

CHARTER  
OF THE  
CITY OF BIRMINGHAM  
MICHIGAN



ADOPTED APRIL 3, 1933

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# CHARTER

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## CITY OF BIRMINGHAM

### MICHIGAN

*We, the people of the City of Birmingham, County of Oakland and State of Michigan, pursuant to the authority granted by the Constitution and the Statutes of the State of Michigan, do hereby ordain and establish this Charter for the City of Birmingham, Michigan.*

#### CHAPTER I

#### Boundaries, Ward, Precincts

##### *Boundaries*

**Section 1.** The City of Birmingham shall include all the territory embraced within the former Village of Birmingham, which territory is more particularly described as follows:

Beginning at the East quarter corner of Section 30, Town 2 North, Range 11 East, (Troy), Oakland County, Michigan; thence South along the East line of said Section 30 to the Southeast corner thereof; thence West along the South line of said Section 30 to the Northeast corner of Birmingham Gardens Subdivision, according to the recorded plat thereof; thence Southerly along the East line of said Birmingham Gardens Subdivision to the Northwest corner of Sheffield Estates No. 1 Subdivision, according to the recorded plat thereof; thence Easterly along the North line of said Sheffield Estates No. 1 Subdivision to the Northeast corner thereof; thence Southerly along the East line of said Sheffield Estates No. 1 Subdivision to the South line of Section 31, Town 2 North, Range 11 East, (Troy); thence West along the South line of said Section 31 to the Southwest corner of Sheffield Estates Subdivision, according to the recorded plat thereof; thence North 273.00 feet; thence West 239.34 feet; thence South 120.00 feet; thence West 334.84 feet; thence South 45 degrees 47' 40" West 47.00 feet; thence South 1 degree 24' 40" East 120.27 feet to the South line of said Section 31; thence West along the South line of said Section 31 and the South lines of Sections 36 and 35, Town 2 North, Range 10 East, (Bloomfield), to the Southwest corner of Birmingham Hills Subdivision, according to the recorded plat thereof; thence Northerly along the West line of said Birmingham Hills Subdivision to the center line of Northlawn Avenue as plated; thence Westerly and Northwesterly along the center line of said Northlawn Avenue to the Southeast corner of Northlawn Heights Subdivision, according to the recorded plat thereof; thence continuing Northwesterly and then Westerly along the South line of said Northlawn Heights Subdivision to the Southwest corner thereof; thence continuing Westerly and then Southwesterly along the South line of Assessor's Plat No. 9, part of the Southwest quarter of Section 35, Town 2 North, Range 10 East, according to the recorded plat thereof, to the Southeast corner of Golf View Heights Subdivision, according to the recorded plat thereof; thence continuing Southwesterly along the South line of said Golf View Heights Subdivision to the West line of said Section 35; thence North along the West line of said Section 35 to the Northwest corner thereof; thence East along the North line of said Section 35 to the Southeast corner of Judson Bradway's Bloomfield Village No. 3 Subdivision, according to the recorded plat thereof; thence Northerly along the East line of said Judson Bradway's Bloomfield Village No. 3 Subdivision to the Southeast corner of Bloomfield Woods Subdivision, according to the recorded plat thereof; thence Westerly along the South line of said Bloomfield Woods Subdivision to the Southwest corner thereof; thence Northerly along the West lines of said Bloomfield Woods Subdivision and of Harrowgate Subdivision, according to the recorded plat thereof, to the Northwest corner of



said Harrowgate Subdivision; thence Northeasterly along the North line of said Harrowgate Subdivision to the North and South quarter line of Section 26, Town 2 North, Range 10 East, (Bloomfield); thence North along said quarter line to the North quarter corner of said Section 26; thence East along the North line of said Section 26 to the center line of Pilgrim Avenue as platted in Quarton Lake Estates Subdivision, according to the recorded plat thereof; thence Southerly along the center line of said Pilgrim Avenue to the East and West quarter line of said Section 26; thence East along said quarter line to the center line of Midland Avenue as platted in said Quarton Lake Estates Subdivision (said Midland Avenue now being known as Lake Park Drive); thence Northerly along the center line of said Midland Avenue to the Southwest corner of Lot 702 of said Quarton Lake Estates Subdivision; thence Northerly along the West lines of Lots 702 and 715 of said Quarton Lake Estates Subdivision and the extension thereof to the North line of said Section 26; thence East along the North line of said Section 26 and the North line of Section 25, Town 2 North, Range 10 East, (Bloomfield), to the center line of Woodward Avenue; thence Southeasterly along the center line of Woodward Avenue to the East and West quarter line of said Section 25; thence East along said quarter line to the Southwest corner of Birmingham Riverview Subdivision, according to the recorded plat thereof; thence Northwesterly along the Southwest line of said Birmingham Riverview Subdivision to the West corner thereof; thence Northeasterly along the Northwest line of said Birmingham Riverview Subdivision to the center line of the River Rouge; thence Northeasterly along the center line of the River Rouge to the Northwest corner of said Birmingham Riverview Subdivision; thence Easterly along the North line of said Birmingham Riverview Subdivision to the Northeast corner thereof, which point is on the North and South quarter line of said Section 25; thence North along said quarter line to the Northwest corner of Birmingham Forest Hills Subdivision, according to the recorded plat thereof; thence Easterly along the North line of said Birmingham Forest Hills Subdivision to the West line of the North part of said Birmingham Forest Hills Subdivision; thence Northerly along said West line to the North line of the North part of said Birmingham Forest Hills Subdivision; thence Easterly along said North line to the East line of said Section 25; thence South along the East line of said Section 25 to the Northwest corner of Birmingham Estates Subdivision, according to the recorded plat thereof; thence Easterly along the North line of said Birmingham Estates Subdivision to the North and South quarter line of Section 30, Town 2 North, Range 11 East, (Troy); thence North along the North and South quarter line of said Section 30 to the center of said Section 30; thence East along the East and West quarter line of said Section 30 to the point of beginning; EXCEPT the following described lands:

COMMENCING at the Northwest corner of Section 31, Town 2 North, Range 11 East, (Troy); thence South along the West line of said Section 31 to the Southwest corner of Birmingham Villas Subdivision, according to the recorded plat thereof, which point is the point of beginning of this exception; thence Easterly along the South line of said Birmingham Villas Subdivision to the Southeast corner thereof; thence Southerly along the West line of Birmingham Gardens Subdivision, according to the recorded plat thereof, to the Northeast corner of Leinbach-Humphrey's Woodward Avenue Subdivision, according to the recorded plat thereof; thence Westerly along the North line of said Leinbach-Humphrey's Woodward Avenue Subdivision to the West line of said Section 31; thence North along the West line of said Section 31 to the point of beginning of this exception.

## CHAPTER II.

### General Powers

**Section 1.** The City of Birmingham shall be a body corporate and politic, shall have perpetual succession, shall have a corporate seal, may sue and be sued and may contract and be contracted with.

*City a corporate  
and politic body*

**Section 2.** The city shall have power:

*Power to*

(1) To acquire by purchase, gift, condemnation, lease, construction

*own property*



or otherwise, either within or without its corporate limits and either within or without the corporate limits of the County of Oakland, the following improvements, including the necessary lands therefor, viz.: City hall, police station, fire station, boulevards, streets, alleys, public parks, recreation grounds, library, museum, airport, city prison, hospital, water works plant and system, sewage disposal plant and system, garbage disposal plant, rubbish disposal plant, market places, public works and public buildings of all kinds; and to acquire by purchase, gift, condemnation, lease, or otherwise, private property, either within or without its corporate limits and either within or without the corporate limits of the County of Oakland, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. All condemnation proceedings instituted for the acquisition of private property, either within or without the corporate limits of the city, may, at the option of the city commission, be taken in accordance with the provisions of Act No. 149 of the Public Acts of Michigan of 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein," and all acts amendatory thereof or supplemental thereto, or under the provisions of Act No. 124 of the Public Acts of Michigan of 1883, entitled "An act to authorize cities, villages and counties to take private property for the use or benefit of the public, and to repeal Act Number Twenty-six (26) of the Public Acts of eighteen hundred eighty-two (1882)," or any act amendatory thereof or supplemental thereto, or under such other appropriate general provisions of law therefor as are or shall be provided by the statutes of the State of Michigan.

*Develop, lease and sale of property*

(2) To maintain, develop, operate, lease and dispose of its property subject to any restrictions placed thereupon by law or by this charter; provided that no property of a value in excess of Two Dollars (\$2.00) per capita according to the last preceding United States census, or any park, cemetery, or any part thereof, or any property bordering on a water front shall be sold, nor shall any street or public place leading to a water front be vacated, nor shall the city engage in any business enterprise requiring an investment of money in excess of ten cents (10c) per capita, unless approved by a majority of the electors voting thereon.

*Enforcement of ordinances and resolutions*

(3) To make and enforce ordinances and resolutions for the protection and control of property belonging to the city located within its corporate limits, and to make and enforce such ordinances and resolutions as to such property located without its corporate limits as is permissible under the laws of the state.

### Section 3. The city shall have power:

*City has power to zone*

(1) To establish districts or zones within which the use of land and structures, the height, the area, the size and the location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance, and such regulations in one or more districts may differ from those in other districts.

*Regulate billboards*

(2) To regulate and license the location, construction, size and height of billboards and the maintenance thereof; or to entirely prohibit the construction and maintenance of billboards in the city.

*Regulate gasoline stations*

(3) To license, regulate, and restrict oil and gasoline stations and the locations thereof.

*Establish fire limits*

(4) To establish and maintain definite fire limits and to prohibit within such limits the construction of buildings and other structures of wood and other materials easily inflammable.

*Control fire hazards*

(5) To enact and enforce ordinances in relation to the prevention and suppression of fires and to provide for the inspection of private property for the purpose of determining where a fire hazard exists.

*Regulate building*

(6) To enact a building and housing code; to regulate the erection and repair of buildings and to require building permits therefor; to prevent the erection of unsafe buildings and to provide for the removal of any such buildings; and to regulate the maintenance and occupancy of buildings insofar as the same affect health and safety.



(7) To prescribe by ordinance the limits or districts within which shall be prohibited the location of any trade or business which in the opinion of the commission will be detrimental to the peace, health or safety of the inhabitants in such district. *Regulate obnoxious businesses*

(8) To regulate the height, construction and location of fences; to provide for the building and maintenance of partition fences and all things in relation thereto; to determine all disputes between owners in relation to partition fences and to enforce such determinations. *Regulate fences*

**Section 4.** The city shall have power:

(1) To prevent the introduction and spreading of malignant infections or contagious diseases within the city and to remove persons having such diseases to such proper places either within or without the city limits as may be deemed necessary for the public health. *Power to control disease*

(2) To regulate and control the disposition and handling of garbage, ashes and any other thing detrimental to the public health or good sanitation; to provide for the collection and disposal of garbage, ashes and rubbish. *Regulate waste disposal*

(3) To define, prohibit, abate, suppress or prevent all nuisances and all things detrimental to the health, safety and welfare of the inhabitants of the city, and the causes thereof. *Abate nuisances*

(4) To provide for the inspection and to regulate and license the manufacture, sale and keeping for sale of provisions, foods, food supplies and beverages. *Regulate food sale*

**Section 5.** The city shall have power:

(1) To regulate and license hotels, rooming houses, boarding houses and restaurants. *Power to regulate Hotels*

(2) To prohibit or to regulate and license public billiard and pool tables, public billiard and pool rooms, and bowling alleys, and to restrict the location thereof. *Poolrooms*

(3) To regulate and license theaters, motion picture shows, public shows, exhibitions and other amusements. *Theatres*

(4) To regulate and license public dances and public dance halls, and to restrict the location thereof. *Dance halls*

(5) To regulate and license auctioneers, pawnbrokers, hawkers, peddlers, solicitors, transient merchants, junk dealers and junk yards. *Peddlers  
Hawkers*

(6) To license dogs and other animals and to restrict or prevent their running at large. *Dogs*

(7) To license, regulate or prohibit hunting, trapping and the use of firearms within the corporate limits. *Use of firearms*

(8) To regulate trades, occupations and amusements within its boundaries in such manner as shall be consistent with state and federal laws, and to prohibit such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants. *Prohibit certain businesses*

(9) To regulate and license vehicles used for the conveyance of persons and property for hire, and to regulate and license the drivers thereof. *Taxis*

(10) To regulate and license the storing, handling, transportation, sale and disposition of combustible and explosive substances of every character, and to prohibit the same if not in conflict with the laws of the state. *Explosives*

(11) To prescribe the terms and conditions upon which licenses shall be granted; to require the payment of such license fees and the furnishing of such bond as the commission may deem reasonable and proper, and to provide that all licenses shall be subject to revocation by the commission in the manner provided in each particular ordinance. *Licensing*

**Section 6.** The city shall have power:

(1) To regulate the speed of vehicles, to prohibit the driving thereof while under the influence of liquor, to prohibit the reckless driving of vehicles upon the streets, highways and alleys of the city, and to regulate pedestrian traffic upon the streets, highways, and alleys of the city. *Power to regulate traffic*



*Parking of  
vehicles*

(2) To regulate traffic and the parking of automobiles and other vehicles; to prohibit such parking on designated highways, streets and alleys or parts thereof; to provide for the impounding of vehicles parked in violation of such regulations or prohibitions and of vehicles abandoned and left on the streets, highways and alleys of the city; and to provide for the sale of any impounded vehicle unless such vehicle shall be claimed and the impounding and other charges paid within sixty (60) days after the impounding of such vehicle.

*Aircraft*

(3) To license and regulate the operation of aircraft.

*Taking of census  
Public utilities***Section 7.** The city shall have power:

(1) To provide for taking the census of the city.

(2) To regulate public utilities; to require that wires in streets, highways and alleys be placed underground; to regulate the location of all poles and other facilities used by public utilities.

*Fire department*

(3) To establish, equip, operate, and maintain a fire department and a police department, and to make rules and regulations therefor.

*Fire protection*

(4) To contract with or arrange with any municipality, individual or corporation for fire protection.

*Weights and measures*

(5) To inspect, regulate and control all weights and measures and the use thereof, and to seize and destroy inaccurate or fraudulent weights and measures.

*Enforce laws*

(6) To make and enforce all such local, police, sanitary and other regulations as are not in conflict with the general laws.

*Powers granted  
by state*

**Section 8.** The city shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants; through its regularly constituted authority, to pass and enforce all laws and ordinances relating to its municipal concerns, subject to the constitution and general laws of the state and the provisions of this charter; and generally to do any act permitted by the provisions of Act No. 279 of the Public Acts of 1909 as amended or as may be amended, whether such act is specifically mentioned herein or not.

The enumeration of specific powers in this charter shall not be construed as a limitation upon the general powers granted by the provisions of this or any other section of this charter.

**CHAPTER III.****Plan of Government***Powers of Commission  
governing body*

**Section 1.** All the powers of the city, except as otherwise provided by statute or this charter, shall be vested in a commission of seven (7) members, elected at large as hereinafter provided.

*Qualifications of  
commissioners*

**Section 2.** The commission shall constitute the legislative and governing body of the city with power and authority to pass such ordinances and adopt such resolutions as it shall deem proper for the exercise of the powers possessed by the city.

