

City of Auburn

Bay County

Michigan

Approved by the Electors November 5, 2013

Prepared by
Auburn Charter Commission
Elected November 2011

AUBURN CHARTER COMMISSION

Gary Black – Chairman

Kay Bridenbaugh

Matt Charbonneau – Vice Chairman

Jan Dzurka

Dale R. Gripentrog

Diane Heffron

Kathy Kilbourn

Betty Owen – Secretary

Amy Reder

TABLE OF CONTENTS

Preamble	6
Section 1 – Name & Boundaries	7
1.01 Name	7
1.02 Boundaries	7
Section 2 – Municipal Powers	8
2.01 Type of Government	8
2.02 General Municipal Powers	8
2.03 Intergovernmental Cooperation and Contracts	8
2.04 Cooperation and Contracts with Private Persons or Entities	9
2.05 Exercise of Powers of Government	9
Section 3 – Elected and Appointed Officials	10
3.01 Mayor Election	10
3.02 Mayor Length of Term	10
3.03 Mayor Pro Tem	10
3.04 Mayor Duties	10
3.05 Commissioner Election	10
3.06 Commissioner Length of Term, Staggered	10
3.07 Mayor/Commissioner Qualifications	10
3.08 Mayor/Commissioners Prohibitions	11
3.09 Mayor/Commission Interference with City Administrator	11
3.10 Reasons for Mayor/Commissioner Vacancy	11
3.11 Mayor/Commissioner Forfeiture of Office	11
3.12 Filling of Vacancies in the Office of Mayor or Commissioner	12
3.13 Clerk & Treasurer Qualifications & Removal	13
3.14 Clerk Selection & Duties	13
3.15 Treasurer Selection and Duties	13
3.16 Assessor Selection/Duties/Removal	14
3.17 City Administrator Selection & Removal	14
3.18 Deadline to Fill Vacant Administrator Position	14
3.19 Appointment of Acting City Administrator	15
3.20 Power and Duties of the City Administrator	15
3.21 Compensation – Elected/Appointed/Employees	15
3.22 Duties, Privileges & Immunities	16
3.23 Attorney Selection, Compensation & Removal	16
Section 4 – Commission Procedures, Powers & Duties	17
4.01 City Governing Body	17
4.02 Commission Meetings Frequency and Rules	17
4.03 Special Meetings	17
4.04 Quorums	18
4.05 Publication and Publishing & Evidence of Public Notice	18
4.06 Investigations	19
4.07 Office Creation or Elimination	19
4.08 Rescinding Ordinances or Resolutions	19

Section 5 – Elections	20
5.01 Wards/Precincts	20
5.02 Election Commission	20
5.03 Elections, Conduct of Elections, and Electors	20
5.04 Special Elections Limited	21
5.05 Nominating Petitions	21
5.06 Approval of Petitions	22
5.07 Public Inspection of Petitions	23
5.08 Acceptance/Rejection of Nomination	23
5.09 Withdrawal of Nominated Candidate	24
5.10 Tie Votes	24
5.11 Powers of Initiative and Referendum	24
5.12 Recall	25
5.13 Ineligibility Following Elected Official Recall	25
Section 6 – Legislation (Ordinances & Resolutions)	26
6.01 Ordinance & Resolution	26
6.02 Ordinance Format	26
6.03 Public Access to Ordinances	27
6.04 Evidence of Public Notice	27
6.05 Ordinance Procedure	27
6.06 Public Hearings Regarding an Ordinance	27
6.07 Publication & Effective Date of Ordinances	28
6.08 Emergency Ordinances	28
6.09 Municipal Civil Infractions	29
6.10 Penalties for Violations of Ordinances	29
Section 7 – Budget Procedure & General Finance	30
7.01 Fiscal Year	30
7.02 Budget Officer	30
7.03 Submission of Budget and Budget Message	30
7.04 Budget Document	31
7.05 Public Hearing	31
7.06 Adoption of Budget & Tax Limit	31
7.07 Appropriations/Interim Accounting/Year-End Surplus	31
7.07.1 Appropriations – Initial	31
7.07.2 Appropriations – Additional	32
7.07.3 Quarterly Reports	32
7.07.4 Surplus Appropriations to Fund Balance	32
7.08 Purchasing Agent	32
7.09 Establishment of Procedures by Ordinance	32
7.10 Depositories	33
7.11 Investments	33
7.12 Independent Audit and Report	33
Section 8 – Taxation & Bonds	34
8.01 Power to Tax	34
8.02 Tax Limits	34

8.03	Power to Borrow – Bonds & Loans	34
8.03.1	Types of Borrowing	34
8.03.2	Proceeds of Bonds	35
Section 9	– Board of Review	37
9.01	Board of Review Selection	37
9.02	Powers & Compensation	37
9.03	Appointments, Qualifications & Removal	37
9.04	Organizational Meeting	37
9.05	Meeting for Taxpayer Appeals	37
9.06	Review of Assessments Deadline	38
9.07	Creation of Tax Roll	38
9.08	Tax Becomes Lien on Property	38
9.09	Collection of Taxes	38
9.10	Tax Due Date & Administration Fees/Penalties	38
9.11	Tax Roll to County Treasurer	39
Section 10	– Special Assessments/Public Improvements	40
10.01	Commission Powers	40
10.02	Content of Public Notice	40
10.03	Special Assessment Procedure	40
Section 11	– Utilities & Franchises	42
11.01	Powers Respecting Utilities & Vote to Acquire	42
11.02	Management & Ordinance Guidelines	42
11.03	Public Utility Franchises	42
Section 12	– Streets and Public Grounds	44
12.01	Responsibility for Public Property	44
12.02	Private Dedication Does Not Mean Public Acceptance	44
12.03	Authority to Make Public Improvements	44
12.04	Expense of Improvement	44
12.05	Disposition of Public Property	45
12.06	Easements	45
Section 13	– Miscellaneous	46
13.01	Liability	46
13.02	Effect of Illegality of Any Part of Charter	46
13.03	Charter Amendments	46
13.04	Trusts	46
13.05	Sundays, Saturdays & Holidays	46
13.06	Structure & Style of the Charter	46
13.07	Super Majority Compilation	47
13.08	Records Made Available	47
13.09	Charter Adoption	47
13.10	Form of Ballot	47
Section 14	– Definitions (alphabetized)	48
Section 15	– Transition from Old Charter to New	49
15.01	Legislation & Appointments After Transition to New Charter	49
15.02	Headlee Override	49

15.03 Term of Office	49
Appendix	50
Michigan State Law Citations	53

PREAMBLE

We, the people of the City of Auburn, Bay County, Michigan, establish this charter to secure the benefits of local government and to provide for the general health, safety and welfare of our community. Our government shall promote cooperation, encourage leadership, solicit our input and support the active participation of our residents in their government. Our government shall be effective and accountable and shall promote equal rights and representative democracy.

SECTION 1 - NAME & BOUNDARIES

1.01 Name

The city shall be a body corporate under the name *City of Auburn*.

1.02 Boundaries

The City of Auburn includes the territory described in the record kept by the Office of the Great Seal, part of the Executive Office of the Michigan Department of State. The clerk shall maintain for public inspection the official description and a map of the current boundaries.

SECTION 2 - MUNICIPAL POWERS

2.01 Type of Government

The form of municipal government provided in this charter is that of commission/administrator.

2.02 General Municipal Powers

The City of Auburn and its officers may exercise all municipal powers in the administration of city government and management of municipal property, whether or not those powers are expressly enumerated in this charter. They may perform any act to advance the interests of the city and promote good government and the prosperity of Auburn. They may pass all necessary ordinances and provide for the public peace and health, safety and welfare of persons and property.

The commission may provide for, establish or maintain law enforcement through the creation of a police department, public safety department, contracted law enforcement services, a combination of these options, or any other method allowed by the laws of Michigan.

The commission may provide fire protection through the creation of a fire department, public safety department, fire district board, contracted fire services by intergovernmental agreement or other agreement authorized by law, a combination of these options, or any other method allowed by the laws of Michigan.

