

CHARTER  
OF THE  
CITY OF ALPENA

*ADOPTED MARCH 13, 1944*

ALPENA, MICHIGAN

## PREAMBLE

THE electors of the City of Alpena, in the County of Alpena and State of Michigan, pursuant to the authority granted them by the constitution and general laws of Said State, hereby revise the Charter of the City of Alpena, to read as follows:

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## CHAPTER 1

### Boundaries and Subdivisions of the City

#### BOUNDARIES:

**Section 1.1.** The following described territory, together with all territories that may hereafter be annexed thereto, shall continue and remain a body corporate under the official name and title of "City of Alpena," and shall be subject to the municipal control of said City:

The west half of Section Thirteen (13), the south half of Sections Fourteen (14), Fifteen (15), and Sixteen (16), entire Sections Twenty-one (21) and Twenty-two (22), fractional Sections Twenty-three (23), Twenty-four (24), Twenty-six (26), and Twenty-seven (27), entire Section Twenty-eight (28) and all that part of fractional Section Thirty-four (34) bounded by a line commencing at the meander post between said Sections Twenty-seven (27) and Thirty-four (34), and running thence westerly along the section line between said Sections Twenty-seven (27) and Thirty-four (34), to a point where the southwesterly line of Mason street, if extended, would intersect said section line, thence south 30 degrees east, along said southwesterly line of Mason street, extended, to the shore of Thunder Bay; thence northeasterly along the shore line of said bay to the point of beginning, all in Township Thirty-one (31) north of range eight (8) east, and entire fractional Section Nineteen (19), in Township Thirty-one (31) north of range nine (9) east; which territory is set off from the Township of Alpena, in the County of Alpena, State of Michigan.

#### WARD:

**Section 1.2.** The City of Alpena shall consist of one (1) ward.

#### ELECTION PRECINCTS:

**Section 1.3.** The Council shall, by ordinance, establish convenient election precincts which shall comply with the provisions of state law. Until the Council shall otherwise ordain, the election precincts of the City, as

established on the effective date of this charter, shall continue as so established.

## CHAPTER 2

### General Municipal Powers

#### POWERS OF THE CITY:

**Section 2.1.** All powers, not inconsistent with the provisions of this charter, possessed by the City of Alpena by virtue of its incorporation as such and enumerated in the charter of said city adopted by the people of said city at an election held on September 1, 1915, which charter is hereby superseded, are expressly retained by the City of Alpena under this charter. Further, unless otherwise provided or limited in this charter, the City of Alpena and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the constitution and laws of the State of Michigan, including all the powers and immunities granted to cities and officers of cities of the fourth class by Act No.215 of the Public Acts of 1895, as amended, and all the powers and immunities which cities are permitted to or may provide in their charters by Act No. 279 of the Public Acts of 1909, as amended, as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers or immunities in this charter be held to be exclusive. Such powers as are available to the city upon approval by the electors of the city by referendum, as provided in any law granting such powers, shall become available to the City of Alpena only after approval has been had by the electors of the city, as in such law provided. The city and its officers 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, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the

constitution and general laws of the state and the provisions of this charter.

**EXERCISE OF POWERS:**

**Section 2.2.** Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city is set forth, either in this charter or in any statute of the State of Michigan, the Council shall prescribe by ordinance a reasonable procedure for the exercise thereof.

## CHAPTER 3

### General Provisions Affecting Officers of the City

#### OFFICERS TO BE ELECTED AT LARGE:

**Section 3.1.** The elective officers of the city shall be a Mayor, four (4) Councilmen, a Municipal Judge, and one (1) Constable, all of whom shall be elected in the city at large.

#### ELIGIBILITY FOR OFFICE IN CITY:

**Section 3.2.** No person shall be elected or appointed to any office who is in default to the city, or to any school district, county, or other municipal corporation of the state, now or heretofore existing. The election or appointment of any such defaulter shall be void. Except as otherwise provided in this charter, no person shall be eligible to any elective office of the City of Alpena, unless he shall be an elector and a taxpayer in the city, and shall have been a resident of the city for at least three years, and no person shall be eligible for the office of Mayor unless he shall have reached the age of thirty years.