**Section 3.** The members of the commission shall be elected on a non-partisan ticket from the city at large and shall be subject to recall as provided by the laws of the state. No person shall be eligible to the office of commissioner who shall not be an elector in the city and who has not been a resident of the city for at least two (2) years immediately prior to his election. For the purpose of this section, residents of the Village of Birmingham shall be considered as residents of the City of Birmingham.

*Elections and  
terms of  
Commissioners*

**Section 4.** At the election at which this charter shall be submitted there shall be elected seven (7) commissioners whose terms of office shall begin on the taking effect of this charter. The three candidates receiving the highest number of votes shall serve until eight o'clock P. M. on the first Monday following the regular annual election in the year 1936. The two candidates receiving the next highest number of votes shall serve until eight o'clock P. M. on the first Monday following the



regular annual election in the year 1935; and the two candidates receiving the next highest number of votes shall serve until eight o'clock P. M. on the first Monday following the regular annual election in the year 1934. At the regular annual election in the year 1934 and in each year thereafter, there shall be elected commissioners equal in number to those commissioners whose terms will expire on the first Monday following such election, each of whom shall serve for a term of three (3) years, beginning at eight o'clock P. M. on the first Monday following such regular annual election.

The commission shall be the judge of the election and qualification of its own members, subject, however, to review by the courts in appropriate proceedings.

**Section 5.** At eight o'clock P. M. of the day upon which the charter shall take effect and on the first Monday following the regular municipal election in 1934 and each regular municipal election thereafter, the commission shall meet at the usual place for holding the meetings of the legislative body of the city for the purpose of organization. At each of said organization meetings the commission shall elect one of its members as mayor who shall be the presiding officer of the commission and chief executive head of the city and who shall have such other powers and perform such other duties as are or may be imposed or authorized by the laws of the state, by this charter or by the commission. He shall be the conservator of the peace and may exercise within the city the powers conferred upon sheriffs to suppress disorder. At each of said organization meetings the commission shall also elect another member of the commission as mayor pro tem, who during the mayor's absence or disability to perform his duties, shall act in his stead and shall during the time of said absence or disability, exercise all of the duties and possess all of the powers of the mayor. In the absence or disability of the mayor pro tem, the commission may temporarily appoint one of its members to that office. The mayor as a member of the commission shall have the right to vote on all matters before the commission and shall possess all of the other rights and powers of members of that body. He shall not have the right of veto.

*Selection of mayor*

*Powers of mayor*

*Mayor pro tem*

*Veto*

**Section 6.** Regular meetings of the commission shall be held at such times as may be prescribed by resolution, provided that it shall meet regularly not less than once a week. The mayor or any two commissioners may call special meetings of the commission upon at least ten hours' written notice to each member, served personally or left at his usual place of residence, provided, however, that any special meeting at which all members of the commission are present shall be a legal meeting for all purposes without such written notice. All meetings of the commission shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business. It shall keep a journal of its proceedings in English which shall be signed by the clerk.

*Meetings of Commission*

**Section 7.** Four (4) members of the commission shall constitute a quorum, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance, and all pending business noticed or set down for hearing at such meeting shall be taken up and heard at such adjourned meeting or at the next regular meeting without further notice. The commission shall act only by ordinance or resolution. The word "resolution" as used in this charter shall include official action in form of a motion. The affirmative votes of a majority of the commission elect shall be required for the passage of any ordinance or resolution, unless in any given case a different number is required by this charter or by state law. All votes shall be by "yeas" and "nays." Each member present shall be required to vote unless disqualified or unless he shall state his reason for not voting, which shall be recorded in the minutes. Where a vote is unanimous it shall not be necessary to include in the minutes the names of the members voting but the vote shall be designated by the number of votes for or against the pending matter.

*Commission proceedings*

*Quorum*

*Method of voting*

**Section 8.** The commission shall appoint a city manager who shall be responsible to the commission and who shall, in addition to the powers

*City Manager*



and duties specified in this charter, have such executive and administrative powers and duties as shall be delegated to him by ordinance or resolution of the commission. The city manager shall be responsible to the commission for the efficient administration of all departments. He shall be a citizen of the United States and shall be chosen by the commission solely on the basis of his fitness to perform the duties of his office, and shall hold office at the will of the commission under the direction and management of the commission; he shall be the chief administrative officer of the city government; he shall be present at all meetings of the commission and shall be entitled to be present at all meetings of its committees. He may take part in all discussions but shall have no vote. The commission may provide that the powers and duties of any appointed officer other than the clerk, treasurer, assessor or health officer shall be exercised and performed by the manager, or it may appoint the manager to any office other than that of clerk, treasurer, assessor or health officer. The commission may at any time appoint an acting manager to act in the event of the disability or absence of the appointed manager, or pending the appointment of a manager.

*Appointments  
by Commission*

*Appointments  
by Manager*

**Section 9.** The commission shall within thirty (30) days after this charter takes effect, and from time to time thereafter whenever a vacancy shall occur, appoint a clerk, a treasurer, an assessor, and a health officer, and it shall annually appoint two members of the board of review. The manager may, with the advice and consent of the commission, appoint a city attorney, an engineer, a chief of police, a chief of fire department, and any other officers for whose appointment provision shall be made in this charter, and provide for their powers and duties. Unless otherwise provided in this charter or by statute, all appointees of the commission shall hold office during the pleasure of the commission, and all other appointive officers shall hold office during the pleasure of the manager. One person may be appointed to two or more offices except that the offices of clerk and treasurer shall not be filled by the same person.

*Appointment of  
health officer*

*Qualifications*

**Section 10.** The commission shall, within thirty (30) days after this charter takes effect and from time to time thereafter whenever a vacancy shall occur, appoint a health officer who shall be either a Doctor of Public Health or a Doctor of Medicine licensed and authorized to practice in the State of Michigan. The health officer shall appoint his subordinates.

*City Clerk*

**Section 11.** The city clerk, in addition to the powers and duties elsewhere specified in this charter, shall keep the corporate seal and have the custody of all books, official bonds, records, papers and documents which are not by this charter or the ordinances of the city, entrusted to some other officer; he shall be clerk of the commission, shall attend all of its meetings, and shall keep a record of all of its proceedings; he shall issue all licenses as authorized by the commission or by ordinance, and shall keep a record thereof; he shall, upon request, make certified copies of any papers or documents in his custody, and such copies shall be evidence in all places or proceedings of the matters therein contained to the same extent as the original would be, and he may charge therefor such fees as shall be prescribed by the commission; and he shall keep a record of all property belonging to the city.

*Powers and duties*

*City Treasurer*

*Powers and duties*

**Section 12.** The city treasurer in addition to the powers and duties elsewhere specified in this charter, shall have the custody of all moneys, bonds (other than official), mortgages, notes and securities belonging to the city. He shall give bond in such amount and with such sureties as are satisfactory to the commission.

*City Assessor*

*Powers and duties*

**Section 13.** The city assessor shall perform such duties in relation to the assessing of property and levying of taxes and special assessments as are prescribed by this charter and the laws of the state.

*Board of Review*

**Section 14.** The city assessor, and two qualified freeholders and electors of the city who shall be appointed by the city commission as hereinbefore provided, shall constitute the board of review of the city in relation to assessments made for general taxation purposes, whether under the provisions of this charter or the general laws of the state. The



members of the board of review shall receive such compensation as shall be fixed by the commission.

**Section 15.** The chief of police shall be charged with the enforcement within the city, of the laws of the United States, and the state, and of the charter and ordinances of the city, unless it is otherwise provided in such laws, charter or ordinances. He shall be in charge of the police force of the city. Members of the police force shall have power and it shall be their duty to enforce the penal laws of the United States, the penal laws of the state, the penal ordinances of the city, and the penal provisions of this charter; to suppress all riots, disturbances and breaches of the peace; to arrest all persons fleeing from justice; in compliance with the laws of the state to apprehend persons guilty or suspected of being guilty of violation of the laws of the United States, the state, the ordinances of the city, or the provisions of this charter; to make complaints before the proper officer or magistrate against any person known or believed by them to be guilty of any violation of the laws of the United States, the state, the ordinances of the city or the provisions of this charter; to serve all processes that may be delivered to them in criminal, charter and ordinance cases. When any person has committed or is suspected of having committed any crime or misdemeanor within the city or has escaped from the city prison or from custody of the police, the police force of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county. The police shall have the same powers and rights in relation to offenses against the ordinances of the city and the provisions of this charter, as they have in cases of misdemeanors under the laws of this state. They shall have all the powers given by law to constables for the preservation of quiet and good order and in relation to the enforcement of the laws of the state and ordinances of the city, and in addition thereto shall have such other powers as are conferred generally upon peace officers of the state. They shall perform such other duties as may be required of them by the commission for the good government of the city.

*Chief of police  
department*

**Section 16.** The chief of the fire department or in his absence, the officer in charge, may command any person present at a fire to aid in the extinguishment thereof, and to assist in the preservation of life or property thereat. If any person willfully disobeys any such lawful requirement or other lawful order of any such officer, he shall be deemed guilty of a misdemeanor. Such officer may cause any building to be razed or destroyed when deemed necessary in order to arrest the progress of a fire and no action shall be maintained against any person or against the city therefor.

*Chief of fire  
department*

**Section 17.** The health officer shall have power, subject to the laws of the state, to prevent, remove or abate nuisances dangerous to life or health. He may require the owner or occupant of any premises to remove any such nuisance or to correct any condition on such premises which causes a nuisance. If such owner or occupant shall refuse or neglect to comply with any such requirement, the health officer may cause such nuisance to be removed or such condition to be corrected, and the expense thereof may be recovered in a suit against such owner or occupant, or a special assessment may be levied against such owner or occupant and upon the premises. The health officer shall have charge of food inspection and matters of sanitation.

*Health officer*

**Section 18.** The commission shall appoint such number of supervisors to represent the city on the Board of Supervisors of Oakland County as the city shall from time to time be entitled by law to have, and members of the commission, officers and employees of the city shall be eligible to such appointment, provided, that supervisors who are also either members of the commission or officers or employees of the city shall at no time constitute a majority of the supervisors representing the city, if there be more than one supervisor. The representative or representatives of the city, aforesaid, shall be endowed with all of the rights, powers, and duties conferred upon members of the Board of Supervisors by the general laws of this state. Any members of the city commission or officers or employees of the city who shall from time to time be members of the Board of Supervisors from this city, shall be entitled to retain any compensation paid to them as members of the

*Supervisors*



Board of Supervisors; excepting that full time officers and/or employees shall pay to the city treasury such compensation received by them.

*Salaries*

**Section 19.** Subject to the provisions of this charter, the commission shall fix the salary or compensation of its direct appointees. The members of the commission shall each receive the sum of Five Dollars (\$5.00) for each regular commission meeting attended. Members of the commission shall receive no further compensation from the city.

*Officers, powers and duties*

**Section 20.** All officers of the city shall perform such duties and possess such powers as are or may be prescribed by this charter, by the general laws of the state or by the commission.

*Nepotism*

**Section 21.** Relatives by blood or marriage of the mayor, any commissioner or the manager, within the second degree of consanguinity or affinity, are hereby disqualified from holding any appointive office or from being employed by the city, during the term for which such mayor or commissioner was elected, or during the tenure of office of such manager.

*Bonds (surety) required*

**Section 22.** The commission may require any officer or employee to give a bond for the faithful performance of his duties, in such amount as it may determine, and the premium thereof shall be paid by the city. Any officer or employee required by the provisions of this charter, the general laws of the state, any ordinance of the city, or by the commission, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed and approved. All such bonds except as herein otherwise provided, shall be approved by the commission and filed with the clerk, excepting the bond of the clerk, if any, which shall be filed with the treasurer.

*Surety bonds*

**Section 23.** All bonds required by the provisions of this charter shall be the bonds of surety companies authorized to do business in the State of Michigan, or in lieu of said bonds there may be deposited, in such manner and subject to such regulations and limitations as the commission shall prescribe, cash in an amount equal to the penalty required in such bond.

*Elective officers not eligible for appointment*

**Section 24.** Except as otherwise specifically provided in this charter, no elective officer shall hold any office except that to which he was elected, nor shall he be elected or appointed to any office which was created or the compensation of which was fixed or increased by the commission while he was a member of such commission, until the expiration of one year from the date when he ceased to be a member of the commission.

*Term of office*

**Section 25.** All elective officers shall hold office until their successors shall have been elected and shall have qualified.

*Vacancies*

**Section 26.** In addition to other provisions herein contained, a vacancy shall exist in any elective office when an elected officer fails to qualify as in this charter provided, dies, resigns, is removed from office, removes from the city, or is convicted of a felony.

*Vacancies filled*

**Section 27.** A vacancy in any elective office shall within thirty days after such vacancy occurs be filled by appointment by a majority of the members of the commission, or of the remaining members of the commission when the vacancy is in the commission. Such appointee shall hold office until the next regular municipal election, at which election a successor shall be elected for the unexpired term of the person in whose office the vacancy occurs. When a vacancy occurs in any office to which a person has been appointed for a definite term, such vacancy shall within thirty days be filled for the unexpired term, by appointment made in the manner provided for full term appointment to such office.

*Bribe*

**Section 28.** No member of the commission, the manager or other officer or employee of the city shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm, or corporation operating a public utility within the city, or from any person known to him to have secured, or to be endeavoring to secure, a contract with the city.

*Notification of election to office*

**Section 29.** Within five (5) days after the commission shall have met and determined, as provided in this charter, the election of any person or persons, the clerk shall notify in writing each elected person of his election, and he shall, also, within five (5) days after the appointment of



any person to any office, in like manner notify such person of his appointment.

**Section 30.** No person who has been convicted of defalcation from the city or from any other governmental corporation, or who has been convicted of felony, shall be elected or appointed to any office of the city. All votes for any appointment of such person shall be void.

*Persons not eligible for office*

**Section 31.** Every officer elected or appointed to any city office, before entering upon the duties of his office shall take and subscribe to an oath of office, which shall be filed and kept in the office of the city clerk, to support the Constitution of the United States, and the Constitution of the State of Michigan; to endeavor to secure and maintain an honest and efficient administration of the affairs of the City of Birmingham, free from partisan distinction or control, and to perform the duties of his office to the best of his ability. In case of his failure to do so, within ten (10) days after the time fixed for taking office, he shall be deemed to have declined the office unless the time therefor shall be extended by the commission. The oath of office hereinbefore in this Section mentioned shall be as follows:

*Oath of office*

"I do solemnly swear (or affirm) that I will support the Constitution of the United States of America and the constitution of this state and endeavor to secure and maintain an honest and efficient administration of the affairs of Birmingham, free from partisan distinction or control, and to perform the duties of the office of..... according to the best of my ability."

**Section 32.** The clerk and the treasurer or either of them may deputize a member of his office as deputy clerk or deputy treasurer, as the case may be, subject to the confirmation of the commission. The clerk and the treasurer, or either of them, may remove his deputy at pleasure. Each deputy shall possess all the powers and authorities of his superior officer except as the same may be from time to time limited by the commission.