The city and its officers are vested with any and all powers and immunities, expressed or implied, which cities and their officers are allowed by this charter and under the constitution and laws of Michigan. The enumeration of particular powers or immunities in this charter is not exclusive.

2.03 Intergovernmental Cooperation and Contracts

The city may join or contract with any municipal corporation, authority, public body corporate, or with any other unit of local, state or federal government for the ownership of property, the operation of facilities, or the provision and performances of services, which each would separately have power to own, operate, or perform.

2.04 Cooperation and Contracts with Private Persons or Entities

To the extent authorized by law, the city may contract with any person or entity.

2.05 Exercise of Powers of Government

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, the city may use any procedure set forth in any Michigan statute. When a procedure is not found in state statutes the commission shall adopt by ordinance or resolution a procedure for the exercise of government.

SECTION 3 - ELECTED AND APPOINTED OFFICIALS

3.01 Mayor Election

The mayor shall be elected at-large on a nonpartisan basis.

3.02 Mayor Length of Term

The mayor shall serve for two (2) years. The mayor's term begins upon certification of the election by the board of canvassers.

3.03 Mayor Pro Tem

The mayor pro tem shall be elected by the commission selected from among the members of the commission at the next meeting following the certification by the board of canvassers of a mayor's election. The mayor pro tem shall act in the mayor's absence.

3.04 Mayor Duties

The mayor is the chief executive officer of the city. The mayor shall preside over and be a member of the commission as any other commissioner. The mayor shall not have the right of veto. The mayor will perform all functions as directed by the commission and as required by law.

3.05 Commissioner Election

Six commissioners shall be elected at-large on a nonpartisan basis.

3.06 Commissioner Length of Term, Staggered

The commissioners shall hold office for a period of four (4) years upon certification of the election by the board of canvassers. The terms shall be staggered such that three (3) commissioners are elected each even-year election cycle.

3.07 Mayor/Commissioner Qualifications

Candidates for the mayor and city commissioners shall be a resident and an elector of the City of Auburn for six months prior to the date of the general election and shall not within the immediately preceding 20 years have been convicted of a felony involving dishonesty, deceit,

fraud, or a breach of the public trust if the conviction was related to the person's official capacity while the person was holding any elective office or position of employment in local, state, or federal government, or has been convicted of a violation of MCL § 38.412a within the preceding 20 years.

3.08 Mayor/Commissioners Prohibitions

No mayor/commissioner shall hold any other elected public office that is incompatible with the mayor/commissioner's office during the term for which the mayor/commissioner was elected.

No mayor/commissioner shall hold any other city office or city employment during the term for which the mayor/commissioner was elected. No former mayor/commissioner shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the mayor or commissioner was elected.

3.09 Mayor/Commission Interference with City Administrator

A city commission(er) or mayor shall not demand the appointment or removal of any employee under the city administrator. The commission, including the mayor may express their views and fully and freely discuss with the city administrator anything pertaining to appointment and removal of officers and employees. Except for the purpose of inquiries and investigations under Section 4.06, the mayor and commission (ers) shall deal with city officers and city employees solely through the city administrator. The mayor/commission(ers) shall not give orders to any such officers or employees either publicly or privately.

3.10 Reasons for Mayor/Commissioner Vacancy

The office of mayor or commissioner shall become vacant upon the mayor or commissioner's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

3.11 Mayor/Commissioner Forfeiture of Office

A commissioner or mayor shall forfeit their office if they:

- 1) Fail to comply with this charter's requirements for oath of office and bond within ten (10) days from the date of the certification of the election. The commission may, by resolution, extend the time in which the mayor or commissioner may meet the oath and bond requirement;

- 2) Fail to meet the residency requirements;
- 3) Violate any express prohibition of this charter;
- 4) Are convicted of a crime involving moral turpitude;
- 5) Fail to attend three (3) consecutive regular meetings of the commission without being excused by the commission.
- 6) Fail to obey any subpoena or produce books, papers or other evidence as ordered under Section 4.06 of this charter.

Pursuant to above, the Auburn City Commission may declare the forfeiture of the office of the mayor or any commissioner by an affirmative vote of five (5) members. No Auburn mayor or commissioner may have their office forfeited until the mayor or commissioner has been granted a hearing and notice of that hearing has been served upon the mayor or commissioner at least ten (10) business days before the hearing. The hearing notice shall be served either personally; or if the person cannot be found, sent by certified mail to their last known address. The notice of the hearing shall state the grounds for forfeiture of the office. The mayor or commissioner shall have the right to be heard at the hearing in person or by counsel.

3.12 Filling of Vacancies in the Office of Mayor or Commissioner

With the exception of a vacancy created by recall, when a vacancy occurs in the office of the mayor or commissioner, the following guidelines determine how that vacancy is filled:

- 1) In the instances when the remaining term is greater than two (2) years and three (3) months; the electors, at the next regular city election, shall fill the vacancy for the remainder of the unexpired term.
- 2) While awaiting the next regular city election, the commission shall fill a vacancy within thirty (30) days by appointment.
- 3) If the commission fails to fill the vacancy within thirty (30) days, the city clerk shall call a special election to fill the vacancy. That election shall be scheduled as soon as legally possible.
- 4) No vacancy shall be filled if it occurs within thirty (30) days of the date the term expires.
- 5) Despite the requirement in Section 4.04, Quorums; if at any time the membership of the commission is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four (4). Once there are four (4) members of the commission, they can conduct commission business. If they

choose to fill the remaining three vacancies, it must be one at a time so that most recently appointed commission member can vote on the next appointment.

3.13 Clerk & Treasurer Qualifications & Removal

The clerk and treasurer qualification shall be based on education, ability, training and experience. The clerk and treasurer serve at the pleasure of the city administrator and may be removed from office by the city administrator with the approval of the commission.

3.14 Clerk Selection & Duties

The city clerk shall be appointed by the city administrator for an indefinite period. The appointment shall be subject to approval of the commission.

The clerk shall:

- 1) give public notice of city meetings;
- 2) keep a journal or record in English of city proceedings;
- 3) perform such other duties as required by this charter, statute, the city commission through the city administrator, and the city administrator;
- 4) employ available data storage technology to preserve city records from vandalism, fire, storm, water or other damage;
- 5) administer elections in accordance with the laws of the State of Michigan and this charter; and
- 6) Any other duties as required by law or the Commission.

3.15 Treasurer Selection and Duties

The city treasurer shall be appointed by the city administrator for an indefinite period. The appointment shall be subject to approval of the commission. The treasurer shall perform all duties required of the position by law, this charter, the city administrator, and the commission through the city administrator.

3.16 Assessor Selection/Duties/Removal

The city administrator shall appoint the city assessor on the basis of proper certification, education, ability, training and experience.

- 1) The city assessor shall possess all the power vested in and shall be charged with the duties imposed upon the assessing officer of a township by law.
- 2) The city assessor shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the city.
- 3) The city assessor shall perform such other duties as may be prescribed by law or the ordinances of the city or by the city administrator.
- 4) The city assessor serves at the pleasure of the city administrator.

3.17 City Administrator Selection & Removal

The city administrator shall be appointed by the city commission for an indefinite period. The city commission shall appoint the city administrator on the basis of executive and administrative qualifications with special reference to education, ability, training and experience. The city administrator serves at the pleasure of the city commission and may be removed by an affirmative vote of five (5) of its members. The commission may or may not make use of a contract for a city administrator.

3.18 Deadline to Fill Vacant Administrator Position

The city commission shall fill a vacancy in the office of city administrator within one hundred eighty (180) days.

3.19 Appointment of Acting City Administrator

The commission may appoint or designate an acting city administrator during the period of a vacancy in the office. While in that role the acting city administrator shall have all the responsibilities, duties, functions and authority of the city administrator.

3.20 Power and Duties of the City Administrator

The city administrator shall be the chief administrative officer of the city, responsible to the commission for the management of all city affairs placed in the administrator's charge by or under this charter. The city administrator shall:

- 1) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- 2) Appoint, discipline or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter;
- 3) Attend all commission meetings having the right to take part in discussion but having no vote;
- 4) Determine that all laws, provisions of this charter and acts of the city commission which are, subject to enforcement by the city administrator (or by officers subject to the administrator's direction and supervision) are faithfully executed;
- 5) Make such other reports as the city commission may require concerning operations;
- 6) Prepare and submit the annual budget and capital program to the city commission, and implement the final budget approved by the commission to achieve the goals of the city, and;
- 7) Perform such other duties as are specified in this charter or as determined by the city commission.

