

Charter of the City of Whitehall



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INDEX

CHAPTER	PAGE	
I NAME AND BOUNDRIES		
Section 1 Name and Boundaries	1	
2 Wards	1	
II GENERAL MUNICIPAL POWERS		
Section 1 General Powers.....	1	
2 Intergovernmental Cooperation	1	
3 Exercise of Powers.....	1	
III ELECTIONS		
Section 1 Qualifications of Electors.....	1	
2 Election Procedure	1	
3 Precincts.....	1	
4 Election Commission	1	
5 Regular Elections.....	1	
6 Special Elections	1	
7 Elective Officers and Terms of Office.....	1	
8 Nominations Procedure	1	
9 Approval of Petitions	2	
10 Form of Ballot.....	2	
11 Canvass of Votes	2	
12 Tie Vote.....	2	
13 Recount.....	2	
14 Recall.....	2	
IV ELECTIVE OFFICERS OF THE CITY — CITY COUNCIL		
Section 1 Elective Officers.....	2	
2 Qualifications	2	
3 Terms of Office	2	
4 Notice of Election.....	2	
5 Oath of Office	2	
6 Surety Bonds.....	2	
7 Vacancy Defined	2	
8 Vacancies.....	2	
9 Restrictions Concerning Officers.....	2	
10 Salaries of Members of the Council.....	2	
11 Judge Qualification of Members	2	
12 Organization of the Council.....	3	
13 Mayor.....	3	
14 Regular Meetings of the Council	3	
15 Special Meetings of the Council	3	
16 Business at Special Meeting	3	
17 Meetings to be Public.....	3	
18 Quorum	3	
19 Rules of Order	3	
20 Vote Required.....	3	
21 Restriction of Powers of the Council.....	3	
22 Discipline	3	
23 Publication of Council Proceedings	3	
24 Investigations	3	
25 Depository of City Funds	3	
26 Public Health and Safety	3	
27 Streets and Alleys.....	3	
28 Waters and Water Courses	3	
29 Health.....	3	
30 Licenses.....	3	
31 Rights as to Property.....	4	
32 Cemeteries.....	4	
33 Trusts.....	4	
34 Violations Bureau.....	4	
35 Advisory Committees or Boards	4	
V LEGISLATION		
Section 1 Ordinances and Regulations.....	4	
2 Ordinances	4	
3 Ordinance Record	4	
4 Publication of Ordinances.....	4	
5 Compilation and Revision	4	
6 Penalty	4	
7 Publication of Notices, Proceedings and Ordinances.....	4	
8 Initiative and Referendum	4	
9 Petitions	4	
10 Council Procedure.....	5	
11 Submission to Electors.....	5	
12 General Provisions.....	5	
VI ADMINISTRATIVE SERVICE		
Section 1 City Manager.....	5	
2 City Manager: Functions and Duties	5	
3 City Clerk.....	5	
4 City Treasurer.....	5	
5 City Assessor.....	5	
6 City Attorney	5	
7 Finance Officer	6	
8 Additional Administrative Powers and Duties	6	
		9 City Planning
		10 Merit System of Personnel Management
		11 Compensation and Employee Benefits
VII GENERAL FINANCE — BUDGET PROCEDURE		
Section 1 Fiscal Year	6	
2 Budget Procedure.....	6	
3 Budget Document	6	
4 Budget Hearing.....	6	
5 Adoption of Budget, Tax Limit.....	6	
6 Transfer of Appropriations	6	
7 Budget Control.....	6	
8 Independent Audit.....	6	
VIII GENERAL FINANCE AND TAXATION		
Section 1 Subjects of Taxation.....	6	
2 Taxation Procedure.....	6	
3 Assessment Roll.....	7	
4 Board of Review	7	
5 Meeting of Board of Review	7	
6 Notice of Meetings.....	7	
7 Endorsement of Assessment Roll.....	7	
8 Certify Tax Levy to Assessor.....	7	
9 Tax Roll Certified for Collection.....	7	
10 Tax Lien.....	7	
11 Taxes Due: Notification.....	7	
12 Collection Charges on Late Payment of Taxes	7	
13 Collection of Delinquent Taxes	7	
14 State, County, and School Taxes.....	7	
IX BORROWING AUTHORITY		
Section 1 General Borrowing	7	
2 Limits of Borrowing Authority	8	
3 Preparation and Record of Bonds	8	
4 Deferred Payment Contracts	8	
X SPECIAL ASSESSMENT		
Section 1 Special Assessments: General Powers.....	8	
2 Procedure Fixed by Ordinance.....	8	
3 Objections to Improvement	8	
4 Contest of Assessment	8	
5 Implementation of the Charter.....	8	
XI UTILITIES		
Section 1 General Powers Respecting Utilities.....	8	
2 Acquisition of Private Property.....	8	
3 Control of Utilities.....	8	
4 Management of Utilities	8	
5 Rates.....	8	
6 Utility Charges — Collection	9	
7 Accounts.....	9	
8 Disposal of Plants and Property.....	9	
XII FRANCHISES, CONTRACTS AND PERMITS		
Section 1 General.....	9	
2 Franchises.....	9	
3 Right of Regulation	9	
4 Rates of Franchised Utilities	9	
5 Purchase — Condemnation.....	9	
6 Revocable Permits.....	9	
7 Use of Streets by Utility.....	9	
8 Purchase Procedure.....	9	
9 Contracts for City Improvements	9	
10 Official Interest in Contracts	9	
XIII MUNICIPAL RIGHTS AND LIABILITIES		
Section 1 Rights, Liabilities, Remedies.....	9	
2 Liability for Damages	10	
3 Statements of City Officers.....	10	
XIV MISCELLANEOUS		
Section 1 Public Records	10	
2 Headings.....	10	
3 Definitions and Interpretations.....	10	
4 Amendments	10	
5 Effect of Illegality of Any Part of Charter.....	10	
XV SCHEDULE		
Section 1 Purpose and Status of Schedule Chapter	10	
2 Election to Adopt Charter	10	
3 Form of Ballot.....	10	
4 Elective Officers of the City	10	
5 Effective Date of Charter.....	10	
6 Council Action.....	11	
7 Continuation of Appointive Officers	11	
8 Boards and Commissions.....	11	
RESOLUTION OF ADOPTION	11	

CHARTER OF THE CITY OF WHITEHALL

PREAMBLE

We, the people of the City of Whitehall, County of Muskegon, State of Michigan pursuant to the authority granted by the constitution and the statutes of the State of Michigan, in order to secure the benefits of self-government, and to provide for the public peace and health and for the safety of persons and property, do hereby ordain and establish this charter of the city of Whitehall, Michigan.