*Deputy clerk or treasurer*

**Section 33.** If, for any reason, any appointment shall not be made by the commission within the time provided in this charter, it may be made at any subsequent regular or special meeting.

*Appointments*

#### CHAPTER IV.

#### Registrations, Nominations and Elections

##### Registrations

**Section 1.** The registration and re-registration of electors in the City of Birmingham shall be conducted as provided for in the general laws of the State of Michigan.

*Registration of voters*

##### Nominations

**Section 2.** Candidates for any elective office to be filled at any municipal election under the provisions of this charter shall be nominated by petition in the manner hereinafter prescribed, and the names of the candidates so nominated for any such office and no others shall be printed on the election ballot to be voted for at the next regular municipal election.

*Nominations of candidates*

**Section 3.** Such petition for nomination shall be in substantially the following form:

*Nominating petitions*

We, the undersigned, being duly qualified electors of the City of Birmingham, Michigan, and residing at the places set opposite our respective signatures hereto, do hereby request that the name of (name of candidate) who resides on ..... in the City of Birmingham, Michigan, be placed on the ballot as a candidate for (name of office) at the election to be held in said city on the ..... day of ....., 19..... We further state that we know him to be a qualified elector of said city and a person of good moral character and qualified in our judgment for the duties of such office.



Names of qualified electors	Street No.	Date
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Such petitions shall be without any mark or designation showing the party affiliation of the person being so nominated.

It shall be unlawful for any person to sign more than one such nominating petition for the same office, except where two or more candidates are to be elected for the same office; then he may sign as many petitions as there are persons to be elected to said office.

The person circulating a nominating petition shall, before the acceptance of such petition by the city clerk, subscribe to the following oath:

STATE OF MICHIGAN,  
County of Oakland, ss:

..... being duly sworn, deposes and says that he is the circulator of the foregoing petition containing ..... signatures, that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be, and that all of said signers are qualified electors of said city to the best of his knowledge and belief.

Signed.....

Subscribed and sworn to before me  
this ..... day of ..... 19....

Notary Public, Oakland County, Michigan  
My commission expires: .....

#### *Signatures necessary*

**Section 4.** No person shall be deemed to be nominated as a candidate for any office unless a petition therefor, signed by not less than twenty-five nor more than fifty qualified electors, shall be filed with the city clerk on or before four o'clock P. M. on the fourth Saturday prior to the election at which such office is to be filled.

#### *Approval of petitions*

**Section 5.** The city clerk shall forthwith examine the petition or petitions filed for each candidate and if satisfied that the required number of electors have signed the same, he shall endorse thereon the word "APPROVED" with the date of filing the same; but should he find that the petition or petitions for any candidate do not contain the required number of names of electors as herein provided, he shall immediately notify such candidate of the additional number of names of electors required; provided that nothing herein contained shall extend the time for filing nominating petitions as provided in the preceding section.

#### *Acceptance of Nomination*

**Section 6.** When the petitions for nomination of any candidate shall be found to contain the required number of names of electors, the city clerk shall forthwith notify the person thereby placed in nomination. Any person desiring to become a candidate for any elective office shall, on or before the third Saturday prior to such election, file with the clerk an acceptance of such nomination in substantially the following form:

I, ....., hereby accept the nomination for the office of ....., in the City of Birmingham.

Dated .....

Signature .....

#### *Regular city elections*

**Section 7.** Regular municipal elections shall be held for the City of Birmingham on the first Monday in April in the year 1934 and on the first Monday in April in each year thereafter for the election of officers of the city in accordance with the provisions of this charter.

#### *Special city elections*

**Section 8.** Special elections may, subject to the general laws of the state, be held at such times as the commission may by resolution determine, the purpose of which shall be set forth in the resolution calling such election.

#### *Combining of elections*

**Section 9.** Any matter, which by the terms of this charter shall be



submitted to the electors of the city, may be submitted at any municipal election or at any state or county primary or election.

**Section 10.** Notice of the time and place of holding any election and of the officers to be elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the clerk in the same manner and at the same times as provided in the state election laws for the giving of notices by city clerks in state elections. The commission may also provide for the mailing of notices to the registered electors of the city, but in such case failure to mail or receive any such notice shall not invalidate the election. *Notice of election*

**Section 11.** Election ballots shall be printed without any party mark, emblem, vignette, or description whatever, on plain white substantial paper, and the same shall be printed, numbered, and the names of candidates transposed and alternated, in accordance with the provisions of the general laws of the state regulating the same at elections in this state. *Election ballots*

**Section 12.** The ballot for officers shall be in substantially the following form: *Form of ballot*

#### Official Ballot

Candidates for election to the city offices of (naming offices to be filled) of the City of Birmingham, Michigan, at the election held on the .....day of .....19.....

Place a cross (x) in the square opposite the names of the persons for whom you desire to vote.

#### FOR COMMISSIONERS

Vote for (Number to be Elected)

(Here list the names of candidates with a square at the left of each name.—Also insert as many blank lines with a square at the left of each line.)

#### FOR MEMBERS OF THE LIBRARY BOARD

Vote for (Number to be Elected)

(Here list the names of candidates with a square at the left of each name.—Also insert as many blank lines with a square at the left thereof.)

#### FOR JUSTICE OF THE PEACE

Vote for One

(Here list the names of the candidates with a square at the left of each name.—Also insert one blank line with a square at the left thereof.)

#### FOR ASSOCIATE JUSTICE OF THE PEACE

Vote for One

(Here list the names of the candidates with a square at the left of each name.—Also insert one blank line with a square at the left thereof.)

#### FOR CONSTABLE

Vote for One

(Here list the names of the candidates with a square at the left of each name.—Also insert one blank line with a square at the left thereof.)

**Section 13.** The city clerk under the direction of the election commission shall cause all ballots to be printed and on file in his office at least ten days before the election. The clerk shall cause to be delivered at each polling place prior to the time of the opening of the polls a number of ballots equal to the number of registered electors in such voting precinct but in no case less than the number who voted at the last regular municipal election plus twenty-five per cent (25%), and also, all supplies, stationery, books, blanks and accessories necessary for the conduct of the election. *Printing of ballots*

**Section 14.** Immediately upon the closing of the polls the board of election inspectors in each precinct shall count the ballots and ascertain the number of votes cast in such precinct for each of the candidates and upon each of the questions and propositions voted upon, and shall make immediate returns thereof to the city clerk upon blanks to be furnished by the city clerk. *Election materials*

**Section 15.** A recount of the votes cast at any city election for any *Counting of ballots*

*Recount*



office or upon any proposition, may be had in accordance with the general election laws of the state.

*Canvass of election*

**Section 16.** The city commission shall convene at eight o'clock P. M. on the third day, other than a Sunday or holiday, succeeding any regular or special election and shall canvass the results of such election, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been elected at such election to the several offices respectively. The person receiving the highest number of votes for any office shall be deemed to have been duly elected to that office. If more than one person is to be elected to any office, then the persons, equal in number to the number to be elected to that office, receiving the highest number of votes for that office, shall be deemed to have been duly elected to that office.

*Votes necessary to elect*

*Election fraud*

**Section 17.** If any person shall make a false oath or affidavit in connection with any matter required by this chapter or shall violate any provision of this chapter or shall knowingly neglect or refuse to perform any duty herein prescribed, such person shall be guilty of a misdemeanor.

*Qualification of electors*

**Section 18.** The inhabitants of the city having the qualifications of electors under the constitution and general laws of the state, and no others, shall be electors therein and shall be entitled to vote at any city election if registered in accordance with the laws of the state.

*Time polls open*

**Section 19.** The polls for all municipal elections shall be open at seven o'clock A. M. of election day and remain open until eight o'clock P. M. of said day unless otherwise provided by the commission.

*Combined election*

**Section 20.** When a city election is held on the same day as national, state or county election or primary, the same election officials shall act in both the city election and the national, state or county election or primary.

*State law to govern elections*

**Section 21.** The general election laws of the state, so far as they can be applied, shall govern all regular and special city elections, in relation to election precincts, polling places and their equipment, inspectors of election and their appointment, powers and duties, the powers and duties of all city officers, the conduct of elections and the manner of voting, assisted voters, absent voters, election returns, canvass by precinct inspectors or precinct counting boards of inspectors, recounts and correction of frauds and errors in returns, and in general to all election matters whether the same be herein specifically enumerated or not; provided, however, that when there is a conflict between such general laws and this charter as to any matter which may be lawfully regulated by charter, then the provisions of this charter shall control.

*Election commission*

**Section 22.** The city commission shall constitute the election commission for the city and shall perform all of the duties required of the city election commissions by the general laws of the state. It shall appoint the inspectors of election and fix their compensation.

*Tie votes*

**Section 23.** If at any election of municipal officers there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the commission shall appoint a date for the appearance of such persons as have received tie votes, for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested, if such persons can be found. The manner of determining by lot shall be the same as provided by the general laws of the state for such determination in case of a tie vote for a township office. In no case, however, shall the election of any person be determined by lot without first a recount of the votes cast at such election, if one of the persons receiving such tie vote shall demand such a recount.

*May waive informalities*

**Section 24.** No informalities in conducting a municipal election shall invalidate the same if such election shall be conducted in substantial conformity with the requirements of this charter and the laws of the state applicable thereto.

*Ordinances*

CHAPTER V

**Ordinances**

*Enacting clause*

**Section 1.** The enacting clause of all ordinances shall read, "The



City of Birmingham ordains," but such caption may be omitted when said ordinances are published in book form by authority of the commission.

**Section 2.** Every ordinance shall take effect immediately upon publication unless otherwise provided in this charter or in the ordinance itself. *Effective date*

**Section 3.** It shall be the duty of the clerk to cause every ordinance to be published by printing the same in a newspaper circulating within the city. The clerk shall immediately after such publication enter in the "Ordinance Book," under the record of the ordinance, a certificate under his hand stating the time and fact of such publication. Such certificate shall be prima facie evidence of the due publication of the ordinance. *Publication of*

**Section 4.** All ordinances shall be recorded in an indexed book marked "Ordinance Book," and the record of each ordinance shall be authenticated by the signature of the mayor and clerk. Such record and authentication shall be done within one week after the final passage of any ordinance, but failure to so record and authenticate any ordinance shall not invalidate it or suspend its operation. *Recording of ordinances*

**Section 5.** No repealed ordinance shall be revived unless the whole or so much as is intended to be revived shall be re-enacted. When any section or part of a section of any ordinance is amended, the whole section as amended shall be re-enacted. *Repealed ordinances*

**Section 6.** The commission shall have authority to provide in any ordinance for the punishment of those who violate the same, by a fine not exceeding five hundred dollars or imprisonment for a period not exceeding ninety days, or both, in the discretion of the court. Such ordinance may further provide that in case any person shall fail to pay any fine so imposed, he may be imprisoned until such fine shall be paid, provided that no person shall be imprisoned for a single violation of any ordinance for a longer period than ninety days. Such imprisonment may be in the city prison, if any, in the county jail of Oakland County, or in any penal institution in the state authorized by law to receive prisoners from the city. *Penalties for violation*

**Section 7.** Prosecution for violation of any ordinance of the city shall be commenced within two years after the commission of the offense; provided that the limitations herein imposed shall only apply to violations penal in their nature, and shall not be construed as a limitation of the city's right to forfeit any franchise, grant or license for violation of the terms and conditions thereof, after said two year period. *Statute of limitations*

**Section 8.** Whenever a penalty shall be incurred for the violation of any ordinance, and no provision shall be made for the imprisonment of the offender upon conviction thereof, such penalty may be recovered in an action in assumpsit. And when a corporation shall incur a penalty for the violation of any such ordinance, the same shall be sued for in an action in assumpsit. In either of the cases above mentioned if the court shall find the defendant guilty, he shall render judgment for all or such part of the maximum fine specified in the ordinance as he would impose in a similar case commenced by warrant. Prosecutions for violations of the ordinances of the city may, in all cases except against corporations, be commenced by warrant for the arrest of the offender. Such warrant shall be in the name of the people of the State of Michigan, and shall set forth the substance of the offense complained of, and be substantially in the form and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings and all proceedings upon the trial of the cause and in procuring the attendance and testimony of witnesses, and in the rendition of judgments and the execution thereof shall, except as otherwise provided by this charter, be governed by and conform as nearly as may be, to the provisions of law regulating proceedings in criminal causes cognizable by justices of the peace. *Recovery of penalty*

**Section 9.** In all judicial proceedings it shall be sufficient to plead any ordinance by title and number of the section or sections, and it shall not be necessary to plead the entire ordinance or section. *Defined by title and section number*



*Recognition of*

**Section 10.** Judicial notice shall be taken of the enactment, existence, provisions and continuing force of all ordinances of the city.

*Proving of*

**Section 11.** Whenever it shall be necessary to prove any ordinance or resolution of the commission, in any judicial proceedings, the same may be proved by the record thereof kept by the clerk by a copy thereof duly certified as a true copy by the clerk under the seal of the city, or by any volume purporting to have been published, printed and compiled by authority of the commission.

## CHAPTER VI

**Contracts***Advertising for bids*

**Section 1.** No contract shall be entered into by the city for the making of any public improvement or for the purchase of any materials, tools, apparatus or any other thing or things, the consideration or cost of which shall exceed Five Hundred Dollars (\$500.00), until specifications shall be prepared therefor, and published advertisement made for sealed proposals thereon; provided, however, that by a vote of five-sevenths of the members of the commission-elect, such contracts, the consideration for which shall not exceed One Thousand Dollars (\$1,000.00), may be made without advertisement. The city shall have the right to reject any or all such proposals.

*Bids required*

**Section 2.** Subject to the provisions of this charter, the city may, through its departments, officers, and employees, perform public work of all kinds or it may let any of such work by contract. The city shall not, however, undertake the performance of any construction work exceeding an estimated cost of Five Hundred Dollars (\$500.00), until it has first advertised for sealed proposals therefor; provided, however, that by a vote of five-sevenths of the members of the commission-elect, such contracts, the consideration for which shall not exceed One Thousand Dollars (\$1,000.00), may be made without advertisement.

*Commission approval required*

**Section 3.** No public improvement, costing more than Five Hundred Dollars (\$500.00) shall be contracted for or commenced until drawings, profiles and estimates for the same shall have been submitted to the commission and approved by it; and the same or a copy thereof shall thereafter remain on file in the office of the clerk subject to inspection of the public.

*Commissioner interested in contract*

**Section 4.** No member of the commission shall vote for the authorization of any contract with or for the city, or for the expenditure of any money on the part of the city, if he shall be financially interested in the proceeds of such contract or in the money so expended.

*Shall not be interested in contracts with city*

**Section 5.** No member of the commission or any officer of the city shall be interested, directly or indirectly, in any contract, franchise, job, work or service (other than official services), or the profits therefrom, nor shall he receive any compensation (other than his official compensation) for any work or service rendered the city, except as may be in this charter expressly authorized or permitted.