#### ELECTIVE OFFICERS WHEN ELECTED:

**Section 3.3.** At the biennial city election to be held in April of 1947 there shall be elected a Mayor and two (2) Councilmen who shall serve for terms of four (4) years from the Monday next following the date of their election. At the biennial city election held in April of 1949 there shall be elected two (2) Councilmen who shall serve for terms of four (4) years from the Monday next following the date of their election. Thereafter, the Mayor and Councilmen of the city shall be elected at the non-partisan biennial city elections provided in this charter for the full term of four (4) years from the Monday next following the date of their election.

The times of election and terms of office of other elective officers shall be as prescribed in the chapters of this charter pertaining to such offices.

#### VACANCIES IN OFFICES:

**Section 3.4.** Any city office shall become vacant upon the happening of any of the following events before the expiration of the term of such office:

1. For any reason specified by state law as grounds for creating a vacancy;
2. If any officer of the city shall absent himself continuously from the city for more than sixty days without the permission of the Council.

#### REMOVAL FROM OFFICE PROCEEDINGS:

**Section 3.5.** The Council may remove from office any of its members, and may remove any other elective or appointive officers of the city, including the Mayor, for any of the following causes, to-wit: (1) conviction by a court of competent jurisdiction of a felony; (2) willful violation of any provisions of the charter or ordinances; (3) intoxication or habitual drunkenness; (4) incompetency to perform the duties of his office; (5) willful neglect of duty; (6) corrupt or willful malfeasance in office; or (7) willful misconduct to the injury of the public service.

Said proceedings may be initiated by the written complaint of any member of the Council or by petition of not less than 5 per cent of the qualified electors on date of said petition as hereinafter provided. Upon the filing with the Council of a complaint or petition in writing specifying any matter or thing made cause for removal under this charter, which petition or complaint shall be signed by at least one (1) Councilman or by not less than 5 per cent of the qualified electors of the city and verified by the oath of at least one (1) of said signers, the Council shall proceed to hear and determine said matter as herein provided.

If said officer is found guilty by a majority vote of the members elect of the Council, the reason for such removal shall be entered upon the records of the Council with the names and votes of the members voting on the question. No officer shall be removed unless first furnished with a copy of the charges in writing and allowed to be heard in his defense with the aid of counsel; and for such purpose the Council shall have the power to compel the attendance of witnesses

and the production of papers by subpoena or written order. The Council shall hear and determine said charges within twenty (20) days after service of a copy thereof unless said proceedings shall be adjourned for cause to a time not exceeding thirty (30) days in all; and then at such adjourned meeting to hear and determine the matter as aforesaid. If such officer shall neglect to appear and answer such charges, his default shall be deemed good cause for his removal. Any person refusing or neglecting to comply with the requirements of any subpoena or written order issued and served under this section shall be liable to a fine not to exceed fifty (\$50.00) dollars or confinement in the County Jail not to exceed thirty (30) days, on conviction of such refusal or neglect before the Municipal Judge of the city.

#### **RESIGNATIONS:**

**Section 3.6.** Resignations of elective officers shall be made in writing to the Council and shall be immediately acted upon by the Council. Resignations of appointive officers shall be made in writing to the Council, in the case of officers appointed by the Council, or to the City Manager, in the case of officers appointed by him, and shall be immediately acted upon by the Council or the City Manager, as the case may be.

#### **FILLING VACANCIES:**

**Section 3.7.** If a vacancy occurs in any elective office, the Council shall, within thirty days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of the office in which the vacancy exists to fill such vacancy until the first Monday following the next biennial city election; except that in the case of a vacancy in the office of Municipal Judge, such vacancy shall be filled until the first day of July following such city election; at which time the person elected at such election to fill the vacancy shall qualify and assume the duties of his office.