CHAPTER I NAME AND BOUNDARIES

NAMES AND BOUNDARIES:

Section 1.1 (a) The municipal corporation now existing and known as the City of Whitehall shall continue as a body corporate and shall include the territory constituting the City of Whitehall on the effective date of this charter, together with all territories that may be made in a manner prescribed by law.

(b) The clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the city.

WARDS:

Section 1.2 The city shall consist of and constitute one single ward.

CHAPTER II GENERAL MUNICIPAL POWERS

GENERAL POWERS:

Section 2.1 The City of Whitehall and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities and their officers are, or hereafter may be permitted to exercise or to provide for in their charters under the constitution and laws of the State of Michigan, including all the powers and immunities which are granted to cities and officers of cities as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this charter. In no case shall any enumeration of particular powers or immunities in this charter be held to be exclusive.

INTERGOVERNMENTAL COOPERATION:

Section 2.2 The city may join with any municipal corporation or with any other unit or agency of government, whether local, state, or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate, or perform separately.

EXERCISE OF POWERS:

Section 2.3 Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city is set forth, either in this charter or in any statute of the State of Michigan, the Council shall prescribe by ordinance a reasonable procedure for the exercise thereof.

CHAPTER III ELECTIONS

QUALIFICATIONS OF ELECTORS:

Section 3.1 The residents of the city having the qualifications of electors in the State of Michigan shall be eligible to vote in the city.

ELECTION PROCEDURE:

Section 3.2 The general election laws shall apply and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The clerk shall give public notice of each city election in the same manner as is required by law for the giving of public notice of general elections in the state.

PRECINCTS:

Section 3.3 The election precincts of the city shall remain as they existed on the effective date of this charter unless altered by the city election commission in accordance with statutes.

ELECTION COMMISSION:

Section 3.4 An election commission is hereby created, consisting of the clerk, the mayor and one other elective or appointive city officer whom the Council shall designate, and such person shall serve at the pleasure of the council. The clerk shall be 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 commission, and shall be a fixed amount for each election; provided, such compensation shall not exceed the amount appropriated for elections in the budget, unless such increase shall first have been approved by the Council as are other increases in appropriations for any department or function.

REGULAR ELECTIONS:

Section 3.5 A regular city election shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.

SPECIAL ELECTIONS:

Section 3.6 Special elections shall be held when called by resolution of the Council at least sixty (60) days in advance of such election, or when required by law or this charter. Any resolution calling a special election shall set forth the purpose of such election.

ELECTIVE OFFICERS AND TERMS OF OFFICE:

Section 3.7 At each regular city election there shall be elected a Mayor and three (3) Councilmen and each additional number of councilmen as may be required to fill vacancies pursuant to the provisions of this charter. The Mayor shall be elected for a term of two (2) years, the three (3) councilmen receiving the highest number of votes shall be elected for a term of four (4) years, and the councilmen who shall receive the next highest number of votes in order, to fill the number of vacancies on council (if any) shall be elected for a term of two (2) years.

The term of office of the Mayor and Councilpersons shall commence on the next regular meeting of the City Council following the regular City election at which they were elected.

No person shall be eligible to be elected to the office of Mayor or Councilmember who has held the office for 12 or more successive years unless that person has not been a Mayor or Councilmember for two successive years immediately preceding the election for an additional term.

NOMINATIONS PROCEDURE:

Section 3.8 The candidates for elective office shall be nominated from the city at large by petitions, blanks for which shall be furnished by the city clerk. Each such petition shall be signed by not less than twenty (20) nor more than fifty (50) registered electors of the city, and shall be filed at the clerk's office before four o'clock, local time, on the Tuesday following the first Monday in August in each odd-numbered year. **[NOTE: The Charter language pertaining to filing nomination petitions for the regular city election is superseded by Michigan Election law MCL 168.644e as amended under PA44 of 2010 and PA 276 of 2012. The candidate nomination petition filing deadline is 4:00 p.m., 15th Tuesday prior to odd-year November election.]**

The city Council may by ordinance adopted seven months preceding the date of any regularly scheduled city odd-numbered year election specify that the filing date may be on the Tuesday following the second Monday in September in accordance with statute.

Each elector signing shall add his residential street and number and the date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office, and should he do so, the signatures bearing the most recent date shall be invalidated. No petition shall be left for signature in any public place. 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.

APPROVAL OF PETITIONS:

Section 3.9 The clerk shall accept only nomination petitions which conform substantially with the forms provided by him and which contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices as set forth in this charter. The clerk shall forthwith after the filing of the petitions 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. Withdrawal of a candidate's name from consideration on the ballot must be made in writing and in conformance with the time allowed by statute.

FORM OF BALLOT:

Section 3.10 The ballots for all elections under this charter shall conform to the printing and numbering of ballots as required by statute, except that no party designation or emblem shall appear on any city ballot.

CANVASS OF VOTES:

Section 3.11 The Board of Canvassers designated by statute as being permitted to cities for canvass of votes on candidates and issues shall canvass the votes of all city elections in accordance with statute. The clerk shall notify in writing the successful candidates of their election and do so upon receipt of the results from the Board of Canvassers.

THE VOTE:

Section 3.12 If at any city election there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the determination of the election of such candidate by lot will be as provided by state statute.

RECOUNT:

Section 3.13 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.

RECALL:

Section 3.14 Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by state law.

**CHAPTER IV
THE ELECTIVE OFFICERS OF THE CITY
THE CITY COUNCIL**

ELECTIVE OFFICERS:

Section 4.1 The legislative power of the city, except as reserved by this charter, shall be vested in a Council consisting of A MAYOR ELECTED AT LARGE ON A NON-PARTISAN BASIS AND SIX (6) COUNCILMEMBERS ELECTED AT LARGE ON A NON-PARTISAN BASIS. The Council shall have power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

QUALIFICATIONS:

Section 4.2 No person shall be eligible to any elective or appointive city office who is in default to the city. The holding of any office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his last known place of residence according to the records of the city by the city clerk upon the direction of the Council, or, unless the officer contests his liability for the default in a court of competent jurisdiction.

Each elective city official must be a duly registered elector in the city, and shall have been a resident of the city for six (6) months immediately prior to the election at which he is a candidate for office.

NOTICE OF ELECTION:

Section 4.4 Notice of the election of any officer of the city shall be given him by the clerk, in writing, within seven (7) days after the canvass of the vote by which he was elected. If within ten (10) days from the date of notice, such officer shall not take, subscribe, and file with the clerk his oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the Council shall, for good cause, extend the time in which such officer may qualify as above set forth.

OATH OF OFFICE:

Section 4.5 Each elective or appointive officer of the city, before entering upon the duties of this office and within the time specified in this charter, shall take and subscribe to the oath of office prescribed by the state constitution for an officer of the state, which shall be filed and kept in the office of the clerk.