## CHAPTER VII

**General Finance***Fiscal year*

**Section 1.** The fiscal year of the city shall begin on the first day of July of each year.

*Treasurer's duties*

**Section 2.** The city treasurer shall be the general accountant of the city and shall keep a complete set of accounts showing the financial transactions of the city, which accounts shall conform to any uniform system required by law. The city treasurer shall receive and disburse all moneys belonging to the city and shall keep an accurate detailed account of all money received and disbursed by him and of the particular fund into which or from which the same is paid. He shall pay out no money except as in this charter provided. He shall at least once a month, and oftener if required, furnish the commission with a statement showing all cash on hand and in bank at the beginning of the preceding month, the receipts and disbursements for the preceding month, the cash and bank balances at the end of the preceding month, and the condition of the



several funds of the city. He shall make such other reports as the commission may require.

**Section 3.** No money shall be drawn from the treasury except as authorized by the commission. All disbursements shall be by check supported by voucher, carrying full detail as to principal, discounts, freight allowances, distribution, and funds. Such vouchers shall be in turn supported by original invoices except in the case of labor when the payroll shall suffice. All invoices, estimates of work performed and payrolls shall be approved and signed by the manager. *Withdrawal of money*

**Section 4.** The treasurer shall be provided with an imprest cash fund in an amount to be determined from time to time by resolution of the commission, which fund shall be used for petty disbursements. Such fund shall be replenished only by approval of the commission and upon filing of receipts for moneys paid out. *Imprest cash fund*

**Section 5.** No transfer shall be made from one fund to another without express authority from the commission. *Transfer of funds*

**Section 6.** All taxes, special assessments and other money accruing to the city shall be collected by the city treasurer. All money received by any officer or employee of the city for or in connection with the business of the city, shall be paid promptly to the city treasurer, and shall be deposited by the treasurer with such responsible banking institution or institutions as may be designated by the commission and furnishing such security as the commission may determine, and all interest on such deposits shall accrue to the benefit of the city. The commission shall provide for the prompt and regular payment and deposit of all city moneys as required by this section. *Treasurer to collect*

**Section 7.** All fees received by any officer or employee in his official capacity shall belong to the city except as in this charter otherwise provided and except also where it is otherwise provided in the resolution or ordinance fixing the salary of any officer or employee. *Fees property of city*

**Section 8.** The revenues raised by general taxation upon all property in the city, or by loan to be repaid by such tax, shall be divided into such and so many funds as the commission may by ordinance or resolution determine. *Funds created*

**Section 9.** The commission shall provide that a periodical audit, which shall be at least annual, be made of the accounts of all the officers and departments of the city government, by certified public accountants who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees. *Audit*

**Section 10.** Not later than the first day of September of each year, the treasurer shall make out statements showing the financial position of the corporation at the close of the preceding fiscal year. Such statements shall distinctly show the following: The amount of all taxes collected during the year for all purposes, and the amount raised for each fund; the amount levied by special assessment and the amount collected in each special assessment district; the amounts received from all other sources during the year, according to a logical classification thereof; the expenditures made during the year and the objects thereof, according to a logical classification; the outstanding bonded indebtedness of the city and the condition of all sinking funds; the amount of delinquent taxes according to year of levy; and such other information as shall be necessary to a full understanding of the financial concerns of the city. Said statement shall be signed by the treasurer and shall be filed in the office of the clerk for public inspection. *Treasurer's yearly report*

**Section 11.** On or before the first day of May of each year the commission shall prepare a proposed annual budget in reasonable detail for the ensuing fiscal year, based upon estimates furnished by the city manager. *Budget*

Summaries of such budget and information shall be available for distribution and a public hearing shall be given by the commission before adopting such budget. After such hearing, the commission shall adopt such budget as proposed or with such modifications as it may deem advisable.

**Section 12.** Not later than the twenty-fourth day of May of each year, the commission shall pass an annual appropriation resolution, which *Appropriation resolution*



shall be based on the budget as adopted by the commission and which shall comply with the lawful requirements of any state agency established by statute. The total amount of said appropriation shall not exceed the estimated revenues of the city from taxes and other sources, as set forth in the budget. No liabilities shall be incurred by any officer or employee of the city, except in accordance with the provisions of the annual appropriation resolution, or under continuing contracts and loans authorized under the provisions of this charter. At any meeting after the passage of the appropriation resolution and after at least one week's notice to the members of the commission, the commission may amend such resolution so as to authorize the transfer of unused balances appropriated for one purpose to another purpose.

*Budget, Quarterly  
revision of*

**Section 13.** On or before the beginning of each quarterly period during the fiscal year, the commission shall restudy the budget for such year and if it appears to the commission that the income for the year as estimated in the budget will be less than originally estimated, then the total appropriations shall be reduced accordingly and the commission shall designate which appropriations have been reduced and the amount of the reduction.

## CHAPTER VIII

### Bonds

*Bonds*

*Issuance of*

**Section 1.** The city commission may borrow on the faith and credit of the city such sum or sums of money as it may deem expedient and issue the bonds of the city therefor, for any purpose within the scope of its powers; provided that at no time shall the general obligation bonded indebtedness of the city exceed ten per cent (10%) of the assessed valuation. The resources of the sinking fund for any purpose shall be deducted from the bonded indebtedness in determining the limitations hereinbefore provided. Emergency bonds, judgment bonds, mortgage bonds, and notes issued in anticipation of the collection of taxes shall not be included in computing the above limitation.

*Approval by electors*

**Section 2.** No bonds except refunding bonds, emergency bonds, and bonds authorized to pay judgments and decrees as authorized by state law, shall be issued until the issuance thereof has been approved by two-thirds (2/3) of the electors of the city voting thereon at a general or special election. Notes issued in anticipation of the collection of taxes shall not require the approval of the electors for the issuance thereof. The approval of the electors shall not be required for the issuance of bonds for the city's portion of local improvements which are paid for in part by special assessments.

*Sinking funds*

**Section 3.** No bonds except serial bonds shall be issued without creating a sinking fund for the payment of the same. Such sinking fund shall conform to all requirements of the state law.

*Form of bond*

**Section 4.** Every bond issued by the city shall contain on its face a statement specifying the object for which the same is issued. It shall be unlawful for any officer of the city to sign or issue any such bond unless such statement is set forth on the face of the same, or to use such bond or the proceeds from the sale thereof for any object other than that mentioned on the face of such bond. Any officer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor.

*Signatures on bonds*

**Section 5.** Bonds of the city shall be signed by the mayor and attested by the clerk under the seal of the city. The coupons evidencing the interest upon said bonds may be executed with the facsimile signatures of the mayor and the clerk. A complete and detailed record of all bonds shall be kept by the city treasurer.

*State law to control*

**Section 6.** Emergency bonds, bonds issued to pay a judgment or decree of any court against the city, refunding bonds, and notes issued in anticipation of the collection of taxes may be issued pursuant to the provisions of the statutes of the State of Michigan.

*Special assessment  
bonds*

**Section 7.** The commission shall have power to borrow in anticipation of the receipts from special assessments for the purpose of defray-



ing the cost of the improvement for which such special assessments were levied, but only after the special assessment roll has been confirmed. For such loan the city may issue bonds, not exceeding in principal amount the aggregate amount of such special assessments, which bonds shall bear such rate of interest, not in excess of six per cent (6%) per annum, as the commission may determine. Such bonds shall be secured by the faith and credit of the special assessment district only, except such bonds as are issued against the city's portion of the cost of said improvement, which latter bonds shall be the general obligations of the city. The special assessments when collected shall be set apart in a separate fund for the payment of said bonds. Said bonds shall not be sold or otherwise disposed of at less than their par values.

The improvement for which such special assessments shall have been levied shall not be begun nor contracted for until the city shall have received from the sale of bonds or from other sources the estimated cost of such improvement; provided that this limitation shall not apply to the preliminary plans and estimates and the cost thereof.

**Section 8.** Whenever any portion of the cost of any improvement shall be assumed by or charged to the city at large and the balance of such cost assessed to the property benefited, if the commission shall provide for the payment of the city's portion of such cost in installments, then in such case, bonds may be issued in anticipation of the payment of the amount assessed to the city at large the same as they may be issued in anticipation of the payment of the amount assessed to the benefited property. There shall be appropriated each year an amount sufficient to pay such bonds issued against the city's portion when the same fall due. Nothing in this section contained shall be construed to require the financing of the city's portion of the cost of any improvement in the manner herein specified.

*General obligation  
special improvement  
bonds*

**Section 9.** The city commission shall make such investments of the moneys in the sinking fund or funds, and such disposals of securities held in such fund as they may deem expedient, provided however, that investments shall be made in only such securities as are approved by the laws of the state. The city treasurer shall have the custody of all securities and moneys held in the sinking fund.

*Investment of  
sinking funds*

**Section 10.** The city may for the purpose of acquiring, owning, purchasing, constructing or operating any public utility within the scope of its powers, issue mortgage bonds therefor beyond the general limits of bonded indebtedness herein prescribed; provided that such mortgage bonds issued beyond the general limits of bonded indebtedness herein prescribed shall not impose any liability upon the city, but shall be secured only upon the property and revenues of such public utility, including a franchise, revocable by the city, stating the terms upon which in case of foreclosure the purchaser may operate the same; and provided further that said mortgage bonds shall be sold to yield not to exceed six per cent (6%) per annum; and provided further that there shall be created a sinking fund for the payment of such mortgage bonds at maturity by setting aside such percentage of the gross or net earnings of such utility as may be deemed sufficient for such payment.

*Mortgage bonds*

*City not liable*

## CHAPTER IX

### General Assessments and Taxation

**Section 1.** The city assessor shall, before the first Saturday in May in each year, make an assessment roll of all persons and property liable under the laws of the state to taxation in the city, and in so doing, unless otherwise provided in this charter, he shall conform to and be governed by the provisions of the general laws of the state governing assessing officers performing like duties in the assessment of persons and property for state, county and school taxes.

*Assessment roll*

**Section 2.** The subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general laws of the state.

*Item listed in roll*

**Section 3.** The board of review shall meet for the purpose of reviewing and correcting said assessment roll, at a designated place in the

*Review of roll*



city, on the second Thursday in May of each year, and shall continue in session three days between the hours of nine o'clock A. M. and eight o'clock P. M. on each of said days. Notice shall be given of such meeting by publishing such notice once in a newspaper in circulation within the city, at least seven days before the first day of review. Failure to give the notice herein specified shall not invalidate the assessment roll or any assessment therein contained. If necessary to complete its work, said board may continue in session on one or more following secular days. It shall elect a chairman and a clerk. A majority shall constitute a quorum. The members of said board shall take the constitutional oath of office which shall be filed with the city clerk. For the purpose of reviewing and correcting assessments, the board of review shall have the same powers and perform like duties in all respects, as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for state and county taxes. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed, or omitted from the roll, the board shall correct the roll in such manner as it shall deem just.

*Record of proceedings*

**Section 4.** The clerk of the board of review shall keep a record of all proceedings of the board and of all changes made in the roll, and shall sign and file the same with the city clerk, together with statements made by persons assessed.

*Endorsement by board of review*

**Section 5.** Immediately after the review of the assessment roll as aforesaid, the chairman and clerk of the board of review shall endorse the roll as provided by the general tax laws. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and its endorsement in the manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for such causes as are provided in the general tax laws of the state for the setting aside of assessment rolls for state, county and school purposes.

*Serves for all tax purposes*

**Section 6.** The assessment roll herein provided for shall be the assessment roll for state, county, school and city taxes and for any other taxes that may be authorized by law.

*Taxes spread on roll*

**Section 7.** After the board of review shall have approved such assessment roll, the assessor shall, within the proper time, spread thereon the amount of the state and county taxes, and also school taxes if raised at the same time as the state and county taxes, in the manner and form provided therefor by the general tax laws of the state. State, county and school taxes shall be levied, collected and returned in conformity with the general laws of the state.

*Taxes for school funds*

**Section 8.** In all proceedings in relation to the assessment, spreading and collection of taxes for school purposes, and in relation to the receipt and disbursement of all moneys belonging to the school district, the city assessor, city clerk, and city treasurer shall have like powers and duties as are prescribed by the laws of the state for supervisors of townships, township clerks and township treasurers respectively.

*Power to levy taxes*

**Section 9.** The commission shall have authority within the limitations of the state law, to raise annually by taxation such sums of money as may be necessary to defray the expenses and pay the liabilities of the city and to carry into effect the powers in this charter granted.

*Taxes for city debt*

**Section 10.** Subject to the provisions of this charter and the statutes of the state, the commission shall levy such taxes each year as may be necessary to meet the appropriations made and all sums required by law to be raised on account of the city debt.

*Clerk to certify tax levy*

**Section 11.** The city clerk shall certify to the city assessor the total amount which the commission determines shall be raised by general tax; all amounts of special assessments which the commission requires to be re-assessed upon any property or against any person; and all other amounts which the commission may determine shall be re-assessed against any person or property.

*City tax roll*

**Section 12.** After the endorsement of the assessment roll by the chairman and the clerk of the board of review, the assessor shall prepare a copy thereof to be known as the "City Tax Roll," and upon receiving



the said certificate of the several amounts to be raised, as provided in the preceding section, the assessor shall proceed to assess the several amounts determined by the commission to be re-assessed against persons or property as determined by said commission; and shall also proceed to assess the amounts of the general city tax according and in proportion to the several valuations set forth in said assessment roll. He shall set down in columns opposite to the several valuations of real and personal property on said tax roll the respective sums in dollars and cents, apportionable to each, placing general taxes in one column, school taxes if raised at the same time as city taxes, in the next column, special assessments in the next column, and the amounts of any other assessments or re-assessments in the following column or columns.

**Section 13.** After extending the taxes as aforesaid, the assessor shall certify under his hand said tax roll, and the mayor of the city shall annex his warrant thereto, directing and requiring the treasurer to collect from the several persons named in said roll, the several sums mentioned therein opposite their respective names as a tax or assessment, and authorizing him, in case any person or persons named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his or their goods and chattels, together with the costs and charges of such distress and sale. Said warrant shall further direct that all taxes paid on or before the thirty-first day of August of the same year, shall be collected without additional charge and that there shall be added to all taxes paid after said thirty-first day of August three-fourths of one per cent ( $\frac{3}{4}$  of 1%) for each and every month, or fraction thereof, that the same remains unpaid. The assessor shall also prepare a duplicate copy of said city tax roll and certificate and the mayor shall execute a duplicate of said warrant and annex the same thereto, said roll to be known as the duplicate city tax roll. Said city tax roll and annexed warrant, together with the duplicate thereof, shall be delivered by the assessor to the treasurer on or before the first day of June of the year when made. In event said tax roll or the duplicate thereof shall be lost or destroyed, a new roll and warrant may be made. Before said city tax roll is deposited with the county treasurer at the time of returning delinquent taxes, the city treasurer shall endorse upon the duplicate tax roll all payments made on taxes assessed therein and such duplicate city tax roll shall become the official record of the city upon the deposit of the city tax roll with the county treasurer.