If a vacancy occurs in any appointive office, which office is for a specified term, the Council or the City Manager, as the case may be, shall, within thirty (30) days after such vacancy occurs, appoint a qualified person to fill such vacancy for the balance of the term of such office in the

manner required for the appointment of the holder of such office in the first instance.

#### **TERM OF OFFICE CANNOT BE SHORTENED OR EXTENDED:**

**Section 3.8.** Except by procedures provided in this charter, the terms of the elective officials of the city and of officers of the city appointed for a definite term shall not be shortened. The term of officers of the city may not be extended beyond the period for which any such officer was elected or appointed except that an elective officer of the city shall, after his term has expired, continue to hold office until his successor is elected and has qualified.

#### **INCREASE OR DECREASE OF COMPENSATION:**

**Section 3.9.** The Council shall not grant nor authorize extra compensation to any city officer, elective or appointive, to any employee, agent, or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any city officer, elective or appointive, be increased or decreased after his election or appointment, or during the term of office for which he was elected or appointed.

#### **OATH AND BOND OF OFFICE FAILURE TO TAKE VACATES OFFICE**

**Section 3.10.** Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State and shall file the same with the City Clerk, together with any bond which he may be required by this charter or by the Council to give. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant.

#### **SURETY BONDS:**

**Section 3.11.** Whenever by general law, this charter, or direction of the Council, any official bond is required of any elective officer of the city,

such official bond shall be a surety bond issued by some surety company, licensed to do business in the State of Michigan, and satisfactory to the Council. All premiums for such official bonds shall be paid by the city. No bond required by this section shall be renewed upon its expiration or in the event of the reelection of any officer to a position for which a bond is required, but a new bond shall be furnished.

required by law of any liquor licensee whose license is subject to approval by the Council. The foregoing prohibitions, as they may apply to any Councilman or Councilmen, shall not apply if the Council shall declare on its records, by the unanimous vote of the remaining members of the Council that the best interests of the city are to be served by the waiving of such prohibitions. Any member of the Council or officer of the city, offending against the provisions of this section, shall be guilty of misconduct in office.

#### **LIABILITY AND BOND TO CONTINUE:**

**Section 3.12.** The resignation or removal of any elected officer of the city shall not, nor shall the election or appointment of another to his office, exonerate such officer or his sureties from any liability incurred by him or them.

#### **DELIVERY OF OFFICE AND ITS EFFECTS BY OFFICER TO HIS SUCCESSOR**

**Section 3.13.** Whenever any elective officer shall move from the city, resign, or be removed from office, or the term for which he has been elected or appointed has expired, he shall on demand, deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer, and in any way appertaining to his office; and every person willfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally for the like offense under the general laws of the state, now or hereafter in force and applicable thereto; and every officer elected or appointed shall be deemed an officer within the meaning and provisions of such general laws of the state.

#### **OFFICERS MUST NOT HAVE INTEREST IN CITY WORK:**

**Section 3.14.** No member of the Council, nor officer of the city, shall be interested, directly or indirectly, in the profits of any contract job, work, or service (other than official service), to be performed for the city; nor shall he stand as, give, or provide any bail, security, or bond required by this charter or the ordinances of the city; nor, personally or as an agent, provide any bond

## **CHAPTER 4**

### **The City Council**

#### **MUNICIPAL COUNCIL:**

**Section 4.1.** The Municipal Council of the City of Alpena is hereby continued as the governing body of the city. Such Municipal Council shall be composed of the Mayor and four Councilmen of the city, and shall have full power and authority, except as herein otherwise provided, to exercise all the legislative powers conferred upon the city by the constitution and general laws of the State of Michigan and by this charter, including the power to make appropriations and to authorize contracts in accordance with the provisions of this charter. In all cases in this charter where the word "Council" is used, the same shall mean the Municipal Council herein continued and shall be synonymous with the terms "commission," "common council," "board of aldermen," "governing body," or "legislative body," or any synonymous term, as the same may be used in any state or federal law in referring to legislative or governing bodies of cities.