SURETY BONDS:

Section 4.6 Any city officer may be required to give a bond to be approved by the Council for the faithful performance of the duties of his office in such sum as the Council shall determine, but all officers receiving or disbursing city funds shall be bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. All official bonds shall be filed with the clerk, except that of the clerk, which shall be filed with the treasurer.

VACANCY DEFINED:

Section 4.7 In addition to other provisions of this charter, a vacancy shall be deemed to exist in any elective office on the day when the officer dies, files his resignation with the city clerk, is removed from office, moves from the city, is convicted of a felony, or of misconduct in office under this charter, is judicially declared to be mentally incompetent, or, in the case of the mayor and Councilmen, is absent from three (3) consecutive regular meetings of the Council, unless excused by the Council for cause to be stated in the record of Council proceedings.

VACANCIES:

Section 4.8 Except as otherwise provided in this charter, any vacancy occurring in any elective office shall be filled within thirty (30) days after such vacancy shall have occurred by the concurring vote of at least a remaining four members of the Council. Said appointee to serve until the second Monday next following the next regular city election following his appointment. If the Council fails to do so within the thirty (30) days following the occurrence of the vacancy, the election commission shall call a special election to fill the vacancy to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the election provisions of this charter and state statutes.

RESTRICTIONS OF CONCERNING OFFICERS:

Section 4.9 (a) Except where authorized by law, no Councilman shall hold any other city office or employment during the term for which he was elected to the Council, and no former Councilman shall hold any compensated appointive city office or city employment until one (1) year after the expiration of the term for which he was elected to the Council. This shall not apply to appointed city boards or commissions.

(b) Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(c) Except for the purpose of inquiries and investigations, the Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the Council nor its members shall give orders to any such officer or employee either publicly or privately.

SALARIES OF MEMBERS OF THE COUNCIL:

Section 4.10 Each member of the Council shall receive, as remuneration for his or her services to the City, such sum as shall from time to time be determined by a Compensation Commission created by Ordinance enacted by Council pursuant to statute in such case made and provided.

JUDGE QUALIFICATION OF MEMBERS:

Section 4.11 The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand by the member charged, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least, one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the Courts.

ORGANIZATION OF THE COUNCIL:

Section 4.12 The Council shall at its first meeting held following each regular city election, elect one of its members to serve as mayor pro tem, and shall, by resolution, set the times for holding regular meetings of the Council. The mayor shall be elected at large as provided in this charter. The mayor pro tem shall preside over the meetings of the Council at the call of the mayor, or, 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 pursuant to the provisions of this charter. In the event of a vacancy occurring in the office of mayor or mayor pro tem, the Council shall elect from its elected membership to fill such vacancy, but until such vacancy is filled, the senior member of the Council from the standpoint of continuous service shall act as mayor pro tem. As between persons of equal seniority the person who received the highest number of votes at the time of his last election shall act.

MAYOR:

Section 4.13 The mayor shall be the executive officer of the city. He shall preside at all its meetings and shall speak and vote in such meetings as any other member of the Council. He shall be the official head of the city for ceremonial purposes, and for the purpose of military law and the service of legal process upon the city.

REGULAR MEETINGS OF THE COUNCIL:

Section 4.14 Regular meetings of the Council shall be held at least twice in each calendar month at the usual place of holding meetings of the Council. If any time set by resolution of the Council for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held on the next following secular day which is not a holiday or on such other day as may be set by the Council.

SPECIAL MEETINGS OF THE COUNCIL:

Section 4.15 Special meetings of the Council may be called by the clerk on the written request of the mayor or any two (2) members of the Council on twenty-four (24) hours written notice to each member of the Council, designating the purpose of such meeting and served personally or left at his usual place of residence by the clerk or someone designated by him; but any special meeting at which at least seven (7) members of the Council are present or have waived notice in writing, shall be a legal meeting for all purposes, without such notice.

BUSINESS AT SPECIAL MEETINGS:

Section 4.16 No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

MEETINGS TO BE PUBLIC:

Section 4.17: Except as closed sessions are permitted under the Open Meetings Act (Act No. 267 of 1976), all regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that the citizens shall have a reasonable opportunity to be heard at any such meeting on matters within the jurisdiction of the council.

QUORUM:

Section 4.18 Four (4) members of the Council shall be a quorum for the transaction of business, but in the absence of a quorum, two (2) or more members may adjourn any regular or special meeting to a later date.

RULES OF ORDER:

Section 4.19 The Council shall determine its own rules and order of business and shall keep a written or printed 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 in such record. Each member of the Council, who shall be recorded as present at any meeting shall be required to vote on all questions decided by the Council at such meeting, unless excused by the unanimous consent of the members present, or in any case where the matter personally affects the member not voting. The member not excused can be considered in violation of this charter when so determined by the Council.

VOTE REQUIRED:

Section 4.20 Except as otherwise provided in this charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least four (4) members of the Council.

RESTRICTION OF POWERS OF THE COUNCIL:

Section 4.21 The Council shall make no contract with any person who is in default to the city. There shall be no standing committees of the Council.

DISCIPLINE:

Section 4.22 The Council may by a vote of not less than four (4) of its members, demand the attendance of its members at its regular meetings and enforce orderly conduct therein; and any member of the Council who refuses to attend such meetings and conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Council may require the attendance of any elective or appointive officer of the city for the purpose of securing from them any information upon the affairs of the city within their jurisdiction.

PUBLICATION OF COUNCIL PROCEEDINGS:

Section 4.23 The minutes of the Council shall be published within fifteen (15) days after the passage thereof. A synopsis of such minutes, prepared by the clerk and approved by the mayor, showing the substance of each separate proceeding of the Council shall be a sufficient compliance with the requirements of this section.

INVESTIGATIONS:

Section 4.24 The Council may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence to conduct formal investigation into the conduct of any department, office, or officer of the city and make investigations as to malfeasance, misfeasance, non-feasance or irregularities in municipal affairs. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this Section shall constitute misconduct in office.

DEPOSITORY OF CITY FUNDS:

Section 4.25 The Council shall select annually one or more depositories in which the funds of the city shall be deposited.

PUBLIC HEALTH AND SAFETY:

Section 4.26 Through the established departments of the city government, the Council shall provide for the public peace and health and for the safety of persons and property.

STREETS AND ALLEYS:

Section 4.27 The Council shall have power to establish and to use, and to control and regulate the use of its streets, alleys, bridges, and public places, whether such public places be located within or without the limits of the city, and the space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof and to the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and things which are of such nature as to impede or make dangerous the use of sidewalks, upon or over the sidewalks of the city, and the licensing and regulation of the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same. The Council shall have the authority to vacate streets and alleys upon 5/7th majority vote of its members.