**Section 14.** Whenever any person liable for the city taxes on any property shall pay at least thirty per cent (30%) thereof before the sixteenth day of July of the year in which said tax is assessed, and shall before said date give notice to the city treasurer in writing specifying that he will pay the remainder of said tax before the first day of March in the next succeeding calendar year, and shall, at the time of giving said notice, pay to the city treasurer an amount equal to two per cent (2%) of the said remainder of said tax, he shall have the right thereafter, and before the first day of March of the next succeeding calendar year, to pay the remainder of said tax in installments without any further penalty, but subject to the addition of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) for each and every month or fraction thereof, said remainder or part thereof remains unpaid after the thirty-first day of August of the year in which said tax is assessed. The city treasurer shall give to each taxpayer so paying his tax an appropriate receipt showing the amount and proportion of the tax paid and that notice has been received that the remainder of said tax will be paid before the first day of March, and shall make entry of such payment and notice on the proper tax roll.

**Section 15.** Within thirty days after receiving the "City Tax Roll" and within like time after receiving the "General Tax Roll" covering state and county taxes, the city treasurer shall give notice by mail to each taxpayer whose name and post-office address appear on the assessment roll, stating the amount of tax assessed to him and a brief description of the property taxed, but neither the failure to send such notice nor error in such notice shall invalidate the legality of the tax levy.

**Section 16.** City taxes shall be due on the first day of July of the year when levied and shall be payable as stated in the warrant of the mayor annexed to said roll.

*Tax roll certified  
for collection*

*Sale for taxes*

*Penalties*

*Duplicate tax roll*

*Installment payment  
of taxes*

*Notification  
of taxes due*

*Taxes due*



*Taxes lien  
on property*

**Section 17.** The city taxes when assessed shall become at once a debt due to the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall on the first day of July become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien upon all personal property of the persons so assessed from and after the first day of July in each year and shall so remain until paid, which said lien shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, execution, levy, judgment or otherwise, and whether arising before or after the assessment of said personal taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien except where such personal property is actually sold in the regular course of retail trade.

*Sale for taxes*

**Section 18.** In case any person shall neglect or refuse to pay the tax imposed upon any real or personal property belonging to him, as aforesaid, the city treasurer may enforce the collection thereof by distress and sale or by suit, in the name of the city, in the same manner and to the same extent as township treasurers may enforce the payment of state and county taxes.

*Tax roll to  
county treasurer*

**Section 19.** If the treasurer has been unable to collect any of the city taxes on said roll on real property before the first day of March following the date when said roll was received by him, then it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers of state and county taxes. Such returns shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such county treasurer are collected under the provisions of the general tax laws of the state, and the same rate of interest and all charges shall be collected thereon, and all taxes upon lands so returned as delinquent shall be and remain a lien thereon until paid.

*Delinquent  
tax money*

**Section 20.** Moneys collected by the county treasurer or received from the sale of lands for delinquent city taxes, shall be paid over to the city treasurer as required by state law. All of the provisions of the general tax laws relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this charter.

*Errors in roll*

**Section 21.** The commission shall have the power, when it shall appear that any tax or special assessment has been illegally assessed, to refund the same or such illegal portion, if collected, or if not collected, to vacate the tax or assessment, in whole or in part. No such action on the part of the commission shall in any way affect or invalidate any other tax or assessment levied or collected in said city. In event of the refund or vacation of a tax or special assessment illegally assessed, the commission shall have power to order the same or any portion thereof to be re-assessed if a valid assessment might have been made in the first instance.

*Apportioning of tax on  
portion of tax item*

**Section 22.** Any person owning an undivided share or other part or parcel of real property, assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the value of the part on which payment is made has to the value of the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment and the receipt given and the record of the receiving officers shall show such description and by whom paid; and in case of the sale of the remaining part or share, for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. The values above referred to shall be determined by the city assessor who before making such determination shall set a time for hearing and shall notify the interested parties by registered mail at their last known addresses, such notice to be mailed at least ten days before the hearing. Any person aggrieved by such determination may appeal therefrom to the board of review by filing notice



thereof with the city clerk within ten days after receiving notice of such decision. The board of review shall then without delay meet and review such decision and either affirm or modify it.

**Section 23.** It shall be the duty of the city treasurer, upon request made by any party, to issue his certificate showing all unpaid taxes, special assessments, and other charges which are a lien upon any specified property, and which are payable at his office, and he may upon being authorized by the city commission charge the party requesting the same such fee as the commission shall establish, which fee shall be paid into the city treasury and credited to the general fund. The issuance of such certificate shall not create any liability upon the part of the city or city treasurer, except that in event of fraud in the issuance thereof the person actually issuing the same shall be liable therefor.

*Certificate of  
unpaid taxes*

**Section 24.** The fees and penalties for the collection of all taxes provided for by this charter, or the general laws of the state, shall belong to the city and shall be paid by said treasurer into the city treasury.

*Tax penalties*

**Section 25.** The city clerk, after the commission has determined the several amounts which they require to be raised by general tax for the several funds of the city, and the aggregate thereof, shall certify the same to the city treasurer. When such general taxes shall be received by the treasurer, they shall be apportioned to the several funds of the city pro rata according to the several amounts of said funds so certified.

*Certification  
of tax levy*

## CHAPTER X

### Special Assessments

**Section 1.** Subject to the restrictions hereinafter provided, the commission shall have power to provide for the payment of the cost of a public improvement by levying and collecting special assessments upon property specially benefited. Such assessments shall be according to benefits. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and the special assessment therefor, shall be deemed to be a part of the cost thereof. If the cost of such public improvement has not been definitely determined, then the assessment may be made upon the basis of the estimated cost. After any part of the cost of any public improvement shall have been borne by special assessment against the lands and property benefited, the cost of any replacement of such improvement shall, to the extent of the original improvement, be paid from the general funds of the city and no part thereof by special assessment.

*Special  
assessments*

**Section 2.** No more than eighty-five per cent (85%) of the cost of any such public improvement shall be borne by special assessment, and unless there are funds on hand appropriated for such purpose no part of the cost of such public improvement in excess of twenty-five per cent (25%) of the total cost thereof, shall be paid or assumed by the city unless the same shall have been approved by a vote of two-thirds (2/3) of the electors voting upon such proposition at the election at which the same shall be submitted.

*Percentage of  
costs to be assessed*

**Section 3.** No special assessment to defray the cost of any public improvement or any part thereof shall be made except upon the affirmative vote of at least five (5) of the commissioners elect, or unless a petition for such improvement has been filed with the city clerk signed by property owners whose property in the special assessment district will be assessed for not less than seventy-five per cent (75%) of the total assessment against private property. If it shall appear that such petition was not signed by a sufficient number of property owners, then the special assessment roll shall not be confirmed until there has been filed with the clerk a supplemental petition signed by a sufficient number of owners of real estate in said special assessment district who did not, or whose predecessors in title did not, sign the original petition, so that together the original and supplemental petitions will meet the above requirements. Such petition or petitions shall in no event be mandatory upon the commission. Where property is being sold on land contract, the petition shall be signed by both the contract purchaser and the fee holder. Such petition in addition to the

*Special assessment by  
commission action*

*By petition*



signatures of the owners shall contain a brief description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of the owners or by some person or persons with knowledge that said signers are such owners and that such signatures are genuine. Notice of the filing of such petition shall be given in the notice of the meeting of the commission to hear objections to the making of such improvement, and the determination of such commission after such hearing shall be final as to the sufficiency of the petition except as to the matter of sufficient signers thereof. In such case, the sufficiency of the petition and supplemental petition, if any, shall be determined before the confirmation of the assessment roll and no questions thereafter shall be raised as to the sufficiency thereof.

*Resolution for*

**Section 4.** When the commission shall determine to make any public improvement and defray part of the cost thereof, by special assessment, it shall so declare by resolution, stating the nature of the improvement and what part or proportion of the cost thereof shall be paid by special assessment, and what part shall be paid by the city, and shall designate the district or lands and premises upon which the special assessment shall be levied.

*Hearing on*

**Section 5.** Before ordering any public improvement, any part of the cost of which is to be defrayed by special assessment, the commission shall cause estimates of the cost thereof to be made, and also plans, when practicable, of the work and of the locality to be improved, and deposit the same with the clerk for public examination; and it shall give notice thereof and of the proposed improvement and of the district to be assessed, and of the time and place when the commission will meet and consider any objections thereto, by publishing such notice twice prior to such meeting in a newspaper circulating in the city, the first publication to be at least ten (10) days prior to such meeting. Such notice shall also be mailed by the clerk, at least five (5) days prior to such meeting, to each person who according to the last city tax roll is the owner of any real estate within the district to be assessed, at the address appearing in said tax roll. The affidavit of the clerk as to such mailing shall be conclusive proof thereof, and in such affidavit it shall not be necessary to list the names of such owners but to refer to them generally. If the address of any person is marked unknown in said tax roll, then no notice need be mailed to such person.

*Resolution creating  
assessment roll*

**Section 6.** When any special assessment is to be made upon the lands and premises in any special assessment district, the commission shall by resolution direct the same to be made by the assessor and shall state therein the total amount to be assessed and describe or designate an assessment district comprising the lands and premises to be assessed.

*Preparation of*

**Section 7.** Upon receiving such orders and direction, the assessor shall make out an assessment roll, entering and describing therein all the lots and parcels of land to be assessed, with the names of the respective owners thereof, and shall levy thereon and against said several lots and parcels of land the amount to be assessed against private property. If the assessment is to be payable in installments, then he shall specify in said roll the amount of the total assessment against each lot or parcel of land and the amount of each installment thereof. If the city at large has assumed a portion of the cost of such improvement and the same is payable in installments, then the assessor shall likewise assess such portion to the city at large. In all cases where the ownership of any description is unknown to the assessor he shall, in lieu of the name of the owner, insert the word "unknown" and if by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if the same shall be assessed without the name of the owner, or with the name of a person other than the owner, such assessment shall not for such causes be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land as though assessed in the name of the proper owner. When the assessment shall have been confirmed, it shall be a lien on each such lot or parcel of land and shall be collected as in this charter provided. Such liens shall have the same priority rights as tax liens upon real property.

*Spreading of  
assessment*

**Section 8.** The assessor shall assess upon each lot or parcel of land, such relative portion of the whole sum to be levied against all lots and



parcels of land, as shall be proportionate to the estimated benefit resulting to such lot or parcel of land from the improvement.

**Section 9.** When the assessor shall have completed the assessment roll, he shall report the same to the commission. Such report shall be signed by him, and may be in the form of a certificate, endorsed on the assessment roll, as follows:

*Roll certified  
by assessor*

TO THE COMMISSION  
of  
THE CITY OF BIRMINGHAM

I hereby certify and report that the foregoing is a special assessment roll made by me pursuant to a resolution of the commission of said city, adopted (give date), for the purpose of paying the cost for the (insert here object of the assessment); that in making such assessment I have, as near as may be, according to my best judgment, conformed in all things to the direction contained in the resolution of the commission hereinbefore referred to, and the charter of the city relating to such assessment.

*Form of certification*

Dated .....

Assessor

**Section 10.** When any expense shall be incurred by the city upon or in respect to any separate or single lot or parcel of land which, by the provisions of this charter, the commission is authorized to charge and collect as a special assessment against the same, and not being that class of special assessments required to be made pro rata upon the several lots or parcels of land in a special assessment district, an account of the labor, material or services for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, or person chargeable therewith, if known, shall be reported to the commission in such manner as it shall prescribe. The provisions of the preceding sections of this chapter with reference to special assessments generally, and the proceedings necessary to be had before making the improvements, shall not apply to assessments to cover the expense incurred in respect to that class of improvements contemplated in this section. No such improvement shall be made or liability therefor incurred by the city, until after at least ten (10) days' notice of intention to make such improvement shall have been given the owner or owners, either by personal service of such notice or by publishing the same in a newspaper circulating in the city.

*Special cases*

*Notice of assessment*

**Section 11.** The commission shall determine what amount or part of every such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment, and as often as the commission shall deem it expedient it shall require all of the several amounts so reported and determined, and the several lots or parcels of land, and the persons chargeable therewith, respectively, to be reported by the clerk to the assessor for assessment.

*Amount of assessment*

**Section 12.** Upon receiving the report mentioned in the preceding section, the assessor shall make a special assessment roll, and levy as a special assessment therein, upon each lot or parcel of land so reported to him and against the persons chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or parcels of land respectively, together with a penalty of ten per cent (10%), and when completed he shall report the assessment to the commission and thereupon the same proceedings shall be had and with like effect as is provided in this chapter for special assessments in other cases, except that the commission may require that the same be paid in one or any other number of installments not to exceed five; provided that notice of the filing of the special assessment roll in such cases, and of the reviewing of the same, may be given by sending such notice by registered mail to the persons named in such roll at their last known addresses, respectively, instead of giving such notice by publication. If such notice is given by publication, the commission may order the cost thereof to be added to the roll and distributed pro rata according to the amounts of the several assessments therein. It shall not be necessary to make a separate roll for each lot or parcel of land against

*Special roll*

*Penalties*



which such an assessment may be made, but assessments against several lots or parcels may be included in one roll.

*Review of special  
assessment roll*

**Section 13.** When any special assessment roll shall be reported by the assessor to the commission, as in this charter directed, the same shall be filed in the office of the clerk and numbered consecutively. Before confirming such assessment roll, the commission shall appoint a time when the commission will meet and review such assessment and shall cause a notice of such hearing and of the filing of such assessment roll, to be published twice prior to such hearing, in a newspaper circulating in the city, the first publication to be at least ten (10) days before such hearing. Such notice shall also be mailed by the clerk, at least five (5) days prior to such meeting, to each person whose name appears in said special assessment roll as the owner of property assessed therein, at the address appearing in said roll. The affidavit of the clerk as to such mailing shall be conclusive proof thereof, and in such affidavit it shall not be necessary to list the names of such owners but to refer to them generally. If the address of any person is marked unknown in said roll, then no notice need be sent such person. Any person objecting to the assessment may file his objections thereto in writing with the clerk. The notice provided for in this section may be in the following form:

*Notice of review*

**NOTICE OF SPECIAL ASSESSMENT**

*Form of notice*

Notice is hereby given that the special assessment roll heretofore made by the assessor for the purpose of defraying the cost of the (insert the object of the assessment and the locality of the proposed improvement in general terms) is now on file in my office for public inspection. Notice is also hereby given that the commission of the City of Birmingham will meet at ..... in said city on ..... the ..... day of ....., 19....., at ..... o'clock ..... M. to review said assessment at which time and place opportunity will be given to all persons interested to be heard.  
Dated.....

.....  
City Clerk.

*Confirmation of roll*

**Section 14.** At the time and place appointed for the purpose as aforesaid, the commission shall meet and then and there, or at some adjourned meeting, review the assessment roll, and shall hear any objections to any assessment which may be made by any person deeming himself aggrieved thereby, and the commission may correct said roll as to any assessment, description or premises, or other matter appearing therein, and may confirm it as reported or as corrected, or it may refer the assessment roll back to the assessor for revision, or it may annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the clerk shall make an endorsement upon the roll showing the date of confirmation.

*Confirmation of  
roll final*

**Section 15.** When any assessment roll shall be confirmed by the commission it shall be final and conclusive unless, within twenty (20) days after such confirmation, action is instituted in the Circuit Court for the purpose of contesting such assessment roll.