3.21 Compensation – Elected/Appointed/Employee

- 1) The compensation of officers, department heads and employees of the City of Auburn, except as otherwise provided in this charter, shall be recommended by the city administrator and approved by the city commission in accordance with budget appropriations.
- 2) Compensation of commissioners shall be based on attendance at lawfully scheduled commission meeting and sub-committee meetings.
- 3) Compensation for the mayor shall be based on the compensation of the commissioners plus an annual salary set by commission ordinance.
- 4) The city commissioners and mayor shall receive actual and necessary expenses incurred in performance of their duties of office.
- 5) The city commissioners and mayor shall not receive an increase in salary adopted by the city commission until at such time as they are re-elected.

3.22 Duties, Privileges & Immunities

All administrative officers and employees of the city shall perform their duties as are provided by law, this charter, city ordinances and/or directives of the city administrator. Administrative officers shall exercise and possess all the powers, privileges and immunities granted to officers exercising the same general duties under the law.

3.23 Attorney Selection, Compensation & Removal

The city may retain one or more attorneys or law firms, licensed in the State of Michigan, to provide legal services. The provider of legal services will not be considered an officer of the city. However, the legal service provider may be referred to as city attorney to conduct city business. The city attorney serves at the pleasure of the city commission and may be removed by an affirmative vote of not less than four (4) of its members. The city attorney compensation shall be approved by the city commission.

SECTION 4 - COMMISSION PROCEDURES POWERS & DUTIES

4.01 City Governing Body

The legislative and policy forming powers of the city shall be vested in a commission of six (6) commissioners and a mayor.

4.02 Commission Meetings Frequency and Rules

- 1) The commission shall meet regularly at least once in every month at such times and places as the commission may establish by resolution.
- 2) Business of the city commission shall be conducted at a public meeting, which shall be open to the public in accordance with the provisions of the open meetings act. However, the city commission may meet in sessions closed to the general public for the purposes and in the manner provided by the laws of the State of Michigan.
- 3) The city commission shall determine its own rules and order of business. In its rules of procedure, the city commission shall provide citizens a reasonable opportunity to address the city commission.
- 4) Procedural votes need not be based on a roll call of ayes and nays. Otherwise, voting shall be by roll call of ayes and nays which shall be put on record.

4.03 Special Meetings

Special meetings of the city commission may be called by the mayor, city administrator, or any two city commissioners, with public notice provided as required by state law. Written notice stating the time, purpose and location of a special meeting shall be delivered personally to each member of the city commission, or left at the member's usual place of residence, or e-mailed to the member's e-mail address on record with the city clerk at least three hours prior to the time set for the meeting. If all of the members of the city commission are present, the city commission may conduct at a special meeting held inside the city any business that may come before a regular meeting of the city commission.

4.04 Quorums

- 1) Four (4) members of the commission shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission.
- 2) No action of the commission, except as otherwise provided under Section 3.12, Filling of Vacancies, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the commission. Some actions of the commission shall require an affirmative action of five (5) or more members of the commission as seen in the next topic and elsewhere in the charter. See Sections 3.11, 3.17, 4.04, 3), 4.07, 4.08, 9.03, 12.03, 12.04, 12.05, and 13.07.
- 3) Ordinances shall be enacted, amended or repealed by the affirmative vote of not less than five (5) members of the commission.
- 4) Ordinances shall be repealed only by adoption of an ordinance.

4.05 Publication and Publishing & Evidence of Public Notice

- 1) The commission shall maintain by resolution a list of approved means of giving public notice which shall be posted at city hall at all times.
- 2) The means of publication and publishing to achieve public notice shall include, but is not limited to:
 - a) publication in a newspaper of general circulation in Auburn;
 - b) posting to the city's website;
 - c) any other technological means or social media permitted by Michigan law or;
 - d) any other method determined by the city commission to inform the public.
- 3) When this charter requires publishing or public notice be given, the city clerk shall enter in the clerk's records a certificate of publication or notice. The certificate, whether provided by a newspaper or created by the city clerk, shall document the action stating the date and particulars. Such certification shall be prima-facie evidence of the required publication or public notice.

4.06 Investigations

The commission shall have the power to inquire into the conduct of any department, office or officer of the city and make investigation 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 or employee of the city to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute misconduct and the officer or employee shall be subject to discipline up to and including termination or forfeiture of office pursuant to Section 3.11 of this Charter.

4.07 Office Creation or Elimination

No office position shall be created or eliminated without a five (5) member affirmative vote of the commission.

4.08 Rescinding Ordinances or Resolutions

No ordinance or resolution of the commission shall be rescinded without a five (5) member affirmative vote of the commission.

SECTION 5 – ELECTIONS

5.01 Wards/Precincts

The city shall consist of one ward. General election laws shall apply to and control all procedures relating to qualifications and registration of electors, nomination of candidates for elective offices in the city, the number of voters per precinct, and to the conduct of general and special elections, unless otherwise provided herein. In any circumstance where the application of said laws may be uncertain, the election commission shall construe the same and prescribe the procedure.

5.02 Election Commission

An election commission is hereby created. The election commission shall consist of:

- 1) The city clerk as chairperson.
- 2) And the assessor and one other non-elected city officer to be appointed by the commission at least ninety (90) days prior to each regular city election. The term for the non-elected city officer shall be two (2) years.
- 3) The election commission shall before each election appoint a board of inspectors of election, which shall consist of not less than three (3) qualified electors.
- 4) The city commission shall determine the compensation of election personnel in advance of the election in accordance with the city budget.

The election commission shall have charge of all activities and duties relating to the conduct of elections in the city as provided by state law.

5.03 Elections, Conduct of Elections, and Electors

- 1) **Regular Elections:** The regular city election shall be concurrent with the Michigan November general election in even years pursuant to Resolution No. 2013-2 adopted by the commission on May 6, 2013. The first regular city election under this Charter shall be conducted in November 2016.
- 2) **Registered Voter Defined:** All citizens legally registered under the constitution and laws of the State of Michigan to vote in the city shall be registered voters/electors of the city within the meaning of this charter.
- 3) **Conduct of Elections:** The provisions of the general election laws of the state of Michigan shall apply to elections held under this charter.

- a) All elections provided for by the charter shall be conducted by the election authorities established by law.
 - b) Candidates shall run for office without party designation.
 - c) For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud, state and federal law and regulations will be followed.
- 4) **Beginning of Term:** The terms of city commissioners and mayor shall begin upon certification of election by the board of canvassers.

5.04 Special Elections Limited

Special municipal elections shall be held when called by resolution of the city commission, or when required by this charter or the laws of the state. Any resolution calling a special election shall state the purpose of such election and no special election shall be held within sixty (60) days of the date of the adoption of the resolution. All provisions contained herein for holding regular elections shall apply to special elections. No franchise, grant or license shall be submitted to the electors at a special election, unless the expense of holding that election, as determined by the city commission, is paid to the city treasurer in advance by the petitioner for the franchise, grant or license. With the exception of a special recall election, in no case shall there be more than two (2) special elections within one (1) year, unless otherwise permitted or required by state law.

5.05 Nominating Petitions

- 1) This section does not apply to filling an office created by recall. Petitions for recalled offices shall be governed by the requirements set forth in 1954 PA 116.
- 2) The city clerk shall inform the public by published notice of the latest date and time for filing nominating petitions and of the number of persons to be nominated to each office. This notice shall appear not less than ten (10) days prior to the deadline for filing nominating petitions. Nominating petitions shall be presented and filed pursuant to state law.
- 3) A person seeking to qualify as a candidate for any elective office under this charter shall file with the city clerk a properly completed nominating petition secured from the office of the city clerk. The form of the nominating petition shall be substantially as that

required by state law for nonpartisan petitions. The city clerk shall maintain a supply of official petition forms and, upon request, furnish a reasonable number of nominating petitions.