WATERS AND WATER COURSES:

Section 4.28 For the benefit of the public morals, peace, health, and welfare, the city shall have and possess the power to use and to control and regulate the use of all streams, waters, and water courses within its limits, including subterranean water supplies.

HEALTH:

Section 4.29 The Council shall have and exercise within and for the city all the powers, privileges and immunities conferred upon boards of health and may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the city's inhabitants.

LICENSES:

Section 4.30 The Council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require and exact payment of such reasonable sums for any licenses as it may deem proper. The persons receiving the licenses shall, before the issuing thereof, execute a bond to the city, when required by any ordinance, in such sum and with such securities as prescribed by such

ordinance, condition for the faithful observance of the ordinance under which the license is granted, and otherwise conditioned as any such ordinance may prescribe.

RIGHTS AS TO PROPERTY:

Section 4.31 The Council shall have the power to acquire for the city by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Muskegon, private property, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not; and shall have the power to maintain and operate the same to promote the public health, safety and welfare.

CEMETERIES:

Section 4.32 The Council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of all cemeteries and parks, together with the improvements thereon and appurtenances thereto, owned or hereafter acquired by the city either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city belonging to or under the control of, any church or religious society, or any corporation, company, or association. The Council may cause any bodies buried within the city, in violation of any rule or ordinance made in respect to such burials, to be taken up and reburied in such manner as shall conform to the ordinances of the city, or to be buried elsewhere. In any cemetery established by the city, a plan for the perpetual care of all lots, plots, and lands therein shall be established.

TRUSTS:

Section 4.33 All trusts established for cemetery, park, or other municipal purposes shall be used and continued in accordance with the terms of such trusts, subject to the common law cy pres doctrine. The city may, in its discretion, receive and hold any property in trust for cemetery, park, or other municipal purposes and shall apply the same to the execution of such trusts and for no other purposes whatsoever, except in cases where the common law cy pres doctrine shall apply.

VIOLATIONS BUREAU:

Section 4.34 The Council shall have the power and authority to establish by ordinance a Traffic Violations Bureau, as provided by law, for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating such ordinances may within the time specified in the notice of such charge answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge, waiving a hearing in court and pay such fine in court. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given receipt which so states. The creation of such a bureau shall not operate as to deprive any person of a full and impartial hearing in court should a person so choose.

ADVISORY COMMITTEES OR BOARDS:

Section 4.35 The Mayor, with the advice and consent of the City Council may, from time to time, appoint such committees or boards as are deemed appropriate to advise and consult with the Council, and appropriate departments, regarding municipal activity. Such Committees or boards shall serve at the will of the Mayor, acting on the advice and consent of Council, and without compensation unless otherwise provided by Council.

CHAPTER V LEGISLATION

ORDINANCES AND REGULATIONS:

Section 5.1 All by-laws, ordinances, resolutions, rules and regulations of the City of Whitehall, which are not inconsistent with this charter, in force at the time of the adoption of this charter, shall continue in full force as by laws, ordinances, resolutions, rules, and regulations of the city until repealed or amended by action of the proper authorities.

Section 5.2 The style of all ordinances shall be, "The City of Whitehall ordains," No ordinances shall be revised, altered or amended by reference to its title only. The section or sections of the ordinance being revised, altered, or amended shall be published in full, except as otherwise provided in this charter. An ordinance may be repealed by reference to its number and title only. The effective date of any

ordinance shall be prescribed therein and shall not be less than ten (10) days after its adoption and publication unless the Council shall, upon attaching a declaration of emergency affecting the public peace, health or safety, fix an earlier date, but no ordinance shall take effect until after publication thereof and no measure making or amending a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

ORDINANCE RECORD:

Section 5.3 All ordinances when enacted shall be recorded by the clerk in a book called, "The Ordinance Book", and it shall be the duty of the mayor and the clerk to authenticate such record by their official signatures.

PUBLICATION OF ORDINANCES:

Section 5.4 Except as otherwise provided in this charter, all ordinances when enacted shall be published forthwith by the clerk in the manner provided by this charter for publication of notices, or as otherwise provided by law, and the clerk shall enter his certificate as to the manner and date of publication under each ordinance in the ordinance book. The Council may adopt any detailed technical regulations as a city ordinance by reference to any recognized standard code, official or unofficial, or if such a code be written in detail for the city and adopted as an ordinance, the publication of a sufficient number of copies in booklet form, available for public distribution at cost, shall be sufficient publication of such ordinance, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

COMPILATION AND REVISION:

Section 5.5 If the Council shall, by resolution, order a general revision and compilation of all city ordinances, the printing and binding of copies on booklet form available for public distribution at cost shall be sufficient publication of such revised and compiled ordinances. Such compilation shall contain an ordinance indicating, by number and title, the ordinances of the city which are repealed and shall also contain an ordinance establishing such revised and compiled ordinances, together with any amendments thereto, and additions thereto as the ordinances of the city and designating when such ordinances shall become effective. Such revised ordinances need not be recorded in "The Ordinance Book."

PENALTY:

Section 5.6 All offenses by officers of the city declared by this charter to constitute misdemeanors or misconduct in office, excluding unexcused absences by Councilmen, and all violations of city ordinances shall be punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment for a period not exceeding ninety (90) days, or both in the discretion of the court of proper jurisdiction.

PUBLICATION OF NOTICES, PROCEEDINGS AND ORDINANCES:

Section 5.7 Notices or proceedings requiring publication, and all ordinances passed by the Council shall, unless otherwise provided by this charter, be published once in a legal newspaper, to be selected by the Council, which is published in the city. If there be no such newspaper published in the city, the Council may direct that such notices, proceedings, or ordinances printed and posted in at least (5) public places within the city, one of which shall be posted prominently at the usual place of meeting of the Council. Immediately after such publication, the clerk shall enter in his records a certificate of publication made by the printer of the newspaper in which the same was inserted or by some person in his employ knowing the facts, or by the person who did the posting, if such publication was made by posting, stating the date and the name of the newspaper in which, or list of places, where, such publication was made. The certificate of publication of ordinances shall be entered in the "Ordinance Book" in a blank space which shall be left for such purpose just following the ordinance to which it refers. Such certificate shall be prima facie evidence of the due publication of such notice, proceedings, or ordinance.

INITIATIVE AND REFERENDUM:

Section 5.8 An ordinance may be initiated by petition. A referendum on an ordinance enacted by the Council may be had by a petition filed prior to twenty (20) days subsequent to enactment of the ordinance; as hereinafter provided.