#### **SALARIES OF MEMBERS OF THE COUNCIL:**

**Section 4.2.** Each member of the Council shall receive, as remuneration for his service to the city, the sum of five dollars per meeting of the Council which is actually attended by him. The Mayor shall receive the sum of \$200 per year in addition to the remuneration received by him as a member of the Council. Such salaries shall be payable quarterly, and, except as otherwise provided in this charter, shall constitute the only salary or remuneration which may be paid for services performed by members of the Council for the discharge of any official duty for or on behalf of the city during their term of office. Upon authorization of the Council, reasonable traveling expenses may be allowed when actually incurred on behalf of the city.

#### **JUDGE QUALIFICATION OF MEMBERS:**

**Section 4.3.** The Council shall be the judge of the qualifications of its own members, subject only to review by the courts.

#### **ORGANIZATION OF THE COUNCIL:**

**Section 4.4.** The Council shall, at its meeting held on the Monday following each regular biennial city election, elect one of its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall preside over the meetings of the Council at the call of the Mayor, or when, on account of absence from the city, disability, or otherwise, the Mayor is temporarily unable to perform the duties of his office, and in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. In the event of a vacancy occurring in the office of Mayor Pro Tem, the Council shall elect from its elected membership to fill such vacancy.

#### **DUTIES OF MAYOR:**

**Section 4.5.** (a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the city. He shall be a member of the Council and shall have an equal voice and vote in the proceedings of that body, but shall have no veto power.

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

(c) He shall authenticate by his signature such instruments as the Council, this charter, or the laws of the State of Michigan or of the United States shall require.

(d) He shall exercise only such powers as the state laws, this charter, or the Council shall specifically confer upon him.

#### **REGULAR MEETINGS OF THE COUNCIL:**

**Section 4.6.** Regular meetings of the Council shall be held at least twice in each calendar month commencing at 8:00 o'clock in the evening at the usual place of holding meetings of the Council. If any time set for the

holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held at the same time and place on the next following secular day which is not a holiday.

### **SPECIAL MEETINGS OF THE COUNCIL:**

**Section 4.7.** Special meetings of the Council may be called by the Clerk on the written request of the Mayor or any two (2) members of the Council on twenty-four (24) hours written notice to each member of the Council, designating the purpose of such meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him; but any special meeting at which four (4) members of the Council are present and have waived notice in writing, shall be a legal meeting for all purposes. without such notice.

### **BUSINESS AT SPECIAL MEETINGS:**

**Section 4.8.** No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.

### **MEETINGS OF THE COUNCIL TO BE PUBLIC:**

**Section 4.9.** All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

### **QUORUM:**

**Section 4.10.** Three (3) members of the Council shall be a quorum for the transaction of business, but, in the absence of a quorum, two (2) or more members may adjourn any regular or special meeting to a later date.

### **RULES OF ORDER:**

**Section 4.11.** The Council shall determine its own rules and order of business and shall keep a journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yea" and "Nay" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Each member of the Council who shall be recorded as present shall vote on all questions decided by the Council unless excused by the unanimous consent of the members present. Any citizen shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times. There shall be no standing committees of the Council.

### **DISCIPLINE:**

**Section 4.12.** The Council may, by vote of not less than two (2) of its members, compel the attendance of its members, and other officers of the city at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the city who refuses to attend such meetings and conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

### **PUBLICATION:**

**Section 4.13.** The proceedings of the Council shall be published at least once in a legal newspaper, having a general circulation in the city.

### **INVESTIGATIONS:**

**Section 4.14.** The Council or any person or committee authorized by it shall have power to inquire into the conduct of any department, office, or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers, or other evidence

as ordered under the provisions of this section shall constitute misconduct in office.

**RESTRICTION ON POWERS OF THE COUNCIL:**

**Section 4.15.** The Council shall not have the power to make any contract with or give any official position to any person who is in default to the city. Further, the Council shall not have the power to sell any property of a value in excess of two dollars per capita according to the last preceding U. S. census, or any park, cemetery, or any part thereof, or any property bordering on a water front, or vacate any street or public place leading to a water front, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, unless approved by three-fifths (3/5) of the electors voting thereon at any general or special election. Except as otherwise provided in this charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least three (3) members of the Council.