- 4) A qualifying nominating petition shall include the signatures of at least 25 but not more than 40 registered electors of the city. Each petition shall contain the name of only one candidate. A person shall not sign more nominating petitions for the same office than there are persons to be elected to the office. If a qualified and registered voter signs nominating petitions for a greater number of candidates for public office than the number of persons to be elected thereto, his signatures, if they bear the same date, shall not be counted upon any petition and if they bear different dates shall be counted in the order of their priority of date for only so many candidates as there are persons to be elected.
- 5) Each candidate for elective office shall file with his or her petition an Affidavit of Identity as provided by state law. The affidavit shall include the name, address, number of years the candidate has been a resident of the state, county, and city and any other information the city clerk requires to satisfy the city clerk regarding the identity and legal qualifications of the candidate to hold office in the city. Failure to file the affidavit with the nominating petition shall invalidate a candidate's petition.

5.06 Approval of Petitions

- 1) This section does not apply to filling an office created by recall. Approval of petitions for recalled offices shall be governed by the requirements set forth in 1954 PA 116.
- 2) The city clerk shall accept for filing only such nominating petitions for qualified candidates as are on official forms, which contain the required number of signatures. The city clerk shall mark the time and date on the petition as it is filed.
- 3) Within three (3) business days after receiving any nominating petition, the city clerk shall determine the sufficiency of the signatures on each petition. If any petition is found to contain less than 25 or more than 40 signatures of registered electors of the city, the city clerk shall immediately notify the candidate, in writing, of the insufficiency of the petition. The petition may then be signed by additional electors and, not later than three (3) days after the petition was returned to the petitioner, again filed with the city clerk. In no case shall an original or amended petition be filed and accepted after the latest date

and time for filing petitions. The city clerk shall examine the amended petition and determine whether the petition may be certified.

- 4) If either the original or the amended petition of nomination contains the appropriate number of signatures, the city clerk shall mark the petition as APPROVED, indicate the date of approval, and file the petition.

5.07 Public Inspection of Petitions

All nominating petitions shall be open to public inspection in the office of the city clerk.

5.08 Acceptance/Rejection of Nomination

This section does not apply to filling an office created by recall. The acceptance/rejection of nomination petitions for recalled offices shall be governed by the requirements set forth in 1954 PA 116.

Not later than three (3) business days after the deadline for filing nominating petitions, any person whose name has been presented as a candidate shall file with the city clerk a signed statement, supported by identification acceptable to the city clerk, accepting or rejecting the nomination. The statement shall be substantially as outlined below. The name of a person rejecting a nomination shall not be printed on the ballot.

The statement shall be substantially in the following form:

STATE OF MICHIGAN)
COUNTY OF BAY)
CITY OF AUBURN)

I, _____, having been nominated for the office of _____
in the City of Auburn, hereby accept [] / reject [] the nomination. I have not
become, and am not a candidate as the nominee or representative of, or because of
any promised support from any political party, or any committee or convention
representing or acting for any political party or organization.

Signed:

Date:

5.09 Withdrawal of Nominating Candidate

In accordance with state law, a candidate who wishes to withdraw a filing submitted for an elective office must submit a written withdrawal statement to their filing official by the date and time set forth in Section 322a of Act 116 of the Michigan Public Acts of 1954, as amended, MCL § 168.322a.

5.10 Tie Votes

If at any election two or more persons have an equal number of votes, the successful candidate shall be determined by the Bay County Board of Canvassers in accordance with the general election laws of the state, or as otherwise provided by law.

5.11 Powers of Initiative and Referendum

By submitting a petition to the city clerk, electors of the city may propose an ordinance to the city commission or call for a referendum on an ordinance enacted by the city commission. To qualify, a petition:

- 1) Must have been approved as to form by the city attorney prior to being circulated.
- 2) Must have been signed by registered electors equal in number to twenty-five (25) percent of the votes cast in the most recent general election.
- 3) Must have signatures that were obtained within the sixty (60) days preceding the filing of the petition with the city clerk.
- 4) Shall contain the full text of the proposed ordinance and shall follow the general form of petitions provided by state law and comply with the general standards for petitions established by state law.
- 5) Shall be filed with the city clerk who shall have fifteen (15) days to determine the sufficiency of the petitions and to so certify. If the city clerk finds the petition to be insufficient or improper, the city clerk shall immediately notify the person who filed the petition. The person shall then have fifteen (15) days from such notification to file supplemental petition papers. When the city clerk determines the petition is sufficient and proper, the city clerk shall present the petition to the city commission at its next regular meeting.
- 6) Upon receiving an initiatory or referendary petition the city commission, within 30 days, shall either:

- a) adopt the ordinance as submitted by an initiatory petition;
 - b) repeal the ordinance referred to by a referendary petition; or
 - c) determine to submit the proposal provided for in the petition to the electors.
- 7) Should the city commission 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 city commission, at a special election. The result shall be determined by a majority vote of the electors voting on the question.
- 8) Certification of a referendary petition shall automatically suspend the ordinance in question, pending repeal by the city commission or determination by the electors. The city commission may not amend or repeal an ordinance adopted by the electorate through initiatory proceedings for a period of two (2) years after the date of the election at which it was adopted and, then, only by the affirmative vote of five members of the city commission.
- 9) Should two or more ordinances adopted at the same election have conflicting provisions, the ordinance receiving the highest number of votes shall prevail as to the conflicting provisions.

5.12 Recall

An elected official may be recalled from office by the electors of the city in a manner provided by state law. A vacancy created by the recall of any elected official shall be filled according to the provisions of state law.

5.13 Ineligibility Following Elected Official Recall

An elected officer removed from office by recall is restricted from being appointed to fill a vacancy in an elective office of the City.

SECTION 6 - LEGISLATION (Ordinances and Resolutions)

6.01 Ordinance & Resolution

All legislation of the city shall be by ordinance or resolution as prescribed by this charter, state or federal law. In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city commission shall be by ordinance which:

- 1) adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;
- 2) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- 3) grant, renew, or extend a franchise;
- 4) authorize the borrowing of money;
- 5) sell or convey any lands of the city;
- 6) regulate land use and development; or
- 7) amend or repeal any ordinance previously adopted.

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

6.02 Ordinance Format

- 1) Every proposed ordinance shall be introduced in writing and in the form required by final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title.
- 2) The enacting clause shall be “The City of Auburn hereby ordains...”
- 3) Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in [brackets]*or by ~~strikeout~~ *font and shall indicate new matters by underscoring* or by *italics*.*

* technique illustrated

6.03 Public Access to Ordinances

The city shall provide public access to all ordinances, adopted laws, adopted codes, and adopted rules through the city clerk in compliance with state law. The City of Auburn may adopt a law, code, or rule that has been promulgated and adopted by an authorized agency of the State of Michigan.

6.04 Evidence of Public Notice

When this charter requires publishing or that public notice be given, the city clerk shall enter in the clerk's records a certificate of publication or notice. The certificate, whether provided by a newspaper or created by the city clerk, shall document the actions stating the date and particulars. Such certification shall be prima-facie evidence of the required publication or public notice.

6.05 Ordinance Procedure

Any commission member may propose an ordinance. The city clerk shall:

- 1) distribute copies to commission members and to the city administrator;
- 2) make copies available in the clerk's office and other designated locations, and;
- 3) give public notice of the ordinance stating date time and place for a public hearing regarding the ordinance.

After the hearing, the commission may adopt the ordinance with or without amendment or reject it; but if it is amended as to any matter of substance, the commission may not adopt it until the ordinance or its amended sections have been subjected to all the procedures required in the case of a newly introduced ordinance.

6.06 Public Hearings Regarding an Ordinance

Public hearings for ordinances:

- 1) The public hearing shall follow the public notice by at least seven (7) days;
- 2) The public hearing may be held separately or in connection with a regular or special commission meeting;
- 3) The public hearing may be adjourned from time to time;
- 4) All interested persons shall have an opportunity to be heard.