PETITIONS:

Section 5.9 An initiatory or a referendary petition shall be signed by registered qualified electors of the city in number equal to fifteen

percent (15%) of the active registration file of voters at the preceding state even-numbered year election prior to the filing of the petition. 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 containing a copy of the issue. 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 certificate 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 circulator. Any such petition shall be filed with the clerk who shall, within ten (10) days, determine the sufficiency thereof and so certify. Any signatures obtained more than ninety (90) days before filing of such petition with the clerk shall not be counted. If found to contain an insufficient number of signatures of qualified registered electors of the city, or to be improper as to form or compliance with the provisions of this section, ten (10) days shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the clerk shall present the petition to the Council at its next regular meeting.

COUNCIL PROCEDURE:

Section 5.10 Upon receiving a certified initiatory or referendary petition from the clerk, the Council shall, within thirty (30) days, either, (a) if it be an initiatory petition, adopt the ordinance; (b) if it be a referendary petition, repeal the ordinance; or (c) in either case, the council shall submit the proposal to the electors.

SUBMISSION TO ELECTORS:

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

GENERAL PROVISIONS:

Section 5.12 The certification by the Clerk of the sufficiency of a referendary petition 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 (2) years, and then only by the affirmative vote of not less than five (5) Councilmen. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER VI THE ADMINISTRATIVE SERVICE

CITY MANAGER:

Section 6.1(a) The city manager shall be the chief administrative officer of the city government. He shall be selected by the Council on the basis of training and ability. He shall serve at the pleasure of, and be subject to removal by the Council, but he shall not be removed from office during a period of sixty (60) days following any regular city election except by the affirmative vote of five (5) members of the Council. His compensation shall be set by the Council. (b) The Council shall appoint a city manager within ninety (90) days after any vacancy exists in such position or they may appoint an acting manager during the period of a vacancy in the office, or the city manager, with the consent and approval of the Council, may designate an administrative officer or employee of the city to act as city manager if he is temporarily absent from the city or unable to perform the duties of his office. He shall be a resident of the city, unless this requirement is waived by a majority vote of the Council.

CITY MANAGER: FUNCTIONS AND DUTIES:

Section 6.2 (a) The city manager shall be responsible to the Council for the proper administration of the affairs of the city. He shall make all appointments and removals of those appointed, except he shall receive the approval of a majority of the Council for the appointment of the clerk and treasurer, and with council approval shall establish administrative officers and employees' compensation in accordance with budget appropriations. He shall supervise and coordinate the work of the administrative officers and departments of the city except the work

of the city clerk in keeping the Council records and as the clerical official of the Council. (b) The city manager shall see that all laws and ordinances are enforced. He shall prepare and administer the annual budget under policies formulated by the Council and he shall keep the Council advised as to the financial condition and needs of the city. He shall furnish the Council with information concerning city affairs and prepare and submit such reports as may be required or which the Council may request, including an annual report which shall include the work of the several departments. Subject to any employment ordinance of the city, he shall employ or be responsible for the employment of all city employees and supervise and coordinate the personnel policies and practices of the city. He shall establish and maintain a central purchasing service for the city and he or his authorized representative shall be the purchasing agent for the city. (c) The city manager shall attend all meetings of the Council with the right to be heard in all Council proceedings but without the right to vote. He shall possess such other powers and perform such additional duties as may be granted to or required of him by the Council, so far as may be consistent with the provisions of law. He shall establish any rules necessary to carry out any of the foregoing duties.

CITY CLERK:

Section 6.3 (a) The 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. (b) 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 clerk shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council, or by the City Manager.

CITY TREASURER:

Section 6.4 (a) The 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 city manager. (b) 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. (c) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances and resolutions of the Council, or by the city manager.

CITY ASSESSOR:

Section 6.5 (a) The 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. (b) He shall perform such other duties as may be prescribed by law or the ordinances of the city, or by the city manager.

CITY ATTORNEY:

Section 6.6 (a) The city Council shall appoint the city attorney who shall be legal advisor and counsel for the city and for all the officers and departments thereof in all matters relating to their official duties and shall file with the city a copy of all written opinions given by him. He shall prepare or review all ordinances, regulations, contracts, bonds, and other such instruments as may be required by this charter, the Council, or the city manager, and shall promptly give him his opinion as to the legality thereof.

(b) He shall prosecute ordinance violations and shall represent the city in cases before the courts and other tribunals. In such instances as the Council shall direct, he shall defend officers and employees of the city in actions arising out of the performance of their official duties.

(c) Upon the city attorney's recommendation, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the city has an interest, or to assist the city attorney.

(d) He shall perform such other duties in connection with his office as may be prescribed for him by this charter, the Council, or the city manager.

FINANCE OFFICER:

Section 6.7 (a) The city manager shall designate a person to act as a finance officer from among the administrative officers of the city. However, when the Council feels that a separate official is required, they may so designate by ordinance and the official will be an appointment of and under the supervision of the city manager and subject to removal by him.

(b) The finance officer shall be the general accountant of the city, shall keep the books of account of the assets, receipts, and expenditures of the city, and shall keep the Council and city manager informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform systems as may be required by law.

(c) He shall balance all the books of account of the city at the end of each calendar month, and he shall make a report thereon, as soon as practical, to the city manager. He shall, upon direction of the city manager, examine and audit all books of account kept by any official or department of the city.

ADDITIONAL ADMINISTRATIVE POWERS AND DUTIES:

Section 6.8 The Council shall by ordinance establish departments of city government and determine and prescribe the functions and duties of each department. Upon recommendation of the city manager, the Council may by ordinance prescribe additional powers and duties and diminish any powers and duties in a manner not inconsistent with this charter to be exercised and administered by appropriate officials and departments of the city.

CITY PLANNING:

Section 6.9 The Council shall provide for and maintain a City Planning Commission which shall possess all of the powers and perform the functions of planning commissions as set forth by state statute. The citizen members of the planning commission shall be appointed by the mayor subject to confirmation by the Council.

MERIT SYSTEM OF PERSONNEL MANAGEMENT:

Section 6.10 The Council may provide by ordinance for a merit system of personnel management for the city.

COMPENSATION AND EMPLOYEE BENEFITS:

Section 6.11(a) All administrative officers of the city shall be appointed for an indefinite term. (b) The city Council shall have the power to make available to the administrative officers and employees of the city and its departments, an actuarial pension plan by ordinance, and any recognized group plan of life, hospital, health, or accident and income protection insurance or any one or more thereof.

**CHAPTER VII
GENERAL FINANCE
BUDGET PROCEDURE**

FISCAL YEAR:

Section 7.1 The fiscal year of the city shall begin on the first day of July of each year.

BUDGET PROCEDURE:

Section 7.2 On or before the second Monday in March of each year, each officer, department and board of the city, shall submit to the city manager an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The city manager shall compile and review such budget request and shall then prepare his budgetary recommendations and submit them to the Council at its meeting nearest the first Monday of May of each year.