*Special assessments  
constitute lien*

**Section 16.** All special assessments, including deferred payments, shall from the date of confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and until paid shall be a charge against the respective owners of the several lots and parcels of land, as assessed.

*Payments due*

**Section 17.** All special assessments shall be payable in such number of approximately equal installments, not exceeding ten (10), as the commission may determine. The first installment of a special assessment shall be due and payable within thirty (30) days after confirmation and one installment shall be due and payable each year thereafter upon the same day of the year as that upon which the roll was confirmed, with annual interest upon all unpaid installments to be fixed by the commission at a rate not exceeding six per cent (6%) per annum, provided that no interest shall be charged upon any amount paid within thirty (30) days after confirmation. The whole assessment against any lot or parcel



of land may be paid to the city treasurer at any time in full with accrued interest and penalties thereon. If any special assessment or any installment of a special assessment is not paid when due, then such assessment or installment shall be deemed to be delinquent and there shall be collected thereon in addition to interest a penalty at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) for each month or fraction thereof that the same remains unpaid before being reported to the commission for the purpose of being re-assessed upon the city tax roll.

*Penalties*

**Section 18.** In all cases of special assessment of any kind against any property where any such assessments shall prove to be invalid in whole or in part, the commission shall be and it is hereby authorized to cause to be re-assessed such special assessments, and to enforce their collection; and it is further provided that whenever for any cause, mistake or inadvertence, the amount assessed shall not be sufficient to pay that portion of the cost of the improvement which the commission has determined should be assessed against the property and the owners of property in the special assessment district, then it shall be lawful, and the commission is hereby directed and authorized to cause to be made, an additional assessment upon all the property in such special assessment district to pay for such deficit; and the commission is authorized to continue requiring such re-assessment or additional assessment until a valid and sufficient assessment shall have been made.

*Re-assessment*

**Section 19.** No judgment or decree, nor any act of the commission vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed, for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might have been lawfully assessed thereon.

*Assessment not invalidated*

**Section 20.** When any special assessment shall be confirmed, the commission shall direct the assessment so made in the special assessment roll, to be collected. The city clerk shall thereupon deliver to the city treasurer said special assessment roll to which he shall attach his warrant commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein, and in case any person named in said roll shall neglect or refuse to pay his assessment, or any part thereof, upon demand, after the same has become due, then to levy and collect the same by distress and sale of the goods and chattels of such person. Said warrant shall require the city treasurer to make and to submit to the commission at its first meeting in May of each year, a sworn statement of all assessments or parts thereof in said roll which were delinquent on the first day of May of that year, which shall include a list of persons delinquent, if known, a description of the lots and parcels of land upon which the assessments remain unpaid, and the amount unpaid on each, inclusive of accrued interest and penalty.

*Roll certified for collection*

*Distress and sale*

*Annual report of delinquent assessments*

**Section 21.** Upon receiving said special assessment roll and warrant the treasurer shall proceed to collect the amount assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city or elsewhere within the State of Michigan, belonging to such person, and sell the same at public auction, first giving six (6) days' notice of the time and place of such sale, by posting such notice in three public places in the city or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, the costs and expenses of seizure and sale; and the surplus, if any, shall be paid to the person entitled thereto. Or such assessment may be collected by suit in the name of the city against the person assessed in an action of assumpsit.

*Collection of special assessments*

**Section 22.** In case any assessment, or any part thereof, shall remain unpaid on the first day of May following the date when the same became delinquent, and shall be reported unpaid by the treasurer to the commission as aforesaid, the same, together with all accrued interest and penalty, shall be transferred and re-assessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of ten per cent (10%) upon such total amount added thereto, and when so

*Delinquent penalty*



*Special assessment accounts*

transferred and re-assessed upon said tax roll shall be collected and paid in all respects as provided for the collection of city taxes.

**Section 23.** Moneys raised by special assessment to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied. If there be a surplus, then such surplus shall be refunded pro rata as follows: Where the assessment has been paid in full, by a refund in cash to the owner of the premises at the time the refund was ordered made; and where the assessment has not been paid in full, by credit on the assessment roll.

*Special assessment districts*

**Section 24.** The commission may divide any improvement into parts or sections and provide for separate construction of such parts or sections, and may establish a separate special assessment district for each part or section, and may issue bonds against such separate district.

*Bids received for assessed improvements*

**Section 25.** No improvement, any part of the cost of which is to be assessed to a special assessment district, shall be made until the commission has first advertised for proposals for making such improvement, and has received and opened the same, if any. The commission may reject any and all of such proposals and may in its discretion make such improvement by the proper officers and agents of the city.

*Apportioned to parts of lots*

**Section 26.** Should any lot or parcel of land be divided after a special assessment thereon has been confirmed and before the collection of all the installments, the commission may require the assessor to apportion the uncollected amounts upon the several parts of such lot or parcel of land so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties and all assessments thereafter made upon such lots shall be according to such division.

*Payment of city's portion*

**Section 27.** Whenever any portion of the cost of any improvement shall be assumed by or charged to the city at large and the balance of such cost assessed to the property benefited, then the commission may provide for the payment of the city's portion of such cost in installments in the same manner as shall be provided for the payment of the portion assessed to the benefited property.

## CHAPTER XI

## Streets and Sidewalks

*City to control streets*

**Section 1.** The city shall have reasonable control of all the streets, alleys and public highways within its limits and may use and enjoy the same and the space above and beneath them. The city may adopt a plan of streets, alleys and public highways within its limits and so far beyond its limits as may be permitted by law.

*May improve streets*

**Section 2.** The commission shall have power to improve streets, alleys and public highways in the city, by grading, graveling, curbing, paving, repairing, repaving, illuminating, maintaining the same free from dust and nuisance; by constructing, reconstructing and repairing sidewalks; or otherwise. It shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any street, alley or public highway or part thereof in the city, except as herein otherwise prohibited, whenever it shall deem such action to be a public improvement; provided that it shall not vacate any state or county highway designated as such.

*Vacation of streets*

**Section 3.** When the commission shall deem it advisable to vacate or abolish any street, alley or other public highway or any part thereof, it shall, by resolution adopted by at least five-sevenths (5/7) of the commission elect, so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter, when it shall meet and hear objections thereto. Notice of such meeting, with a copy of said resolution, shall be published two successive weeks before the appointed time for such meeting, in a newspaper circulating in the city.

*Notice of**Grade of streets*

**Section 4.** The commission shall have authority to establish and alter the grades of streets, alleys, public highways, sidewalks, curbs and public grounds within the city. Whenever a grade shall be established or



altered, a record and diagram thereof shall be kept on file in the proper office of the city.

**Section 5.** Whenever any sidewalk has been built in conformity to a grade established by the city and the cost thereof paid for by the abutting property owner by special assessment or otherwise, then such owner or his successor in title shall not be required to reconstruct such sidewalk nor shall the abutting property be subject to a special assessment therefor, in event a reconstruction is made necessary by a change in grade made by the city, provided such sidewalk is in good condition.

*Change of grade*

**Section 6.** The city shall have control of all sidewalks in the streets, alleys and public highways of the city and may require the abutting owners to construct, reconstruct and repair such sidewalks. If any abutting property owner shall fail to construct, reconstruct or repair the sidewalk in the street adjacent to his premises after being required to do so by resolution of the commission and upon such notice as the commission shall provide, then the city may construct, reconstruct or repair such sidewalk and collect the costs thereof from the abutting property owner, or may make a special assessment against such owner and such abutting property, in the same manner as herein provided for the making of special assessments where any expense has been incurred by the city upon or in respect to any particular lot or parcel of land.

*Sidewalks*

*Owners to construct*

**Section 7.** The commission shall have power to change the name of any street or highway, but before doing so shall set a date for hearing any objections thereto and shall give notice thereof at least once by publication in a newspaper circulating in the city, not less than ten days prior to such hearing.

*City may assess  
cost of street names*

**Section 8.** The commission may provide for and regulate the planting of shade and ornamental trees and shrubbery in the streets and public highways of the city and may provide for the care and maintenance thereof.

*Tree planting  
in streets*

**Section 9.** The commission may by ordinance require abutting property owners to remove snow, ice, filth and other obstructions from the sidewalks in front of their respective properties, and in event of the failure of any person to do so, such ordinance may provide that the city may perform such work and charge the cost thereof to such property owner and to assess him and his property therefor as in this charter provided.

*Sidewalks to  
be kept clean*

## CHAPTER XII

### Sewers and Drains

**Section 1.** The commission may establish, construct and maintain a sewerage system, sewage disposal system, sewers and drains whenever and wherever necessary. Such systems, sewers and drains may be constructed either within or without the city or partly within and partly without the city. The commission may contract with any other governmental unit or units for sewerage and drainage facilities, provided that the same is approved by two-thirds of the electors voting thereon at a general or special election.

*Sewers and drains*

*City may construct*

**Section 2.** The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the city sewers and drains, under such rules and regulations as the commission shall prescribe.

*Private connection to*

**Section 3.** Whenever the commission shall deem it necessary for the public health, it may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstructions and nuisances; and if such private drains are not constructed and maintained according to such requirement, the commission may cause the work to be done at the expense of such owner or occupant and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

*Private drains shall  
be constructed*

**Section 4.** The city may acquire, establish, operate, extend and maintain sewage disposal systems, sewers and plants either within or

*Sewerage service  
charge*



without its corporate limits, as a utility, and may fix and collect charges for service covering the cost of such service, the proceeds whereof shall be exclusively used for the purpose of such sewage disposal system, and which may include a return on the fair value of the property devoted to such service, excluding from such valuations such portions of the system as may have been paid for by special assessment, and which charge may be made a lien upon the property served, and if not paid when due, may be collected in the same manner as other city taxes.

### CHAPTER XIII

#### Water Supply

##### *Water supply*

##### *Water system*

##### *Control of waste*

**Section 1.** The commission may provide for a water system and an adequate supply of water for the use of the city and its inhabitants, provided the same is approved by two-thirds of the electors voting thereon at a general or special election. Such water supply may be secured from some other municipality or by the establishment and maintenance of a water works pumping station. If water is furnished by the city to the inhabitants thereof, the commission shall have power by ordinance to provide for water rates and the enforcement of the payment thereof, and may provide that such water rates shall be a lien upon the property. The commission may also make such rules and regulations in regard to such water works system and the use of water, as may be deemed expedient.

**Section 2.** The commission may provide reasonable regulations to prevent the waste in an unreasonable manner of water from artesian or flowing wells causing the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir.

### CHAPTER XIV

#### Franchises

##### *Franchises*

##### *Revocable*

##### *Not exclusive*

##### *Service regulated by city*

##### *Permit for use of public property*

##### *Franchise in form of ordinance*

**Section 1.** No franchise shall be granted by the city which shall not be, by its terms, revocable at the will of the city, and all franchises granted by the city shall be so revocable.

**Section 2.** No exclusive franchise shall ever be granted to any person, firm or corporation.

**Section 3.** The grant of every franchise shall be subject to the right of the city, whether in terms reserved or not, to make and enforce such regulations as shall be deemed by the commission reasonably necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience.

**Section 4.** The commission may grant a permit at any time, in or upon any street, alley, or public place, provided such permit shall be revocable by the commission at its pleasure, whether such right to revoke be expressly reserved in said permit or not.

**Section 5.** All contracts, granting or giving any original franchise or extending or renewing or amending any existing franchise, shall be made by ordinance and not otherwise. If the question of granting or giving an original franchise, or of extending, renewing or amending any existing franchise, is to be submitted to a vote of the electors of the city, the cost of such election shall be first paid by the grantee to the city and the acceptance of such franchise, or extension, renewal or amendment shall be filed by the grantee with the city clerk. No such election shall be held within sixty (60) days from the effective date of the ordinance. Any non-compliance with this section shall automatically annul such franchise, extension, renewal or amendment.



**Section 6.** If any grantee shall continue to operate any public utility after the term of its franchise therefor shall have expired and without a renewal or extension thereof, it shall nevertheless be subject to all of the terms and conditions of the franchise so long as it continues to operate, but the term of the franchise shall not be thereby extended, and such franchise shall at all times after the expiration of its term be revocable at the will of the commission.

*Operations after  
expiration of franchise*

**Section 7.** The commission may by ordinance provide for efficient inspection and regulation of all public utilities operated in the city. It is the intention of this section to provide means for securing to the city efficient service from all public utilities operated in the city and the proper observance by such operators of the conditions imposed by their respective franchises, the ordinances of the city and laws of the state.

*Regulation of  
public utilities*

## CHAPTER XV

### Justice Courts

**Section 1.** There shall be one justice of the peace and one associate justice of the peace for the City of Birmingham. Such justices of the peace shall possess such qualifications as are prescribed in this charter for elective officers. At the election at which this charter shall be submitted, there shall be elected a justice of the peace and an associate justice of the peace, who shall each hold office until the fourth day of July in the year 1935. At the regular election in the year 1935, there shall be elected a justice of the peace and an associate justice of the peace, who shall each hold office from the fourth day of July, 1935, until the fourth day of July, 1939. At the regular municipal election in the year 1939, and in each fourth year thereafter, there shall be elected a justice of the peace and an associate justice of the peace, who shall each hold office for a term of four years from and after the fourth day of July following his election.

*Justices*

*Qualifications*

*Election and term  
of office*

**Section 2.** Except as otherwise provided in this charter or the laws of the state, the provisions of the general laws of the state applying to the election and qualification of justices of the peace in townships, shall apply to the election and qualification of the justices of the peace of the city.

*State laws apply*

**Section 3.** Except as otherwise provided in this charter or the laws of the state, said justices of the peace shall have and exercise the same jurisdiction and powers in all civil and criminal matters, causes, suits, and proceedings, and shall perform the same duties in all respects, so far as occasion may require, as are or may be conferred upon or required of justices of the peace under the general laws of the state; provided, however, that in all civil matters, causes, suits, and proceedings, ex contractu and ex delicto, said justices of the peace shall have concurrent jurisdiction to the amount of Five Hundred Dollars (\$500.00) with such exceptions and restrictions as are or may be provided by law.

*Powers of justices*

**Section 4.** The justices of the peace before whom any civil cause shall have been tried, shall upon legal cause shown therefor have the same power and authority as the circuit courts of the state possess to set aside the verdict or judgment and grant a new trial therein whenever a motion in writing is made and filed with such justice within five days after the rendition of the verdict or judgment in said cause, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by an affidavit or affidavits setting forth the facts relied upon and filed at the time of filing said motion, and a notice of the hearing of such motion with a copy of the motion and affidavits filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before the hearing thereof. Such motion shall be determined within two days after the same shall have been heard and submitted, and such motion shall be submitted and heard within one week after the same shall have been filed. The time for taking an appeal from judgment in case such motion be not granted, shall begin to run from the time when such motion shall be overruled. In no case shall the pendency of such motion stay the issuing and levy of an execution in such cause,

*May grant new trial*



but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion.

*Cases under charter  
or ordinance  
Jurisdiction not  
exclusive*

**Section 5.** Said justices of the peace shall also have authority and it shall be their duty to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by the charter and ordinances of the City of Birmingham, and to punish offenders for the violation of said charter and ordinances as therein prescribed and directed. The jurisdiction herein granted to the justices of the peace of the city shall not be deemed to be exclusive in event that jurisdiction in such causes be granted to other judicial officers by state law.