6.07 Publication & Effective Date of Ordinances

Publication of every ordinance shall be provided within fourteen (14) days after its adoption by posting at city hall, providing copies for inspection and distribution at the clerk's office, and one or more of the following methods:

- 1) publication in a newspaper of general circulation in Auburn;
- 2) posting to the city's website;
- 3) any other technological means or social media permitted by Michigan law; or
- 4) any other method determined by the city commission to inform the public.

If ordinance language exceeds 500 words, the commission may approve a summary for publication.

The effective date of an ordinance must be stated in the ordinance. Except for an emergency ordinance, no ordinance may be effective sooner than thirty (30) days from publication of the ordinance. No ordinance shall be operative until after it has been published. Publication of other notices, city meetings, public hearings, and other city activity, shall be given by posting at city hall and by one or more of the methods in 1-4 above.

6.08 Emergency Ordinances

- 1) To meet a public emergency affecting life, health, property or the public peace, the city commission may adopt emergency ordinances, but such ordinances may not:
 - a) levy taxes;
 - b) grant, renew or extend a franchise; or
 - c) regulate the rate charged by any public utility for its services.
- 2) An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- 3) An emergency ordinance may be adopted or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) commission members shall be required for adoption.

- 4) After its adoption, the ordinance shall be given publication as soon as practical and shall be effective upon publication or at such date thereafter as specified in the ordinance
- 5) Every emergency ordinance shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists.
- 6) An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

6.09 Municipal Civil Infractions

The city may adopt civil infraction enforcement methods.

6.10 Penalties for Violations of Ordinances

The commission may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed Five Hundred Dollars (\$500.00) or other amount established pursuant to state law or imprisonment for ninety (90) days or other time of imprisonment established pursuant to state law both in the discretion of the court or other fine or imprisonment as allowed by the laws of the State of Michigan.

SECTION 7 - BUDGET PROCEDURE AND GENERAL FINANCE

7.01 Fiscal Year

The fiscal and budget year of the city shall begin on July 1 and end on June 30.

7.02 Budget Officer

The city administrator shall have charge of the administration of the financial affairs of the city. The city administrator may delegate or assume the role of a budget officer. The budget officer shall provide a system of accounts which shall conform to such uniform system of accounts as may be required by law.

7.03 Submission of Budget and Budget Message

On or before June 1 each year the city administrator shall submit to the city commission a budget for the ensuing fiscal year in compliance with Michigan's Uniform Budgeting and Accounting Act. The commission shall, subject to the limitations of law, raise revenues and make appropriations for the operation of the city government and provide for the public peace and the health, safety and welfare of persons and property as noted in Section 2.02.

The accompanying budget message addressing the city commission concerns relating to city goals and community priorities shall:

- 1) explain the budget both in fiscal terms and in terms of the work programs;
- 2) link work programs to organizational goals and community priorities.
- 3) outline the proposed financial policies of the city for the ensuing fiscal year and the effect of those policies on future years;
- 4) describe the important features of the budget, indicating any major changes from the current year;
- 5) summarize the city's debt position, including factors affecting the ability to raise resources through debt issues, and;
- 6) include such other materials as the city administrator deems desirable or the commission requires.

7.04 Budget Document

The budget document shall present a complete financial plan for the ensuing fiscal year and shall include those items required by the Uniform Budgeting and Accounting Act.

7.05 Public Hearing

Before final adoption of the budget, a public hearing on the budget proposal shall be held as provided by statute. Notice of the time and place of holding the hearing shall be in accordance with law. 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 week prior to the public hearing.

7.06 Adoption of Budget & Tax Limit

After the public hearing on the budget, the commission shall adopt a budget by resolution with or without amendment no later than 11:59 p.m. local time on June 30 of each year or other date or time permitted by state law:

- 1) Amendments may not change expenditures required by law or for debt service or for an estimated cash deficit.
- 2) No amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

The commission shall then make appropriations for expenditures pursuant to the adopted budget. After consideration of probable other revenues, the commission at the same time shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this charter or by general law.

7.07 Appropriations/Interim Accounting/Year-End Surplus

7.07.1 Appropriations - Initial

No money shall be drawn from the treasury of the city except in accordance with an appropriation for such specific purposes, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year.

7.07.2 Appropriations – Additional

The commission may make additional appropriations during the fiscal year for unanticipated expenditures required by the city, but such additional appropriations shall not exceed the actual and anticipated revenues of the year plus any use of beginning fund balance. The commission may transfer all or part of any actual unencumbered appropriation balance from one account, department, fund or agency to another.

7.07.3 Quarterly Reports

Within thirty (30) days after the end of each quarterly period during the fiscal year, and more often if required by the commission, the city administrator shall submit to the commission data showing the relation between the estimated and actual revenues and expenditures to date. If it shall appear that the revenues are less than anticipated, the commission shall reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

7.07.4 Surplus Appropriations to Fund Balance

At the end of each budget year, any appropriations not expended shall terminate and be included in the fund balance.

7.08 Purchasing Agent

The city administrator or a designee of the city administrator shall act as purchasing agent for the city.

7.09 Establishment of Procedures by Ordinance

The city commission shall establish by ordinance the procedures for the purchase, sale or lease of real and personal property and services for the city for the direction of the city administrator. The ordinance shall provide a dollar limit within which purchases, sales or leases of real and personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases, sales or leases may be made without the necessity of prior commission approval.

7.10 Depositories

The commission shall designate depositories for city funds in accordance with law, and shall provide for the regular deposit of all city money by the city treasurer, under the direction of the city administrator.

7.11 Investments

Surplus funds may be invested as permitted by law and as the commission may determine.

7.12 Independent Audit and Report

An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the city commission and in accordance with the law.

- 1) Such audit shall be made by certified public accountants experienced in municipal accounting and selected by the city commission.
- 2) Copies of such audit and annual report shall be made available for public inspection at the office of the city clerk within thirty (30) days after the receipt of the audit.
- 3) The city administrator shall include a management discussion and analysis per state law.

SECTION 8 – TAXATION & BONDS

8.01 Power to Tax

The city shall have the power to assess, levy, and collect ad valorem taxes, rents, tolls, and excise taxes. Except as otherwise provided by this charter, city taxes shall be assessed, levied, collected, and returned in the manner provided by law. The levy, collection, and return of state, county, and school taxes shall be in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

8.02 Tax Limits

Exclusive of any levies authorized by law to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed two (2%) percent or twenty (20) mills of the taxable value of all real and personal property in the city. The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law.

8.03 Power to Borrow – Bonds & Loans

Subject to state law and this charter, the commission may, by ordinance or resolution, authorize the borrowing of money for any purpose within the scope of powers vested in the city and may authorize the issuance of bonds or other evidences of indebtedness for the same purposes.

8.03.1 Types of Borrowing

Bonds or indebtedness shall include, but not be limited to:

- 1) general obligation bonds which pledge the full faith, credit, and resources of the city for payment of such obligations;
- 2) notes issued in anticipation of the collection of taxes;
- 3) in case of fire, flood, wind storm or other calamity, the commission may issue emergency bonds or notes in accordance with law, which may be general obligations of the city, to provide relief for the residents of the city, and for the preservation or restoration of municipal property;

- 4) special assessment bonds for the borrowing of money and issuing of bonds in anticipation of the payment of the special assessments, or in anticipation of the payment of any combination of special assessments. Such special assessment bonds may be an obligation of the special assessment district, or may be both an obligation of the special assessment district and a general obligation of the city as provided by law. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest. The use of surplus special assessment funds after all debt service is retired and the entire project is complete shall be subject to approval of the city bond attorney;
- 5) mortgage bonds for acquiring, owning, purchasing, constructing, improving or operating any public utility which the city is authorized by this charter or by law to acquire or operate;
- 6) bonds for the refunding of the funded indebtedness of the city;
- 7) revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the city;
- 8) bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the state or federal government which the city may be permitted by law to pledge for the payment of principal and interest thereof;
- 9) 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; and
- 10) bonds and notes 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 by law.

8.03.2 Proceeds of Bonds

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and it shall be unlawful to use the proceeds for any other purpose, provided that, whenever the proceeds of any bond issue or any part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue is made, the

commission shall use such unexpended and unencumbered funds for the retirement of said bond issue. Any remaining funds shall be used as provided by law.