BUDGET DOCUMENT:

Section 7.3 The budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least, the following information:

(a) Detailed estimates of all proposed expenditures for each department and office of the city, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current 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 income of the city from sources other than taxes and borrowing, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years.

(d) A statement of the estimated balance or deficit, as the case may be, 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 income from other sources, will be necessary to meet the proposed expenditure.

(f) Such other supporting schedules as the Council may deem necessary or the Council may require.

BUDGET HEARING:

Section 7.4 A public hearing on the budget shall be held before its final adoption, at such time and place as the Council shall direct, and notice of such public hearing shall be published at least one week in advance by the clerk. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the city clerk for a period of not less than one (1) week prior to such public hearing.

ADOPTION OF BUDGET, TAX LIMIT:

Section 7.5 Not later than the first Monday in June, the Council shall 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 shall not exceed two percent (2%) of the assessed valuation of all real and personal property subject to taxation in the city.

TRANSFER OF APPROPRIATIONS:

Section 7.6 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 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.

BUDGET CONTROL:

Section 7.7 The City Manager shall submit to the Council a minimum of four quarterly financial reports showing the relation between the estimated and actual income and expenses 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 a 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.

INDEPENDENT AUDIT:

Section 7.8 An independent audit shall be made of all accounts of the city government annually and more frequently if deemed necessary by the Council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the Council may determine. An annual report of the city business shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finance of the city government.

**CHAPTER VIII
GENERAL FINANCE AND TAXATION**

SUBJECTS OF TAXATION:

Section 8.1 The subjects of taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law of the state.

TAXATION PROCEDURE:

Section 8.2 Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by state law.

ASSESSMENT ROLL:

Section 8.3 The assessor shall, in accordance with state law, make and certify an assessment roll of all persons and property in the city liable to taxation.

BOARD OF REVIEW:

Section 8.4 The Board of Review shall be composed of three (3) freeholders who are qualified and registered electors of the city but not officers or employees of the city nor candidates for office. One member of the board shall be appointed by the Council annually in January for a term of three years. The board shall constitute a Board of Review for all tax assessments. The assessor shall be clerk of the board, shall keep a record of its proceedings and may be heard at its meeting but shall have no vote. The Council shall fix the compensation of the members of the Board of Review each year previous to the first meeting of the board. The board shall annually in February select its own chairman for the ensuing year. A majority of the members of the board shall constitute a quorum.

MEETING OF BOARD OF REVIEW:

Section 8.5 The Board of Review will convene in accordance with statute to review and correct the assessment roll and shall remain in session for a minimum of two (2) days.

NOTICE OF MEETINGS:

Section 8.6 Notice of the time and place of the sessions of the Board of Review shall be published by the assessor at least ten (10) days prior to the meeting.

ENDORSEMENT OF ASSESSMENT ROLL:

Section 8.7 The Board of Review shall endorse the assessment roll as provided by general law. Such roll shall be the assessment roll of the city for all tax purposes.

CERTIFY TAX LEVY TO ASSESSOR:

Section 8.8. Within three (3) days after the adoption by the Council of the budget for the next fiscal year, the clerk shall certify to the assessor the amount of the tax levy fixed by the Council which the assessor shall proceed to assess to each person and piece of property on the assessment roll, together with all special assessments as well as any other amounts which the Council may require, under authority of state law or this charter or determine to be assessed or reassessed against any property or person.

TAX ROLL CERTIFIED FOR COLLECTION:

Section 8.9 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, 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.

TAX LIEN:

Section 8.10 On July first the taxes thus assessed shall become a debt due to the city from the persons to whom assessed, and 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. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

TAXES DUE NOTIFICATION:

Section 8.11 City taxes shall be due and payable on the first day of July of each year. The treasurer shall not be required to call upon the persons named in the tax roll, not to make personal demand for the payment for taxes, but he shall publish notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof, and mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed. Failure on the part of the treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this charter in case of late payment or nonpayment of the same.

COLLECTION CHARGES ON LATE PAYMENT OF TAXES

Section 8.12 No penalty shall be charged for city taxes paid on or before the first day of August. The Council shall provide, by ordinance, the tax payment schedule for city taxes paid after the first day of August and the amount of penalty, collection fee, or interest charges to be added thereafter in an amount not to exceed the limit allowed by State statute. Such charges shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added.

COLLECTION OF DELINQUENT TAXES:

Section 8.13 All city taxes on real property remaining uncollected by the treasurer on the first day of March, or date established by statute, following the date when said roll was received by him, shall be returned to the county treasurer in the same manner and with like effect as returns by township treasurers of township, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the treasurer and shall include all the additional charges and assessments hereinbefore provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the county treasurer are collected under provisions of the general laws of the state and shall be and remain a lien upon the property against which they are assessed, until paid.

STATE, COUNTY, AND SCHOOL TAXES:

Section 8.14 The levy collection and return of state, county and school taxes shall be in conformity with the general laws of the state.

**CHAPTER IX
BORROWING AUTHORITY**

GENERAL BORROWING:

Section 9.1 Subject to applicable provisions of law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligation bonds which pledge the full faith, credit, and resources of the city for payment of such obligations.
- (b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 7.7.
- (c) In case of fire, flood, wind storm, or other calamity, emergency loans due in not more than five (5) years for the relief of inhabitants of the city and for the preservation of municipal property.
- (d) Special assessment bonds issued in anticipation of the payment of special assessment made for the purpose of defraying the cost of any public improvement, or in anticipation of payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts and a general obligation of the city.
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by this charter or by law to acquire or operate.
- (f) Bonds for the refunding of the funded indebtedness of the city,
- (g) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the city.
- (h) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the state which the city may be permitted by law to pledge for the payment of principal and interest thereof.
- (i) Budget bonds, which pledge the full faith, credit, and resources of the city, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of taxation authorized by this charter.
- (j) Bonds which the city is, by any general law of the state, authorized to issue, now or hereafter, which shall pledge the full faith, credit, and resources of the city or be otherwise secured or payable as provided in said law.

LIMITS OF BORROWING AUTHORITY:

Section 9.2 (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such bonded indebtedness there shall be excluded money borrowed on notes issued in the anticipation of the collection of taxes, special assessment bonds even though they are a general obligation of the city, mortgage bonds, revenue bonds, bonds in anticipation of state returned revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.

(b) The amount of emergency loans which may be made under the provisions of this charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the city to exceed the limit of the net bonded indebtedness fixed in this charter or by law.

(c) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.