**PUBLICATION OF COUNCIL PROCEEDINGS:**

**Section 4.18.** The proceedings of the Council shall be published within ten days after each meeting of the Council. The publication of a synopsis of such proceedings, prepared by the Clerk and approved by the Mayor, showing the substance of each separate proceeding of the Council shall be a sufficient compliance with the requirements of this section.

## **CHAPTER 5**

### **Police Powers of the Council**

#### **PUBLIC HEALTH AND SAFETY:**

**Section 5.1.** Through the established departments and agencies Of the city government, together with any such departments or agencies as may be created under authority of this charter, the Council shall provide for the public peace and health and for the safety of persons and property.

#### **STREETS AND ALLEYS:**

**Section 5.2.** Council shall have power to establish and vacate and to use, and to control and regulate the use of its streets, alleys, bridges, and public places (whether such public places be located within or without the limits of the city) and the space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof and to the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and things which are of such nature as to impede or make dangerous the use of sidewalks or streets, upon or over the sidewalks or streets of the city, and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and of all vaults, structures, and excavations under the same.

#### **LICENSES:**

**Section 5.3.** The Council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require the exact payment of such reasonable sums for any licenses as it may deem proper. The persons receiving the licenses shall, before the issuing thereof, execute a bond to the city, when required by any ordinance, in such sum and with such securities as prescribed by such ordinance, conditioned for the faithful observance of the charter of the city, and the ordinance under which the license is granted.

#### **RIGHTS AS TO PROPERTY:**

**Section 5.4.** The Council shall have the power to acquire for the city by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Alpena, the following improvements, including the necessary lands therefor, viz.: City Hall, police stations, fire stations, boulevards, streets, alleys, parking lots, public parks, cemeteries, recreation grounds, libraries, museums, airports, city prisons, hospitals, utilities for supplying water, light, heat, power, transportation, and sewage disposal, garbage disposal plant, rubbish disposal plant, market places, public works and public buildings of all kinds, and the enlargement thereof or the making of additions thereto; 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 County of Alpena, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not.

#### **CEMETERIES:**

**Section 5.5.** The Council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of all cemeteries and parks (together with the improvements thereon and appurtenances thereto) owned or hereafter acquired by the city either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city belonging to, or under the control of, any church or religious society, or any corporation, company, or association. The Council may cause any bodies buried within the city, in violation of any rule or ordinance made in respect to such burials, to be taken up and reburied in such a manner as shall conform to the ordinances of the city, or to be buried elsewhere. In any cemetery established by the city, a plan for the perpetual care of all lots, plots, and lands therein shall be established.

#### **TRUSTS:**

**Section 5.6.** All trusts established and bequests made for cemetery, park, or other municipal purposes shall be used and continued

in accordance with the terms of such trusts or bequests, subject to the common law cypres doctrine. The city may, in its discretion, receive and hold any property in trust for cemetery, park, or other municipal purposes and shall apply the same to the execution of such trusts and for no other purposes whatsoever, except in cases where the common law cypres doctrine shall apply.

#### **HOUSE TRAILERS:**

**Section 5.7.** The Council may, by ordinance, provide for the prohibition or regulation of the use, occupancy, sanitation, and parking of house trailers within the city. The right of the Council to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever.

#### **CITY PLANNING:**

**Section 5.8.** The Council shall, within one (1) year after the date that this charter shall become law, appoint and maintain a City Planning Commission in accordance with and having the powers and duties granted by the provisions of state law relating to such commissions. The Council shall appropriate the necessary funds and provide all needed rules, regulations, and ordinances for carrying into effect the work and purposes of such commission.

#### **ZONING:**

**Section 5.9.** For the purpose of promoting the health, safety, morals, and general welfare of the city, the Council shall, within two (2) years after this charter shall become law, pass a zoning ordinance in accordance with the provisions of the state law relating to such ordinances. Insofar as possible, the provisions of such ordinance shall be coordinated with the work of the City Planning Commission herein required to be created by the Council.