*State law to  
govern procedure*

**Section 6.** The proceedings in all suits and actions before the said justices of the peace and in the exercise of the powers and duties conferred upon and required of them, shall be according to and be governed by the general laws applicable to justice courts and to proceedings before such courts; and in all suits and prosecutions arising under the charter and ordinances of the city, the right of appeal from said justice courts to the circuit court for the County of Oakland, or to any other court having jurisdiction, shall be allowed to the parties or any or either of them, and the same recognizance or bond shall be given as is or may be required by law in case of appeal from justices' courts in analogous cases.

*Court records*

**Section 7.** Said justices of the peace shall enter in the dockets kept by them the titles of all suits and prosecutions commenced or prosecuted before them for violations of the charter and ordinances of the city, and all the proceedings and the judgment rendered in any such cause, and shall itemize all costs taxed or allowed therein. They shall also enter the amounts and dates of payment of all fines, penalties, forfeitures, moneys and costs received by them on account of such suits or proceedings. Such dockets shall be submitted by the justices at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the justices to the commission whenever required.

*Fees*

**Section 8.** All the provisions of the general laws of the state in relation to fees chargeable in the several proceedings in justice courts, shall apply to the justice courts for this city.

*Salaries of  
Justices*

**Section 9.** Unless otherwise changed by ordinance, the justice of the peace shall receive a salary of \$2500.00 per annum, and shall be required to devote his entire time during office hours to the duties of his office. The associate justice of the peace shall receive a salary of \$300.00 per annum and shall be required to devote not more than thirty full days or sixty half days per year to the duties of his office; provided, however, that if the work of the justice court shall require, the commission may provide that he shall sit any number of additional days, for which he shall be paid at the rate of \$8.00 per day. The associate justice of the peace shall hear all cases in which the justice of the peace is disqualified, and shall hold court in the absence from the city or the disability of the justice of the peace.

The salary of the associate justice for all full or half days he may sit in the place of the justice, in excess of thirty full or sixty half days (as the case may be) shall be deducted from the salary of the justice.

The commission may by ordinance change the salaries of the justice of the peace and the associate justice of the peace, and also the provisions as to the time required of each to be devoted to the duties of his office.

The salaries herein provided for the justice of the peace and the associate justice of the peace shall be in lieu of all fees, costs and charges to which said justices would be entitled but for the provisions of this section, except fees for the performance of marriage ceremonies, and for administering oaths in matters not connected with suits or proceedings in the justice courts in said city.

*Fees in charter  
or ordinance cases*

**Section 10.** In cases or proceedings involving the violation of this charter or the ordinances of the city, the justices of the peace shall collect and receive for the account of the city the same fees as in the proceedings before a justice of the peace for violation of the criminal laws of the state.



**Section 11.** All fines, penalties, forfeitures and costs collected or received by the justices of the peace for or on account of violations of the penal laws of the state, shall be paid over by such justices to the county authorities as provided by law. All fines, penalties, forfeitures and costs collected or received by the justices of the peace for or on account of violations of the charter and ordinances of the city, and all fees collected and received by the justices in civil causes, shall be paid over by the justices to the city treasurer on or before the first day of the next month after the collection or receipt thereof, and an itemized statement of the same shall, at the time of payment, be filed with the city treasurer and a duplicate with the city clerk. The justices shall take the treasurer's receipt for such money, in duplicate, file one copy with the city clerk and retain the other.

*Fines, penalties  
and costs*

**Section 12.** In addition to any security required by law to be given for the performance of his official duties, the justice shall give a bond to the city in the sum of One Thousand Dollars (\$1,000.00), and the associate justice shall likewise give a bond to the city in the sum of Five Hundred Dollars (\$500.00). Said bonds shall be approved by the city commission before such justice or associate justice shall enter upon the duties of his office, and shall be conditioned upon the payment to the city of all moneys collected or received by such justice or associate justice, which by the provisions of the general laws of the state or of this charter, shall be required to be paid into the treasury of the city. The premiums of such bonds shall be paid by the city.

*Bond required*

**Section 13.** The commission shall furnish suitable quarters for the justice courts. It shall have power and authority by ordinance or resolution to regulate the office hours of said justice courts, and to make all other necessary and proper rules for the regulation of said courts which are not inconsistent with the provisions of this charter and the general laws of this state.

*Courtroom*

**Section 14.** There shall be one constable in and for the City of Birmingham. Except as in this charter otherwise provided, all the provisions of the general laws applying to the election, qualifications and compensation of constables in the townships shall apply to said constable. Such constable shall be elected at the election at which this charter is submitted and at each regular municipal election thereafter, and shall hold office until his successor is elected and qualified. He may collect for his own use such fees for his services as are provided by law.

*Constable*

**Section 15.** Said constable shall have like powers and authority in matters of a civil and criminal nature and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. He shall also have power to serve all processes issued for breach of ordinances of the city but such processes may be given a police officer of the city to serve.

*Powers and duties*

## CHAPTER XVI

### Library

**Section 1.** The city commission shall maintain the public library and reading room, now known as "Baldwin Library," as a free public library for the use and benefit of the inhabitants of the city, in all respects in accordance with the conditions of the Donation Deed of Birmingham Library Association to the Village of Birmingham, bearing date the eighteenth day of June, A. D. 1907, and recorded in the office of the Register of Deeds for Oakland County, Michigan, in Liber 224 of Deeds on pages 150, 151 and 152, and in accordance with the statutes of the State of Michigan, relating to the establishment and maintenance of free public libraries and reading rooms by cities, and to that end, the commission shall levy a tax of not less than one-half ( $\frac{1}{2}$ ) mill and not to exceed one (1) mill on the dollar annually on all the taxable property in the city, such tax to be levied and collected in like manner with other general taxes of said city, and to be known as the "Library Fund."

*Library*

*Library tax levy*

**Section 2.** The taxes so levied shall, when collected and received, be deposited in the treasury of the city to the credit of the library fund, and shall be kept separate and apart from other moneys of the city, and

*Library fund*



be drawn upon by the proper officers of the city, upon the properly authenticated vouchers of the library board.

*Library board*

**Section 3.** The library board shall be constituted and chosen in accordance with the statutes of the State of Michigan, in such case made and provided, and shall have such powers and perform such duties as are either given or required therein.

CHAPTER XVII

**Miscellaneous**

*Definitions*

**Section 1.** Wherever used in this charter, the word "state" shall mean the "State of Michigan;" the word "city" shall mean the "City of Birmingham;" the word "commission" shall mean the "city commission;" words referring to the several offices where not preceded by the word "city" shall be deemed to mean such offices of the city unless the context implies otherwise; the terms "commission" and "city commission" shall be construed as meaning "council" or "common council" for the purpose of such general laws of the state as use one or the other of such latter terms in referring to the legislative body of the city; words imparting the singular number only may extend to and embrace the plural number, and words imparting the plural number may be applied and limited to the singular number; words imparting the masculine gender only may extend and be applied to those of the feminine or neuter gender.

*Official time*

**Section 2.** Eastern standard time shall be the official time of the city until otherwise changed by the commission. Any reference herein to time shall be construed to be according to the official time of the city; except that if the law of the state shall fix a different time for the opening and closing of the polls, the state law shall prevail.

*Majority to control*

**Section 3.** Words purporting to give joint authority to two or more public officers or other persons either as a board or otherwise shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared.

*Definitions*

**Section 4.** The word "person" may extend and be applied to bodies corporate as well as individuals. The words "written" and "in writing" may be construed to include printing, engraving, typewriting and lithographing, except that this rule shall not apply to provisions requiring written signatures, unless it be otherwise expressly herein provided.

*Charter severable*

**Section 5.** Should any provision or section of this charter be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this charter, it being the intent that this charter shall not be invalidated by reason of the invalidity of any provision or section.

*Records open to public*

**Section 6.** All records of the city shall be public and open to inspection at all reasonable times. All books, papers, records and accounts of any officer elected or appointed, or of any office or department of the city, shall be the property of the city, and shall at all times be subject to audit, examination, or inspection by any member of the commission, or by any person employed or designated by the commission for that purpose. All such books, papers, records, files and accounts shall be kept in such place as may be designated by the commission.

*Publication, affidavit of*

**Section 7.** When, by the provisions of this charter, or the laws of the state, notice of any matter or proceedings is required to be published in a newspaper or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be by publication in a newspaper, or by the person posting the same when required to be by posting, shall be prima facie evidence of the facts therein contained. Such affidavit of publication or posting shall be filed with the city clerk.

*Subpoenaing of witnesses*

**Section 8.** The commission shall have the power to hold hearings and to compel by subpoena the attendance of witnesses and the production of books, papers and data in any proceeding or hearing pending before it. Any person who, having been personally served with subpoena, willfully disobeys same, shall be guilty of a misdemeanor. Such sub-



poena may be served by any person of legal age. Each witness shall be entitled to receive the same fees for attendance as is provided by law for the payment of witness fees in the circuit courts of this state. The commission shall by ordinance prescribe the method to more effectually carry out the foregoing provisions. *Witness fees*

**Section 9.** The city shall not be liable for unliquidated damages for personal or other injuries, unless the person suffering the injury or sustaining the damage, or someone in his behalf, shall serve a notice in writing upon the city within sixty (60) days after such injury shall have occurred. Such notice shall specify the location and the nature of the defect or other basis of the claim, the injury sustained and the names of the witnesses to the accident which are known at that time by said claimant. The failure to so notify the city within the time and in the manner specified herein shall exonerate, excuse and exempt the city from any and all liability on account of such injury. Service of all notices of claims for unliquidated damages against the city shall be made on the mayor or the clerk. *Claims against city*

**Section 10.** Whenever in this charter or in any ordinance passed hereunder, a residence in the City of Birmingham for a set time shall be required, in determining the time of such residence, residence in the Village of Birmingham shall be included. *Residence requirements*

**Section 11.** Unless otherwise changed by the commission, the seal of the City of Birmingham shall be in circular form with the words "City of Birmingham, Michigan, 1933" around the outer edge and the words "Corporate Seal" across the center. *Seal of city*

**Section 12.** The City of Birmingham, upon the taking effect of this charter, shall succeed to and be vested with all the property, real and personal, moneys, contracts, rights, credits, effects, records, files, books and papers, and all other property of every name and nature belonging to the municipal corporation styled and designated as the Village of Birmingham to which municipal corporation the City of Birmingham is successor, and no rights or liabilities either in favor of or against said Village of Birmingham existing at the time this charter shall become effective, and no suit or prosecution of any kind or other legal proceedings, shall be in any manner affected by the incorporation of the territory comprised within the limits of the Village of Birmingham, as the City of Birmingham, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former Village of Birmingham shall be deemed to be the debts and liabilities of the City of Birmingham, and all taxes and special assessments levied and uncollected at the time of such change shall be collected the same as if such change had not been made; provided, that when a different remedy is given in this charter or in any ordinance pursuant thereto, which can be made applicable to any rights existing at the time this charter becomes effective, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly. *Succession of city*

**Section 13.** All ordinances of said Village of Birmingham, and all rules, regulations and resolutions of the commission of said village, in force at the time this charter takes effect, and not inconsistent with the provisions of this charter, shall remain in full force and effect after the adoption of this charter, and are hereby declared to be re-enacted by virtue of and under the powers conferred by this charter until altered, amended or repealed by the commission. *Village ordinances and regulations remain in effect*

**Section 14.** All licenses and franchises granted by said Village of Birmingham and in force when this charter takes effect, shall remain in full force and virtue until the expiration of the time for which they were respectively granted. *Licenses and franchises remain in effect*

**Section 15.** Wherever in this charter any reference is made to any action or proceeding which has been taken, unless the context would otherwise imply, it shall be deemed to include any action or proceeding taken by the Village of Birmingham and all provisions of this charter, except where otherwise expressly or impliedly provided, shall be construed as if this charter were a general revision of an existing charter and no change had been made from a village to a city form of government. *Continuity of proceedings*



*Village officers  
continue in office*

**Section 16.** The president and six (6) commissioners constituting the village commission under the charter of the Village of Birmingham, in office at the time this charter shall take effect, shall have and exercise the powers and duties of the mayor and commissioners, respectively, until such time as the mayor and commissioners, respectively, under this charter are duly elected and qualified. All officers of the Village of Birmingham, whether elected or appointed, and their deputies, if any, shall perform the duties of their respective offices under the provisions of this charter until they are removed or their successors shall be elected or appointed and shall have qualified.

*Violation of charter  
Penalties for*

**Section 17.** All offenses in this charter declared to be misdemeanors shall be punishable by fine not exceeding Five Hundred Dollars (\$500.00) or imprisonment for a period not exceeding ninety (90) days or both in the discretion of the court, and the court may provide in any case that in event the fine shall not be paid, the offender shall be imprisoned until the payment thereof, provided that no person shall be imprisoned for a single violation for a longer period than ninety (90) days.

## CHAPTER XVIII

### Submission and Election

*Charter election*

**Section 1.** This charter shall be submitted to the electors of the City of Birmingham for their approval or rejection at an election to be held on Monday, the third day of April, 1933, at which election the several city officers provided under this charter shall officially be elected.

*Publication of  
charter*

**Section 2.** Prior to the submission of this charter, it shall be published at least once in the Birmingham Eccentric, a newspaper published and in general circulation in the City of Birmingham, not less than two weeks nor more than four weeks preceding said election, together with a notice of said election, which said notice shall state that at said election the question of adopting the proposed charter will be voted on, and the elective officers provided for therein will be elected, and shall also state the location of the polling places for said election, and such other matters as may be required by law. Notice of such election shall be posted in at least ten (10) public places within the City, not less than ten (10) days prior to said election.

*Nomination of  
officers*

**Section 3.** Candidates for the several elective offices provided for in this charter, at the first election held for their selection, shall be nominated by petition, signed by not less than twenty-five (25) nor more than fifty (50) qualified electors of the city, and shall be filed in the office of the clerk of the City of Birmingham on or before the eighteenth day of March, 1933, and prior to the close of the said office on that day. The city clerk shall forthwith, upon demand, turn any such petition over to the secretary of the charter commission, which shall meet and determine the sufficiency of such petition. Such petitions shall be substantially in the same form as provided in Chapter IV for nominating petitions. At the said first election, only the names of those candidates who have filed nominating petitions shall be printed on the ballot.

*Election districts*

**Section 4.** The election districts for said election shall be the same as those last established by the Village of Birmingham, and the polling places for said election shall be the same as those last designated by said village. The ballots for the elective officers at said election shall be in the form provided in this charter for the election of officers, and the form of the ballot for the adoption or rejection of this charter shall be substantially as follows:

Election to be held in the City of Birmingham on the third day of April, 1933.

Instructions: Place a cross (X) in the square after the word "Yes" if in favor of the charter, and a cross (X) in the square after the word "No" if against the charter.

"Shall the proposed charter for the City of Birmingham drafted



by the charter commission elected on the 6th day of September, 1932, be adopted?"

Yes ☐

"Shall the proposed charter for the City of Birmingham drafted by the charter commission elected on the 6th day of September, 1932, be adopted?"

