Section 9.8 Official Performance. Whenever this Charter requires the performance of any act by an officer, the act may also be performed by a deputy or by a subordinate under the officer's direction, unless otherwise provided or required by law.

Section 9.9 Trusts. All trusts established for any Municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cypres doctrine. The Council may in its discretion receive and hold any property in trust for any Municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cypres doctrine shall apply.

Section 9.10 Publication of Council Proceedings. The proceedings of the Council shall be published in a local newspaper in accordance with the Open Meetings Act.

Section 9.11 Computation of Time. Whenever the date fixed by this Charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Section 9.12 Chapter and Section Headings. The chapter, section and subsection headings used in this Charter are for convenience only and shall not be considered as part of this Charter.

Section 9.13 Interpretations; Definitions. Except as otherwise specifically provided or indicated by the context:

(a) All words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(b) The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter.

(c) The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations as well as to individuals.

(d) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.

(e) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting.

(f) The word "City" shall mean the City of Perry.

(g) The word "officer" shall include the members of the Council and the administration officers.

(h) All references to statutes shall be considered to be references to such statutes as amended.

(i) All references to specific Public Acts of the State of Michigan shall be to such Acts as are in effect at the time the reference to such Act is to be applied.

(j) The words "law" or "general laws of the State" shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the Charter containing the words "law" or "general laws of the State" is to be applied, and applicable common laws.

(k) All references to section numbers shall refer to section numbers of this Charter.

## CHAPTER 10

### SCHEDULE

Section 10.1 Status of Schedule Chapter. The purpose of this schedule chapter is to inaugurate the government of the City of Perry and this Charter and it shall constitute a part of the Charter only to the extent and for the time required to accomplish that end.

Section 10.2 Election on Adoption of Charter. This Charter shall be submitted to a vote of the qualified electors of the City of Perry at the primary election to be held on Tuesday, August 2, 1988. This election shall be conducted by the officers under the existing City Charter charged with the conduct and supervision of elections, following usual election procedures; and the Election Commission shall prepare the necessary ballots therefor, or in lieu thereof make use of voting machines.

Section 10.3 Form of Ballot. Form of ballot for submission of this Charter shall be as follows:

"Shall the proposed revised Charter of the City of Perry, framed by the Charter Commission, which was elected on November 4, 1986, be adopted?"

Yes [  ]                      No [  ]

Section 10.4 Effective Date of Charter. This Charter shall take effect immediately. All officers, Councilpersons and employees of the City shall continue in their respective offices and employment as though they had been appointed, elected or employed in the manner provided in this Charter, and shall, in all respects, be subject to the provisions of this Charter.

Section 10.5 Vested Rights Continued. After the adoption of this Charter, the City shall continue to be vested with all property, moneys, contracts, rights, credits, effects and records, files, books and papers belonging to it under and by virtue of the previous Charter, and with any additional property and rights as herein prescribed. No right or liability, either in favor of or against the City, existing at the time this Charter becomes effective, and no suit or prosecution of any character, shall in any manner be affected by any change, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be its debts and liabilities, and all fines and penalties imposed at the time of such change shall be collected and all licenses issued by the City shall be and remain in the same manner as if such change had not been made.

## RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Perry held on March 8, 1988, the following resolution was presented by Commissioner Ross DeLau who moved its adoption. The motion was supported by Commissioner Cindy Edwards.

RESOLVED, that the Charter Commission of the City of Perry does hereby adopt the foregoing proposed City Charter and the Clerk of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

The vote on the adoption of the Resolution was as follows:

Ayes: 9

Nays: 0

LEE SWARTZ, Chairman, Charter Commission of the City of Perry

JEANNE A. FOUNTAIN, Clerk, Charter Commission of the City of Perry

Countersigned:

ROSS DeLAU  
RUTH ANN DUNCAN  
CYNTHIA EDWARDS  
LEE GRIFFITH  
HAROLD HOUSE  
DALE LEWIS  
ROBERT STUART