#### **WATERS AND WATER COURSES:**

**Section 5.10.** For the purpose of promoting and preserving the public morals, peace, health, safety, and welfare, and within the limits not preempted by the powers and statutes of the United States of America and the State of Michigan, the city shall have and possess the power to use and to control and regulate the use of all streams, waters, and water courses within its limits.

#### **AIRCRAFT:**

**Section 5.11.** The city shall have the power to establish, own, and operate airports either within or without its corporate limits and may regulate all airports located within its boundaries. Insofar as such control and regulation does not contravene any applicable statute or legally established and valid regulation of the United States of America or the State of Michigan, for the purpose of promoting and preserving the public peace, safety, and welfare, the city shall have and possess the power to control and regulate the use of the air above the city and the use thereof by aircraft of all types.

## **CHAPTER 6**

### **City Legislation**

#### **PRIOR CITY ORDINANCES AND REGULATIONS:**

**Section 6.1.** All bylaws, ordinances, resolutions, rules, and regulations of the City of Alpena, which are not inconsistent with the provisions of this charter, in force and effect at the time of the adoption of this charter, shall continue in full force as bylaws, ordinances, resolutions, rules, and regulations of the City of Alpena until repealed or amended by action of the proper authorities.

#### **ORDINANCE ENACTMENT:**

**Section 6.2.** (a) All legislation of the City of Alpena shall be by ordinance or by resolution. The word "resolution" as used in this charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this charter or by state or federal law and to matters pertaining to the internal affairs or concerns of the city government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be, "The City of Alpena Ordains: " Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. No ordinance shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the Clerk in a book to be called "The Ordinance Book"; and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures there on. All ordinances except ordinances declared by the Council to be emergency ordinances shall become effective ten (10) days following date of publication.

Emergency ordinances shall become effective immediately after publication.

#### **PENALTIES:**

**Section 6.3.** The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any city ordinance or for the commission by any officer of the city of any act declared by this charter to constitute misconduct in office shall exceed a fine of five hundred dollars (\$500.00) or imprisonment for ninety (90) days, or both in the discretion of the court, except that any officer of the city found guilty of any act, declared by this charter to constitute misconduct in office, shall, in addition to such fine or imprisonment, or both, forfeit his office.

#### **PUBLICATION OF ORDINANCES:**

**Section 6.4.** Within ten (10) days after the adoption of an ordinance by the Council, and before the same shall become effective, such ordinance shall be published once in some legal newspaper published and circulated in said city. The publication of any ordinance in full as a part of the published proceedings of the Council shall constitute publication of such ordinance as required herein.

#### **TECHNICAL CODES:**

**Section 6.5.** The Council may adopt any provision of state law or any detailed technical regulations as a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city. Where any recognized official or unofficial standard code is so adopted, it may be published by providing to the public not less than fifty (50) copies in book or booklet form, available for public distribution at a reasonable charge, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

## **IMPROVEMENTS, FRANCHISES AND CONTRACTS:**

**Section 6.6.** Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least one (1) week before the final passage or adoption thereof.

## **COMPILATIONS:**

**Section 6.7.** (a) Copies of all ordinances which are in effect and all amendments to this charter shall be prepared and kept on hand in the office of the Clerk available for public distribution.

(b) In the year 1946 and at least once in every ten (10) years thereafter, the Council shall direct the compilation or codification and the publication in book form of the charter and of all ordinances of the city, then in force, and may provide for a reasonable charge for copies thereof. No further publication of any such compilation or codification shall be required for the validity thereof. In case the compilation or codification of the ordinances of the city shall have been maintained current and up to date during any ten (10) year period, no re-compilation or re-codification of the ordinances of the city shall be required during such period.