SECTION 9 - BOARD OF REVIEW

9.01 Board of Review Selection

The city commission shall appoint three (3) electors to serve as the Auburn Board of Review. The assessor shall be the Secretary of the Board of Review, and shall be entitled to be heard at its sessions, but shall have not vote on any proposition or question;

9.02 Powers & Compensation

A board of review is hereby created with the powers and to perform the duties conferred upon it by law. The members of the board of review shall be considered officers of the city and shall take the constitutional oath of office, which shall be filed with the city clerk. The commission shall fix the compensation of the members of the board.

9.03 Appointments, Qualifications & Removal

The members of the board of review shall be appointed by the commission, and may be removed for reasons of nonfeasance or misfeasance by the vote of five (5) members of the commission. A board member who is elected to an office of the city shall be deemed to have resigned from the board of review as of the date of election.

The three members shall be appointed in a manner sustaining a pattern of three year staggered terms commencing on February 1.

9.04 Organizational Meeting

An annual organizational meeting of the board of review shall be held on Tuesday following the first Monday in March, at which the board will:

- 1) select one of its members as chairperson for the ensuing year;
- 2) review the assessment roll, and;
- 3) examine the guidelines and practices followed in preparing the assessment roll.

9.05 Meeting for Taxpayer Appeals

The board of review shall meet in accordance with state law. The board of review shall meet for at least three (3) hours after 6 p.m. consistent with state law. If there is business to conduct, the

board of review shall also meet in July and/or December in accordance with state law. The board shall hear the protests of all persons. Protests may be presented by personal appearance before the board, in writing, or both.

9.06 Review of Assessments Deadline

The review of assessments by the boards of review shall be completed on or before the first Monday in April.

9.07 Creation of Tax Roll

The certified assessment roll, as finally equalized, shall be used by the assessor in preparation of the tax roll. The city clerk shall certify to the assessor within three (3) days of adoption of the city budget the millage rates to be levied against the tax roll to support the budget, together with other charges which may be included on the tax roll as provided by the commission or by law. The assessor shall establish a schedule for receiving from other authorities their warrants certifying millage rates to be levied on their behalf.

9.08 Tax Becomes Lien on Property

The taxes thus levied on July 1 or, if later, as soon as they are levied, shall become a debt to the city from the persons against whom they are levied. The amounts levied, together with all legal charges, shall be a lien upon the property taxed until they are paid. The city treasurer shall have the authority and duty to collect the city taxes as granted and required by state law.

9.09 Collection of Taxes

The city administrator shall direct and require the treasurer to collect all taxes certified by the assessor. The treasurer shall do so according to state law. The city treasurer shall send a statement of the tax due by first-class mail or other communication authorized by law to each person or other location designated by a person named in the tax roll. The failure to give any such notice, or of the owner to receive it, shall not invalidate the tax or liability for nonpayment.

9.10 City Tax Due Date & Administration Fees/Penalties

City taxes shall be due and payable on the first day of July each year and may be paid without interest or penalty on or before September 14. To all taxes paid after September 14 there shall be added a four per cent (4%) penalty, which penalty shall increase by one half per cent ($\frac{1}{2}$ %) on

the first day of each succeeding month until the delinquent tax roll is returned to the county treasurer.

9.11 Tax Roll to County Treasurer

All taxes, special assessments, charges, penalties and collection fees on the city tax roll, including all additional assessments, charges and fees provided in this charter, which remain unpaid on the first day of March following the date when said roll was received by the city treasurer shall, on that date, become delinquent and shall be returned to the county treasurer for collection. The taxes thus returned shall be collected by the county treasurer as provided for in the general tax laws of the state. The taxes, fees, penalties, interest and other charges submitted to the county treasurer to be collected under the provisions of the general laws of the state shall be and remain a lien upon the lands against which they are assessed until paid. At the time of making the return of all unpaid taxes, the city treasurer shall retain a copy of the return of unpaid taxes and shall record subsequent collections or reassessments as returned to the city treasurer by the county treasurer.

SECTION 10 - SPECIAL ASSESSMENTS / PUBLIC IMPROVEMENTS

10.01 Commission Powers

The commission shall have the power to determine the necessity for any local public improvement. The commission shall also have the power to determine whether all or any part of the expense for such improvement shall be met by a special assessment upon the property or properties that benefit from the improvement.

Special assessments shall:

- 1) be set by resolution, or other method consistent with the laws of Michigan, and;
- 2) be based upon or in proportion to the benefits of the improvement.

10.02 Content of Public Notice

Special assessment resolutions shall not be adopted until:

- 1) public hearings have been held on the proposal, and;
- 2) mailed notices shall be sent to owners of property to be assessed which include the following:
 - a) the estimated cost of the improvement;
 - b) the share of the cost to be paid by the special assessment;
 - c) the share of the cost to be paid by the city;
 - d) the number of installments in which the assessments will be paid;
 - e) a clear designation of the districts or land and premises upon which the special assessments shall be levied;
 - f) a basis by which the possible assessment can be calculated for any single property;
 - g) any other requirement imposed by the laws of Michigan.

10.03 Special Assessment Procedure

The commission shall prescribe by general ordinance the complete special assessment procedure including:

- 1) the initiation of projects, improvements;
- 2) plans and specifications;
- 3) estimates of costs;

- 4) notice of hearings;
- 5) objections to projects, improvements;
- 6) making and confirming assessment rolls in advance of starting the project;
- 7) correction of errors in assessment rolls;
- 8) collection of special assessments;
- 9) contested assessments;
- 10) delinquent special assessments;
- 11) deferred special assessments; and
- 12) disposition of excessive special assessments.

SECTION 11 – UTILITIES & FRANCHISES

11.01 Powers Respecting Utilities & Vote to Acquire

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, and also to sell and deliver the products or services thereof, both within and without its corporate limits. The power to supply utilities services shall include the power to purchase and resell such services from any municipal or private entity. The city shall have no power to acquire any public utility unless the proposal receives an affirmative vote of three-fifths (3/5) the electors voting thereon.

11.02 Management & Ordinance Guidelines

Any public utilities the city shall have or acquire shall not be managed by an independent board or commission.

The commission shall prescribe by ordinance the desired guidelines that a public utility shall observe, beyond those prescribed by state law. Those guidelines shall address, but not be limited to, the following:

- 1) the establishment of just and equitable rates;
- 2) the collection of utility charges;
- 3) the procedure for dealing with refusal or failure to pay utility charges;
- 4) disposal of utility plants and property; and
- 5) contracts related to a public utility.

11.03 Public Utility Franchises

- 1) The city may grant a franchise to any person for the use of the streets, alleys, bridges, and other public places of the city for the furnishing of any public utility service to the city and its inhabitants.
- 2) Franchises and renewals, amendments, and extensions of franchises, and rules for the operation of ordinances, shall be granted or provided by ordinance. The ordinance may include such terms and conditions upon the franchise as the commission deems appropriate.

- 3) No franchise shall be granted for a longer period than thirty (30) years. No exclusive franchise shall be granted.
- 4) Neither a franchise ordinance which is not subject to revocation at the will of the commission, nor the purchase by the city of a franchised utility, shall be enacted or become operative until it has first been referred to the people at a regular or special election and received the affirmative vote of three-fifths (3/5) of the electors voting thereon.

SECTION 12 – STREETS AND PUBLIC GROUNDS

12.01 Responsibility for Public Property

The commission shall be responsible for supervision, control and maintenance of all property belonging to the city including the following: streets, roads, drives, alleys, parks, and of the space above and beneath them. Sidewalks shall be controlled by city ordinance.

12.02 Private Dedication Does Not Mean Public Acceptance

The city shall not be responsible for any private land merely because the owner dedicates it to public use. Property must be accepted and confirmed by the commission through an ordinance or resolution.

12.03 Authority to Make Public Improvements

The commission shall have authority to lay out, open, widen, extend, alter, straighten, close, vacate or abolish any highway, street, alley, drive, park or public grounds within the city whenever they deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be acquired by purchase, gift, condemnation, lease or otherwise for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not.

In accordance with state law the city cannot sell a park or any part of a park required under the official master plan of the city without voter approval of the majority of the voters voting on the proposed sale.