No ☐

**Section 5.** The polls for said election shall be open at seven o'clock *Polls*  
A. M., eastern standard time, or as soon thereafter as may be, and shall be continued open until eight o'clock P. M., eastern standard time, of the same day. Said election shall be conducted by such inspectors and clerks as shall be hereafter designated by the resolution of this charter commission. The votes cast at said election shall be canvassed by a canvassing board of three (3) electors to be hereafter designated by the resolution of this charter commission.

**Section 6.** The secretary of this charter commission shall cause *Ballots*  
the ballots for said election to be printed and delivered to the polling places prior to the opening of the polls on said election day. The returns of the election boards as to the results of said election in the several election precincts shall be made to the canvassing board designated by this charter commission at the office of the city clerk immediately after the counting of the ballots is completed. The canvassing board appointed to canvass the vote at said election to be held on the said third day of April, 1933, shall meet on Thursday, the sixth day of April, 1933, to determine the results of said election.

**Section 7.** The registration of electors shall be conducted by the *Electors*  
clerk of the city of Birmingham in the manner provided by law, and the said election shall be conducted by this charter commission in the manner provided in this charter, so far as the provisions thereof are applicable, and in conformity with the general election laws of the state.

**Section 8.** If this charter be approved at said election, then two *Filing of charter*  
(2) printed copies thereof, with the vote for and against the same, duly certified by the city clerk, shall, within thirty (30) days after the vote is taken thereon, be filed with each the Secretary of State of the State of Michigan and the Clerk of Oakland County, and upon the filing and approval thereof, this charter shall become effective.

HARRY ALLEN,  
Chairman,  
GEORGE R. AVERILL,  
Secretary,  
RALPH I. CORYELL,  
HAROLD T. ELLERBY,  
LAWRENCE HULBERT,  
ERNEST W. OSBORNE,  
FRANK S. PACKARD,  
CHARLES J. SHAIN,  
LEE A WHITE,

Members of Charter Commission.

By Commissioner Ellerby,  
Supported by Commissioner Osborne.

RESOLVED, That the charter commission of the City of Birmingham does hereby adopt the foregoing charter, and the secretary is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

Yeas: Commissioners Allen, Averill, Coryell, Ellerby, Hulbert, Osborne, Packard, Shain and White.

Nays: None.

I, George R. Averill, secretary of the charter commission elected to frame a charter for the City of Birmingham, do hereby certify that the above charter was adopted by said charter commission at a session



thereof held on the ninth day of February, 1933, and that the foregoing is a true and correct copy of the resolution and vote thereon, by which said charter was adopted.

Dated: Feb. 28, 1933.

GEORGE R. AVERILL  
Secretary of Charter Commission.

APPROVED: March 7, 1933.  
WILLIAM A. COMSTOCK  
Governor of the State of Michigan



## INDEX

## A

	<i>Page</i>	<i>Chapter</i>	<i>Section</i>
Aircraft, power to regulate .....	6	II	6
Appropriation resolution .....	17	VII	12
Assessment roll			
Endorsement of .....	20	IX	5
For all taxes (county and state) .....	20	IX	6
Preparation of .....	19	IX	1
Record of review .....	20	IX	4
Review of .....	19	IX	3
To contain .....	19	IX	2
Assessor			
Appointment of .....	8	III	9
Member of board of review .....	8	III	14
Powers and duties .....	8	III	13
To certify tax roll .....	21	IX	13
To prepare assessment roll .....	19	IX	1
To prepare city tax roll .....	20	IX	12
Associate justice of peace			
Bond required .....	33	XV	12
Election of .....	31	XV	1
Fines and fees collected .....	33	XV	11
Powers and duties .....	31	XV	3
Qualifications .....	31	XV	2
Salary of .....	32	XV	9
Term of office .....	31	XV	1
Time required in office .....	32	XV	9

## B

Ballots			
Counting of .....	13	IV	14
Form of .....	13	IV	12
Recount of .....	13	IV	15
Billboards, power to regulate .....	4	II	3
Board of review			
Appointment of .....	8	III	9
Assessor to be member of .....	8	III	14
Chairman and clerk selected .....	19	IX	3
Endorsement of roll by .....	20	IX	5
Meeting date .....	19	IX	3
Powers and duties .....	8	III	14
Qualifications of members of .....	8	III	14
Record of meetings .....	20	IX	4
Salaries of .....	8	III	14
Bonds			
Approved by electors .....	18	VIII	2
City may issue .....	18	VIII	1
Emergency bonds .....	18	VIII	6
Form of bond .....	18	VIII	4
Signatures on bonds .....	18	VIII	5
Sinking funds for bonds .....	18	VIII	3
Sinking fund investments .....	19	VIII	9
Special assessment bonds .....	18	VIII	7
Special assessment, for cities portion .....	19	VIII	8
Bonds (surety)			
Commission may require .....	10	III	22
Filing of .....	10	III	22
Justices' bonds .....	33	XV	12
Treasurer's bonds .....	8	III	12



	Page	Chapter	Section
Boundaries .....	2	I	1
Budget .....			
Adoption of .....	17	VII	11
Approval of .....	17	VII	11
Quarterly study of .....	18	VII	13
Building, regulation of .....	4	II	3
Busses, power to regulate .....	5	II	5

## C

Canvass of election returns .....	14	IV	16
Census, power to take .....	6	II	7
Charter adoption .....	36	XVIII	
Chief of fire department .....			
Appointment .....	8	III	9
Powers and duties .....	9	III	16
Chief of police .....			
Appointment .....	8	III	9
Powers and duties .....	9	III	15
Claims against city .....	35	XVII	9
Clerk .....			
Appointment .....	8	III	9
Powers and duties .....	8	III	11
To certify tax to assessor .....	20	IX	11
To certify tax to treasurer .....	23	IX	25
Commission .....			
Appointments by .....	7	III	8
Appointments by .....	8	III	9
Appointments by .....	10	III	27
Appointments by .....	6	III	4
Election of .....	10	III	24
Members not eligible to appointive offices .....	6	III	1
Powers of .....	6	III	3
Qualifications of members .....	7	III	7
Quorum .....	6	III	4
Term of office .....	6	III	2
The governing body .....	16	VI	3
To Approve projects .....	10	III	26
Vacancy in .....			
Continuity of village .....	35	XVII	14
Licenses and franchises .....	36	XVII	16
Officers' terms .....	35	XVII	13
Ordinances .....	35	XVII	15
Proceedings .....			
Contracts .....	16	VI	
Commissioner interested in .....	16	VI	4

## D

Dances, power to regulate .....	5	II	5
Definitions .....	34	XVII	1
Definitions .....	34	XVII	4
Deputy clerk .....	11	III	32
Deputy treasurer .....	11	III	32
Dogs, power to control .....	5	II	5



	<i>Page</i>	<i>Chapter</i>	<i>Section</i>
Duties			
Of assessor .....	8	III	13
Of chief of fire department .....	9	III	16
Of chief of police .....	9	III	15
Of clerk .....	8	III	11
Of health officer .....	9	III	17
Of manager .....	7	III	8

**E**

Election			
Ballots .....	13	IV	11
Combining of elections .....	12	IV	9
Date of regular election .....	12	IV	7
For approval of bonds .....	18	VIII	2
Nomination for .....	11	IV	2
Of commission .....	6	III	4
Of constable .....	33	XV	14
Of justices .....	31	XV	1
Regular .....	12	IV	7
Special .....	12	IV	8
Election Commission .....	14	IV	22
Explosives, power to regulate .....	5	II	5

**F**

Fences .....	5	II	3
Finance .....	16	VII	
Fire arms, use in city .....	5	II	5
Fire hazards, power to regulate .....	4	II	3
Fire limits, power to establish .....	4	II	3
Fire department, power to operate .....	6	II	7
Fire protection, power to provide .....	6	II	7
Fiscal year .....	16	VII	1
Funds			
Commission to authorize withdrawal .....	17	VII	3
Division of .....	17	VII	8
Transfer of .....	17	VII	5
Treasurer to collect .....	17	VII	6
Franchises			
Non-exclusive .....	30	XIV	2
Ordinance required .....	30	XIV	5
Permits for use of street .....	30	XIV	4
Revocable .....	30	XIV	1

**G**

Gasoline stations, power to regulate .....	4	II	3
General powers of city .....	3	II	

**H**

Health officer			
Appointment .....	8	III	10
Powers and duties .....	9	III	17
Health, power to protect .....	5	II	4
Hotels, power to regulate .....	5	II	5



## I

	Page	Chapter	Section
Imprest cash fund .....	17	VII	4
Installment payment of taxes .....	21	IX	14

## J

Justice courts .....	31	XV	
Justice of peace .....	33	XV	12
Bond required .....	31	XV	1
Election of .....	33	XV	11
Fines and fees .....	31	XV	
Powers and duties .....	31	XV	2
Qualifications for .....	32	XV	9
Salary of .....	31	XV	1
Term of office .....	32	XV	9
Time required in office .....	5	II	5
Junk dealers .....			

## L

Laws, power to enforce .....	6	II	7
Library .....	33	XVI	
Library board .....	34	XVI	3
Licenses, power to issue .....	5	II	5

## M

Manager .....	7	III	8
Meetings of commission .....	7	III	6
Miscellaneous .....	34	XVII	

## N

Nepotism .....	10	III	21
Nomination .....	12	IV	6
Acceptance of .....	11	IV	2
For elective office .....	12	IV	6
Notification of .....	11	IV	3
Petitions for .....			
Notification .....	10	III	29
Of election to office .....	13	IV	10
Of holding of election .....	19	IX	3
Of meeting of board of review .....	12	IV	6
Of nomination .....	24	X	5
Of special assessment .....	7	III	6
Of special meeting of commission .....	21	IX	15
Of taxes due .....			

## O

Oath of office .....	11	III	31
Ordinances .....	14	V	
Effective date .....	15	V	2
Penalties provided .....	15	V	6
Prosecution under .....	15	V	8
Proving of .....	16	V	11
Publication of .....	15	V	3
Recording of .....	15	V	4
Statute of limitations .....	15	V	7



## P

	<i>Page</i>	<i>Chapter</i>	<i>Section</i>
Parking of vehicles, power to regulate .....	6	II	6
Peddlers, power to regulate .....	5	II	5
Petitions			
Approval of .....	12	IV	5
Form of .....	11	IV	3
For nomination .....	11	IV	3
For special assessment .....	23	X	3
Signatures necessary .....	12	IV	4
Plan of government .....	6	III	
Polls to remain open .....	14	IV	19
Pool rooms, power to regulate .....	5	II	5
Powers			
General power of city .....	3	II	
Of Commission .....	6	III	1
Public utilities .....	6	II	7
Purchases, bids required .....	16	VI	1

## Q

Qualifications			
Of associate justice of peace .....	31	XV	1
Of Commissioners .....	6	III	3
Of electors .....	14	IV	18
Of health officer .....	8	III	10
Of justice of peace .....	31	XV	1
Of manager .....	7	III	8
Quorum of commission .....	7	III	7

## R

Real estate			
Aquisition of .....	3	II	2
Development lease and disposal of .....	4	II	2
Records open to public .....	34	XVII	6
Registration .....	11	IV	1
Residence requirements .....	35	XVII	10

## S

Salaries			
Of associate justice .....	32	XV	9
Of commissioners .....	10	III	19
Of constable .....	33	XV	14
Of employees .....	10	III	19
Of justice .....	32	XV	9
Of officials .....	10	III	19
Seal of city .....	35	XVII	11
Sewers and drains .....	29	XII	
Connection to .....	29	XII	2
May assess for .....	23	X	1
May collect service charge for .....	29	XII	4
May construct .....	29	XII	1
May require connections to .....	29	XII	3
Shows, power to regulate .....	5	II	5



	<i>Page</i>	<i>Chapter</i>	<i>Section</i>
Sidewalks			
Construction of .....	29	XI	6
To be kept clean .....	29	XI	9
Sinking funds created .....	18	VIII	3
Sinking fund investments .....	19	VIII	9
Special assessments .....	23	X	
Amount of expense to be assessed .....	25	X	11
Annual report of delinquent .....	27	X	20
Collection by sale .....	27	X	20
Collection by sale .....	27	X	21
Constitute lien .....	26	X	16
Confirmation of roll .....	26	X	15
Districts created .....	28	X	24
Due .....	26	X	17
For single parcels of land .....	25	X	10
Hearing on .....	24	X	5
Penalty for delinquent .....	27	X	22
Penalty for non-payment .....	27	X	17
Power to levy .....	23	X	1
Preparation of roll .....	24	X	7
Proportioning of costs .....	23	X	2
Re-assessing of .....	27	X	18
Refunds for overpayment .....	28	X	23
Resolution for preparation of roll .....	24	X	6
Resolution for special assessment .....	24	X	4
Review of special assessments .....	26	X	13
Roll for .....	23	X	3
Roll certified by assessor .....	25	X	9
Spreading of .....	24	X	8
Special meetings of commission .....	7	III	6
Streets .....	28	XI	
Change of grade .....	29	XI	5
City to control .....	28	XI	1
Grade of .....	28	XI	4
Improvement of .....	28	XI	2
Name of .....	29	XI	7
Tree planting in .....	29	XI	8
Submission and election .....	36	XVIII	
Subpoena, issuance of .....	34	XVII	8
Succession of city .....	35	XVII	12
Succession of city .....	3	II	1
Supervisors			
Appointment of .....	9	III	18
Powers and duties .....	9	III	18

## T

Taxes			
Amount of taxes certified to assessor .....	20	IX	11
Amount of taxes certified to treasurer .....	23	IX	25
Amount set by commission .....	20	IX	9
Certificate of unpaid taxes .....	23	IX	23
Collection by distress and sale .....	21	IX	13
Collection by suit .....	22	IX	18
Commission may levy .....	20	IX	10
County to collect .....	22	IX	19
Date delinquent .....	22	IX	19



Date due .....	21	IX	16
Delinquent taxes .....	22	IX	20
Error corrected by .....	22	IX	21
Fees and penalties, disposition .....	23	IX	24
Installment payment of .....	21	IX	14
Notice of taxes due .....	21	IX	15
On portion of property .....	22	IX	22
Penalties .....	21	IX	13
Prior lien .....	22	IX	17
Spreading of by assessor .....	20	IX	12
Treasurer to collect .....	21	IX	13
Tax roll			
Certified by .....	21	IX	13
Duplicate of .....	21	IX	13
Preparation of .....	20	IX	12
To county treasurer .....	22	IX	19
Taxis, power to regulate .....	5	II	5
Tie vote .....	14	IV	23
Time, official .....	34	XVII	2
Traffic, power to regulate .....	5	II	6
Treasurer			
Appointment of .....	8	III	9
Powers and duties .....	8	III	12

## V

Vacancies .....	10	III	27
Validity of charter .....	34	XVII	5
Veto, no power for .....	7	III	5
Violation of charter .....	36	XVII	17

## W

Water supply .....	30	XIII	
Weights and measure, power to regulate .....	6	II	7
Witness fees .....	35	XVII	8

## Z

Zone, power to .....	4	II	3
----------------------	---	----	---



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