(d) The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

PREPARATION AND RECORD OF BONDS:

Section 9.3 Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose permitted by law. All bonds or other evidences of indebtedness issued by the city 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 signature of the mayor and the clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

DEFERRED PAYMENT CONTRACTS:

Section 9.4 The city may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than, nor shall the total amounts of principal payable under all such contracts exceed a sum permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

**CHAPTER X
SPECIAL ASSESSMENT**

SPECIAL ASSESSMENTS:

GENERAL POWERS:

Section 10.1 The Council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution. Resolutions 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 general obligation of the city, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof. The Council shall also have the power of reassessment with respect to any such public improvement.

PROCEDURE FIXED BY ORDINANCE:

Section 10.2 The Council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and

confirming of the assessments, and any other matters concerning the making and financing of improvements by special assessment.

OBJECTIONS TO IMPROVEMENT:

Section 10.3 If, at or prior to the meeting of the city Council sitting to review the assessment, the owners of more than one-half (1/2) of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without a five-sevenths (5/7) vote of the members of the Council.

Section 10.4 No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoying the collection of any special assessment or reassessment (a) unless, within thirty (30) 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 (60) 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 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 further notice and hearing thereon.

IMPLEMENTATION OF THE CHARTER:

Section 10.5 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.

**CHAPTER XI
UTILITIES**

GENERAL POWERS RESPECTING UTILITIES:

Section 11.1 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, and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, transportation, and garbage and refuse disposal facilities, or any of them to the municipality and its inhabitants thereof and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

ACQUISITION OF PRIVATE PROPERTY:

Section 11.2 Private property may be taken and appropriated, either within or without the city for any public use in connection with any acquisition, enlargement or extension of public utilities for supplying water, light, heat, power, gas, and sewage and garbage disposal facilities, or any of them; for the purpose of opening, widening, altering, and extending streets, alleys and avenues; or the construction of bridges, for public buildings and for other public structures; for public grounds, parking spaces, parks, market places and spaces; for the improvement of waters and water courses within the city; for sewers, drains, and ditches; for public hospitals, and public cemeteries; and for other lawful and necessary public uses, and may hold the same. The ownership of such property shall be acquired by the city by negotiation and purchase, or in any other manner permitted by the general laws of the state for the taking of private property for public use.

CONTROL OF UTILITIES:

Section 11.3 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, 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 and by statute.

MANAGEMENT OF UTILITIES

Section 11.4 All municipally owned or operated utilities shall be administered as a regular department of the city government, under the management and supervision of the city manager.

RATES:

Section 11.5 The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city and others with water, with electricity for light, heat, and power and with such other utility services as the city may acquire or provide.

UTILITY CHARGES — COLLECTION:

Section 11.6 The Council shall provide, by ordinance, for the collection of all public utility charges made by the city and for such purpose, shall have all the power granted to cities by statute. 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, which are not covered by deposits, 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.

ACCOUNTS:

Section 11.7 Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership or operation, or both, including all assets, liabilities, revenues, and expenses. These accounts shall show the actual cost to the city of each such public utility, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and all operating expenses. They shall show as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other city department. They shall also show a proper allowance for depreciation and insurance. The Council shall annually cause to be made and printed for public distribution a report showing the financial results of such city ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient.

DISPOSAL OF PLANTS AND PROPERTY:

Section 11.8 The city shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, or its parks, unless and except the proposition for such purpose shall first have been submitted, at a special election held for the purpose in the manner provided in this charter, to the qualified voters of the city and approved by them by a majority vote of the electors voting thereon. All contracts, negotiations, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any articles or equipment of any city owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER XII FRANCHISES, CONTRACTS AND PERMITS

GENERAL:

Section 12.1 No franchise ordinance which is not revocable at the will of the Council shall be granted or become operative until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths (3/5) of the electors voting thereon at such election.

FRANCHISES:

Section 12.2 All irrevocable public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by three-fifths (3/5) of the electors voting thereon. No such ordinance shall be submitted to the electors at an election to be held less than sixty (60) days after the grantee named therein has filed its unconditional acceptance of all the terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the Council shall have been paid to the city treasurer by the grantee. No exclusive franchises shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No such franchise shall be transferable, directly or indirectly, except with the approval of the Council expressed by ordinance.

RIGHT OF REGULATION:

Section 12.3 All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city (a) to repeal the same for misuse or non-use, or for failure to comply with

the provisions thereof; (b) to require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency; (c) to establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates; (d) to make independent audit and examination of accounts at any time, and to require reports annually; (e) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (f) to impose such other regulations as may be determined by the Council to be conducive to safety, welfare, and accommodation of the public.

RATES OF FRANCHISED UTILITIES:

Section 12.4 The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agencies. The rates not preempted by the state for public utilities shall be set, after public hearing, by the city Council.

PURCHASE — CONDEMNATION:

Section 12.5 The city shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the state, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill, or prospective profits.

REVOCABLE PERMITS:

Section 12.6 Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by resolution on such terms and conditions as it shall determine, provided that such permits, shall in no event be construed to be franchises or amendments to franchises.

USE OF STREETS BY UTILITY:

Section 12.7 Every public utility franchise shall be subject to the right of the city to use, control and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use and may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city by the city and other utilities insofar as such joint use may be reasonably practicable and upon payment of a reasonable rental therefor; provided, that, in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such which award shall be final.

PURCHASE PROCEDURE:

Section 12.8 Before making any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the Council may by ordinance prescribe. All expenditures for supplies, materials, equipment, or contractual services involving more than five thousand dollars (\$5,000) shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder as determined by the council after such public notice and competition as may be prescribed by ordinance: Provided, however, that the Council shall provide, by ordinance, for the ordinary purchasing procedure to be followed in purchasing city supplies.

OFFICIAL INTEREST IN CONTRACTS:

Section 12.10 No person holding any elective or appointive office in the city shall take any official action on any contract to which the city is or may be a part or other matter in which he shall have a direct personal interest in the profits to be derived therefrom or be a bondsman or surety on any contract or bond given to the city. Any officer violating the provisions of this section shall be deemed guilty of misconduct in office and upon conviction shall forfeit his office.