No action shall be taken to condemn private property for public use unless there is an affirmative vote of five (5) members of the commission.

12.04 Expense of Improvement

The expense of any improvement may be paid by special assessments upon the property adjacent to and benefitted by such improvements, or in the discretion of the commission, a portion of such costs and expenses may be paid by special assessment, and the balance from the general street fund.

No special assessment shall be made unless there is an affirmative vote of five (5) members of the commission.

12.05 Disposition of Public Property

A commission resolution is required for the city to divest itself of any public property. Five (5) affirmative votes are required for adoption. The resolution will appoint a time not less than four (4) weeks after the date of the resolution for a hearing on the proposed disposition of public property.

Public property that has been part of a city right-of-way shall not be vacated and reverted back to adjoining property owners without five (5) affirmative votes required for adoption.

12.06 Easements

Nothing in this charter shall prohibit the city from reserving through ordinance or resolution an existing easement for public utility purposes when public property is made available for private ownership.

SECTION 13 - MISCELLANEOUS

13.01 Liability

- 1) The provisions of this charter are not intended and shall not waive any immunity from tort liability provided by state or federal law.
- 2) Any liability of the city shall be as prescribed and limited by state or federal law.

13.02 Effect of Illegality of Any Part of Charter

Should any portion of this charter be declared void, illegal, and unconstitutional, such findings shall not invalidate the remainder of this charter.

13.03 Charter Amendments

This charter may be amended at any time in the manner provided by law. Should two (2) or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail.

13.04 Trusts

All trusts established for any municipal purpose shall be continued in accordance with the terms thereof, subject to the *cy pres* doctrine.

13.05 Sundays, Saturdays & Holidays

Whenever the date fixed by this charter for the doing or completion of any act falls on a Saturday, Sunday or holiday, such act shall be done or completed on the next succeeding day that is not a Saturday, Sunday or holiday.

13.06 Structure & Style of the Charter

The Table of Contents, Section and Subsection headings, and Appendix used in this charter are for convenience only and shall not be considered as part of the charter.

Within the charter, unless clearly otherwise noted, all lowercase references to the following shall apply to that position in Auburn: city, administrator, mayor, commission, treasurer, clerk, assessor, and board of review. Lower case "state" shall mean the State of Michigan.

13.07 Super Majority Compilation

Within the charter there are a number of decisions where more than a simple majority of the Commission is required. Those decisions include, but are not limited to, the following:

- 1) **Section 3.11** Mayor/Commissioner Forfeiture of Office.
- 2) **Section 3.17** City Administrator Selection & Removal.
- 3) **Section 4.04, 3)** No ordinance shall be enacted, amended, or repealed.
- 4) **Section 4.07** No office shall be created or eliminated.
- 5) **Section 4.08** No ordinance or resolution shall be rescinded.
- 6) **Section 5.11(8)** Amendment of ordinance adopted by electorate through initiatory proceeding.
- 7) **Section 9.03** No Board of Review member shall be removed.
- 8) **Section 12.03** No action shall be taken to condemn private property for public use.
- 9) **Section 12.04** No special assessment.
- 10) **Section 12.05** No street, alley, or public ground right-of-way shall be vacated.
- 11) **Section 12.05** There shall be no disposition of public property.

13.08 Records Made Available

All records of the City shall be made available to the general public in compliance with the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

13.09 Charter Adoption

This charter shall be submitted to a vote of the qualified electors of the city at an election to be held on Tuesday, November 5, 2013. This election shall be conducted by the officers responsible for conducting and supervising elections, following election procedures provided by law. For all purposes not otherwise provided for in this charter if approved by the electors at the November 5, 2013, election, then this charter shall take effect on January 1, 2014.

13.10 Form of Ballot

The form of the ballot proposition shall be as follows:

“Shall the proposed Charter for the City of Auburn drafted by the Charter Revision Commission elected November, 2011 be adopted?”

SECTION 14 – DEFINITIONS

<p>“cy pres” doctrine</p>	<p>"as close as possible." When a gift is made by will or trust (usually for charitable or educational purposes), and the named recipient of the gift does not exist, has dissolved, or no longer conducts the activity for which the gift is made, then the estate or trustee must make the gift to an organization which comes closest to fulfilling the purpose of the gift.</p> <p><i>Section 13.04</i></p>
<p>Officer</p>	<p>Officers of the city are: mayor, who is a member of the city commission, city commissioners, city administrator, treasurer, clerk, assessor, and board of review members.</p>

SECTION 15 - TRANSITIONS FROM OLD CHARTER TO NEW

15.01 Legislation & Appointments After Transition to New Charter

- 1) Legislation passed by the city commission prior to the adoption of this charter shall remain in force and effect unless declared inconsistent with this charter.
- 2) Appointments made by the commission before the adoption of this charter which are consistent with this charter shall remain in effect.

15.02 Headlee Override

Adoption of this charter is not approval of a Headlee override. This means that the millage authority of the city commission shall not change because this charter is adopted.

15.03 Terms of Office

The terms of the current mayor and commissioners at the time this charter takes effect on January 1, 2014, shall be in accordance with the resolution of the commission, Resolution No. 2013-2 adopted on May 6, 2013, by the commission, which provides for regular city elections in November of each even year commencing with the election in November 2016 and terms of office as follows:

- 1) The term of the mayor duly elected at the odd-year November election this year (2013) which would otherwise expire in November 2015 shall continue until his or her successor is elected and qualified in November 2016.
- 2) The term of the three (3) commissioners duly elected at the odd-year November election this year (2013) which would otherwise expire in November 2017 shall continue until their successors are elected and qualified in November 2018.
- 3) The terms of the three (3) commissioners duly elected at the odd-year November election in 2011 which would otherwise expire in November 2015 shall continue until their successors are elected and qualified in November 2016.

APPENDIX

This is not part of the charter, but is provided as a guide to the reader to identify where certain topics or words are found.

	Section Sub/Section
Acceptance/Rejection of Nomination	5.08
Adoption of Budget & Tax Limit	7.06
Appendix	p. 50
Appointment of Acting City Administrator	3.19
Appointments, Qualifications & Removal	9.03
Appropriations; Interim Accounting; Year-end Surplus	7.07
Appropriations – Additional	7.07.2
Appropriations – Initial	7.07.1
Approval of Petitions	5.06
Attorney Selection, Compensation & Removal	3.23
Authority to Make Public Improvements	12.03
Board of Review	SECTION 9
Board of Review Selection	9.01
Budget Document	7.04
Budget Officer	7.02
Budget Procedure & General Finance	SECTION 7
Charter Amendments	13.03
City Administrator Selection & Removal	3.17
Assessor Selection/Duties/Removal	3.16
Clerk & Treasurer Qualifications & Removal	3.13
Clerk Selection & Duties	3.14
Collection of Taxes	9.09
Commission Interference with City Administrator	3.09
Commission Meetings Frequency and Rules	4.02
Commission Powers	10.01
Commission Procedures & Duties	SECTION 4
Commissioner Election	3.05
Mayor/Commissioner Forfeiture of Office	3.11
Commissioner Length of Term, Staggered	3.06
Mayor/Commissioner Prohibitions	3.08
Mayor/Commissioner Qualifications	3.07
Compensation – Elected/Appointed/Employees	3.21
Content or Public Notice	10.02
Creation of Tax Roll	9.07
Deadline to Fill Vacant Administrator Position	3.18
Definitions (alphabetized)	SECTION 14
Depositories	7.10
Disposition of Public Property	12.05
Duties, Privileges & Immunities	3.22

Easements	12.06
Effect of Illegality of any part of Charter	13.02
Elected and Appointed Officials	SECTION 3
Election Commission	5.02
Elections	SECTION 5
Elections, Conduct of Elections, and Electors	5.03
Special Meetings	4.03
Emergency Ordinances	6.08
Establishment of Procedures by Ordinance	7.09
Evidence of Public Notice	6.04
Exercise of Powers or “Government”	2.05
Expense of Improvement	12.04
Filling of Vacancies on Commission	3.12
Fiscal Year	7.01
General Municipal Powers	2.02
Headlee Override	15.02
Independent Audit and Report	7.12
Ineligibility Following Elected Official Recall	5.13
Intergovernmental Cooperation and Contracts	2.03
Investigations	4.06
Investments	7.11
Legislation & Appointments After Transition to New Charter	15.01
Legislation (Ordinances & Resolutions)	SECTION 6
Liability	13.01
Management & Ordinance Guidelines	11.02
Mayor	3.01
Mayor Duties	3.04
Mayor Length of Term	3.02
Mayor Pro Tem	3.03
Meeting for Taxpayer Appeals	9.05
Michigan State Law Citations	p. 53
Miscellaneous	SECTION 13
Municipal Civil Infractions	6.09
Municipal Powers	SECTION 2
Name & Boundaries	SECTION 1
Nominating Petitions	5.05
Office Creation or Elimination	4.07
Ordinance & Resolution	6.01
Ordinance Format	6.02
Ordinance Procedure	6.05
Organizational Meeting	9.04
Power and Duties of the City Administrator	3.20
Power to Borrow - Bonds & Loans	8.03
Power to Tax	8.01
Powers & Compensation	9.02
Powers of Initiative and Referendum	5.11
Powers Respecting Utilities & Vote to Acquire	11.01

Preamble	p. 6
Private Dedication Does Not Mean Public Acceptance	12.02
Proceeds of Bonds	8.03.2
Public Access to Ordinances	6.03
Public Hearing	7.05
Public Hearings Regarding an Ordinance	6.06
Public Inspection of Petitions	5.07
Public Utility Franchises	11.03
Publication & Effective Date of Ordinances	6.07
Publication and Publishing & Evidence of Public Notice	4.05
Purchasing Agent	7.08
Quarterly Reports	7.07.3
Quorums	4.04
Reasons for Mayor/Commissioner Vacancy	3.10
Recall	5.12
Records made available	13.08
Rescinding Ordinances or Resolutions	4.08
Responsibility for Public Property	12.01
Review of Assessments Deadline	9.06
Special Assessment Procedure	10.03
Special Assessments / Public Improvements	SECTION 10
Special Elections Limited	5.04
Special Meetings	4.03
Streets and Public Grounds	SECTION 12
Structure & Style of the Charter	13.06
Submission of Budget and Budget Message	7.03
Sundays, Saturdays & Holidays	13.05
Super Majority Compilation	13.07
Surplus Appropriations to Fund Balance	7.07.4
Tax Becomes Lien on Property	9.08
Tax Due Date & Administration Fees / Penalties	9.10
Tax Limits	8.02
Tax Roll to County Treasurer	9.11
Taxation & Bonds	SECTION 8
Tie Votes	5.10
Transition from Old Charter to New	SECTION 15
Treasurer Selection and Duties	3.15
Trusts	13.04
Type of Government	2.01
Types of Borrowing	8.03.1
Utilities & Franchises	SECTION 11
Wards/Precincts	5.01
Withdrawal of Nominated Candidate	5.09

MICHIGAN STATE LAW CITATIONS

These citations are provided as a tool for the reader of Auburn’s charter, and are not part of the charter. The citations are not exhaustive as to Michigan State Law that applies to city governance.

MCL – MICHIGAN COMPILED LAW
HRCA – MICHIGAN’S HOME RULE CITY ACT

Section	Citation	Notes / Comments
2.02	MCL § 117.3(a)	A body vested with legislative power * HRCA
2.03	MCL § 117.3(j)	Intergovernmental Cooperation and Contracts
3.01	MCL § 117.3(a)	Mayor - non-partisan election * HRCA
3.02	MCL § 117.3(b)	Mayor - length of term * HRCA
3.04	MCL § 117.3(a)	Mayor – chief executive officer - duties * HRCA
3.05	MCL § 117.3(a)	Elective officers - non-partisan * HRCA
3.06	MCL § 117.3(b)	Commission - length of term* HRCA
3.07	MCL § 117.3 (d)	Mayor/Commission - qualifications* HRCA
3.13	MCL § 117.3(d)	Clerk & treasurer – qualifications * HRCA
3.14	MCL § 117.3(d) (m)	Clerk selection – duties – English journal* HRCA
3.15	MCL § 117.3(a)	Treasurer selection & duties* HRCA
3.16	MCL § 117.3(a) (d)	Assessor – appointment – qualifications & duties * HRCA
3.17	MCL § 117.3(a)	City administrator - selection - removal* HRCA
3.21	MCL § 117.3	Compensation elected, appointed officers * HRCA
3.23	MCL § 117.3(a)	City attorney - selection* HRCA
4.02	MCL § 117.3(l) MCL § 15.261 MCL § 15.231	Compliance - Michigan Open Meetings Act* HRCA
4.03	MCL § 117.3(l)	Compliance - Michigan Open Meetings Act * HRCA
4.05	MCL § 691.1051 MCL §15.264	
Section 5		Act 16 of 1954, being MCL 168.1 <i>et. seq.</i> “Election Code”
5.02	MCL § 168.323 MCL §168.719	Election Commission powers and duties
5.01	MCL § 117.3(e) MCL §168.658 MCL §168.642	Wards established* HRCA and limits on number of voters within a precinct
5.09	MCL § 168.322a	Withdrawal of nominating candidate
5.03	MCL § 117.3(a) (c)	Elections– time – manner – means – registration * HRCA
5.11	MCL § 117.1 et seq	Powers of initiative and citizen referendum
6.01	MCL § 117.3(k)	Adopting, continuing, amending ordinances* HRCA
6.02	MCL § 117.3(k)	Adopting, continuing, amending ordinances* HRCA
6.03	MCL § 117.3(k)(l)	Adopting, continuing, amending ordinances* HRCA Compliance – public access* HRCA
6.03	1974 PA 442,	Freedom of Information Act

	MCL § 15.261 to 15.275	
6.05	MCL § 117.3(k)	Adopting, continuing, amending ordinances* HRCA
6.07	MCL § 117.3(k)	Publication before operative* HRCA
6.08	MCL § 117.3(k)	Publication before operative* HRCA
6.09	MCL § 117.4(l)	Adoption of civil infraction enforcement
7.03	MCL § 141.421	Uniform Budgeting & Accounting Act
7.04	MCL § 141.421, et seq.	Uniform Budgeting & Accounting Act
7.11	PA 20 of 1943	<i>State Law for investments</i>
8.01	MCL § 117.3(i)	The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state.
8.02	Section 27a of the general property tax act, 1893 PA 206, MCL § 211.27a.	Determines bases of “assessed value” in charter. <i>HRCA 117.3 (g) says ...</i> As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.
8.02	MCL § 117.3(g)	Not to exceed 2% taxable value ... * HRCA
9.01	MCL § 211.28	4) The size, composition, and manner of appointment of the Board of Review of a city may be prescribed by the charter of a city. In the absence of or in place of a charter provision, the governing body of the city, by ordinance, may establish the city Board of Review in the same manner and for the same purposes as provided by this section for townships. 5) A majority of the entire Board of Review membership shall indorse the assessment roll as provided in section 30. The duties and responsibilities of the Board contained in section 29 shall be carried out by the entire membership of the Board of Review and a majority of the membership constitutes a quorum for those purposes.
9.01	MCL § 117.3(a)	Board of review – appointment * HRCA
9.05	PA 194 of 2003 MCL 117.3i	“ ... 3 hours after 6 p.m. ... ” The hearings may be at times provided in the city charter per the HRCA
9.01	MCL 211.28(4)	General Property Tax Act, 1893 PA 206 ... the “manner of appointment” is taken to include both the how of appointment and the length of term. Auburn is retaining three year staggered terms as we have in past practice.
9.06	MCL 211.30a MCL 117.3i	The confirmation of the assessment roll may be at times provided in the city charter per the HRCA

10.02	117.4d,(2) (b);	Content of public notices
12.03	MCL 117.5(e)	Protection of park under master plan.
15.01	MCL 117.3(k)	Adopting, continuing, amending ordinances* HRCA
13.08	MCL 117.3(l)	Records made available.

* Mandatory in the Home Rule City Act that charters address these issues.