CHAPTER XIII MUNICIPAL RIGHTS AND LIABILITIES

RIGHTS, LIABILITIES, REMEDIES:

Section 13.1 All rights and properties of any kind and description which were vested in the city at the time of the adoption of this charter shall continue, and no rights or liabilities, either in favor of or against the city at the time of the adoption of this charter, and no suit or prosecution of any kind shall be in any manner affected by the adoption of this charter, but the same shall stand or progress as if no

such change had been made, and all debts and liabilities of the city and all taxes levied and uncollected at the time of the adoption of this charter shall be collected the same as if such change had not been made: Provided, that when a different remedy is given in this charter, which can be made applicable to any rights existing at the time of the adoption of this charter, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

LIABILITY FOR DAMAGES:

Section 13.2 The city shall not be liable for unliquidated damages for injuries to persons or property unless the person or persons claiming such damages, or someone in his or their behalf, shall file a claim in writing with the clerk. Such claim shall be filed within sixty (60) days after such claim for damages shall have accrued. Such claim shall be verified by the claimant or claimants, or some persons having knowledge of the facts, who shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the specific grounds upon which the claim of liability on the part of the city shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amount claimed. Upon filing such claim, the city shall have a reasonable time in which to investigate the same and may require the claimant to produce all witnesses for examination under oath. No action shall be maintained in any case unless the same be brought within the statutory period stated by the general laws of the state after such injury of damages shall have been received. On trial of action on such claim no witness shall be competent to testify for the claimant or claimants who was known and not named in the claim filed with the city or not produced upon demand.

STATEMENTS OF CITY OFFICERS:

Section 13.3 No officer of the city shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the city. Any such representation shall be void and of no effect as against the city.

CHAPTER XIV MISCELLANEOUS

PUBLIC RECORDS:

Section 14.1 All records of the city shall be public.

HEADINGS:

Section 14.2 The chapter and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

DEFINITIONS AND INTERPRETATIONS:

Section 14.3 Except as otherwise specifically provided or indicated by the context of this charter:

- (a) The word "state" shall mean the State of Michigan;
- (b) The word "city" shall mean the City of Whitehall;
- (c) The word "Council" shall mean the City Council of the City of Whitehall;
- (d) The word "officer" shall include, but shall not be limited to the mayor, the members of the Council, and as herein provided, the administrative officers, deputy administrative officers, and members of city boards and commissions created by or pursuant to this charter;
- (e) The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- (f) The words "printed" and "printing" shall include printing, engraving, stencil, duplicating, lithographing, typewriting, photostating, or any similar method;
- (g) Except in reference to signatures, the words "written" and "in writing" shall include handwritten script, printing, typewriting, and teletype and telegraphic communications;
- (h) The words "publish" or "published" shall include publication of any matter, required to be published, in the manner provided by law, or where there is no applicable law, in one or more newspapers of general circulation in the city, qualified by law for publication of legal notices;
- (i) The words "public utility" shall include all common carriers in the public streets; water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, cable television, garbage and refuse collection and disposal and reduction plants, transportation,

and such other different enterprises as the Council may determine or designate;

(j) All words 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 happening of any event or requirement to which any provision of this charter is applied;

(k) The singular shall include the plural, and plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter;

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

AMENDMENTS:

Section 14.4 This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

EFFECT OF ILLEGALITY OF ANY PART OF CHARTER:

Section 14.5 Should any provision or section, or portion thereof, of this charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or selection.

CHAPTER XV SCHEDULE

PURPOSE AND STATUS OF SCHEDULE CHAPTER:

Section 15.1 The purpose of this schedule chapter is to inaugurate the government of the City of Whitehall under this charter and provide the transition from the government of the city under the previous charter to that under this charter. It shall not constitute a part of this charter only to the extent and for the time required to accomplish that end.

ELECTION TO ADOPT CHARTER:

Section 15.2 The charter shall be submitted to a vote of the qualified electors of the territory comprising the City of Whitehall at a special election to be held on Tuesday, August 2, 1977, between the hours of 7:00 A.M. and 8:00 P.M. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. If, at said election, a majority of the electors voting thereon shall vote in favor of the adoption of this charter, then the city clerk shall perform all other acts required by law to carry this charter into effect.

FORM OF BALLOT:

Section 15.3 The form of the question of submission of this charter shall be as follows:

"Shall the proposed charter of the City of Whitehall drafted by the Charter Commission elected November 2, 1976 be adopted?"

Yes ()

No ()

ELECTIVE OFFICERS OF THE CITY:

Section 15.4 (a) The elected officers of the city who hold office on the effective date of this charter, shall continue to hold the offices to which they were elected for the balance of the terms of which they were elected and shall conduct their several offices subject to the provisions of this charter. When the terms of the present elected officials expire, they shall be selected in accordance with the provisions of this charter.

(b) At the election upon the adoption of this charter, the city clerk for the City of Whitehall shall perform the duties required by law respecting such elections. The election commission of the city as presently constituted will choose the election inspectors for said election.

(c) The Board of Canvassers of the County of Muskegon, as established by law, shall canvass the votes cast at such election.

EFFECTIVE DATE OF CHARTER:

Section 15.5 If the canvass of votes upon the adoption of this charter shows it to have been adopted, it shall take effect and become law as the charter of the City of Whitehall for all purposes on Tuesday, August 23, 1977, at 7:30 P.M., local time.

COUNCIL ACTION:

Section 15.6 In all cases involving the transition of the city government from that under the previous charter to that under this charter, which are not covered by this Schedule, the Council shall supply the necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefor.

CONTINUATION OF APPOINTIVE OFFICERS:

Section 15.7 Except as otherwise provided herein, after the effective date of this charter, all appointive officers and all employees of the city shall continue in city office or employment which they held in the city prior to the effective date of this charter and they shall be subject in all respects to the provisions of this charter.

BOARDS AND COMMISSIONS:

Section 15.8 The present boards and commissions now established shall continue under the terms of the ordinance establishing them. The terms of office of the members shall continue as established and they shall continue in office until their successors are appointed in accordance with the terms of office established in the ordinance creating them.

RESOLUTION OF ADOPTION:

At a meeting of the Charter Commission of the City of Whitehall held on the 16th day of May, 1977, at the usual place of meeting of the Commission, the following members of the Charter Commission were present:

Commissioners Clock, Dode, Huttenga, Larson, Markel, Mikkelsen, Owen, Ullman and Volk.

At such meeting, the following resolution was offered by Commissioner Ullman and supported by Commissioner Mikkelsen.

Resolved, That the Charter Commission of the City of Whitehall does hereby adopt the foregoing instrument as the Charter of the City of Whitehall, 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 Act 279 of the Public Acts of 1909, as amended, for his approval.

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

Ayes: Clock, Dode, Huttenga, Larson, Market, Mikkelsen, Owen, Ullman and Volk.

Nayes: None.

Absent: None.

William E. Beauvais

Clerk of the Charter Commission of the City of Whitehall, Michigan.

Attested by the following Commissioners:

Carl E. Larson

Steven L. Markel

Carlos Mikkelsen

Kenneth J. Owen

George Uliman

Edward J. Volk

Gordon E. Huttenga, Vice-Chairman

Thomas C. Clock, Jr., Chairman

A True Copy

William E. Beauvais, City Clerk

Date: May 16, 1977