The copies of ordinances and of any compilation, code, or codes referred to in this chapter may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

## **INITIATIVE AND REFERENDUM:**

**Section 6.8.** An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had, by a petition, as hereinafter provided.

## **PETITIONS:**

**Section 6.9.** An initiatory or a referendary petition shall be signed by registered qualified electors of the city in number equal to fifteen (15) per cent of the electors of the city voting for

candidates for the office of Mayor at the last regular city election held prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the Clerk. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten (10) days canvass the names thereon to determine the sufficiency thereof. If found to contain an insufficient number of names of qualified electors of the city, or to be improper as to form or compliance with the provisions of this section, the City Clerk shall notify the person filing such petition forthwith and ten (10) days from such notification shall be allowed for the filing of supplemental petitions papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

## **COUNCIL PROCEDURE:**

**Section 6.10.** Upon receiving an initiatory or referendary petition from the Clerk, the Council staff, within thirty (30) days, either,

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition;

(b) If it be a referendary petition, repeal the ordinance to which the petition refers; or

(c) In either case, determine to submit the proposal to the electors.

## **SUBMISSION TO ELECTORS:**

**Section 6.11.** Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose within ninety (90) days after receipt of such petition by the Council, or, in the discretion of the Council, at a special election. In the case of an initiatory petition, the ordinance proposed thereby shall be published at least

once not less than fifteen (15) days before the election thereon. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the constitution or laws of the State of Michigan.

**ORDINANCE SUSPENDED:**

**Section 6.12.** The certification by the Clerk of the sufficiency of a referendary petition within twenty (20) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two (2 ) years after the date of the election at which it was adopted. Should two (2) or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

## **CHAPTER 7**

### **The Administrative Service**

#### **THE ADMINISTRATIVE OFFICES**

##### **GENERAL:**

**Section 7.1.** (a) The administrative officers of the city shall be a City Manager, a Clerk, a Treasurer, an Assessor, a City Attorney, a Health Officer, a Chief of Police, a Fire Chief, and in the discretion of the Council, a City Engineer.

(b) All personnel employed by the city who are not elected officers of the city or declared to be administrative officers by or under authority of this section shall be deemed to be employees of the city.

(c) The Council shall on the second Monday in April in 1945, and on the second Monday in April thereafter, following each biennial city election, appoint a Clerk, a Treasurer, an Assessor, a City Attorney, and a Health Officer, and shall, at the same time, fix the salaries of all said appointees. All such appointees shall be electors and taxpayers of the City of Alpena. The terms of office of all such appointees shall be for two (2) years and shall terminate at midnight on the second Monday in April following each biennial city election.

(d) The City Engineer, the Chief of Police, the Fire Chief, and such other officers, subordinates, or clerks as may be determined by the Council to be necessary to properly conduct the business or public works of the city; and all positions for which no other mode of appointment is provided shall, subject to confirmation by the Council, be appointed by the City Manager who shall set their salaries or wages in accordance with budget appropriations. All such appointees or employees, except as otherwise provided in this charter, shall serve at the pleasure of the City Manager.

(e) The Council may, by resolution, create such additional administrative offices and prescribe the duties thereof as it may deem necessary for the proper operation of the city government. All appointments to such additional offices shall be made by the City Manager, subject to confirmation by the Council.

(f) The administrative officers of the city, except the City Attorney and the City Clerk, insofar as their duties as attorney and clerk for the Council are concerned, shall, in the

performance of the duties of their respective offices, be subordinate to and under the direction of the City Manager and shall report and be directly responsible to him.

(g) Except for the confirmation of appointments required by this section, neither the Council nor any of its members or committees shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager to prevent him from exercising his judgment in the appointment of such officers and employees in the administrative service. Except as provided in Section 7.1 (e), and for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager.

##### **CITY MANAGER:**

**Section 7.2.** The City Manager shall be the chief administrative officer of the city government. He shall serve at the pleasure of the Council and shall be selected on the basis of training and ability alone, without regard to his political or religious preferences and need not be a resident of the city at the time of his appointment but shall become a resident of the city within thirty (30) days after his appointment and shall so remain throughout his tenure of office. The Council shall designate one qualified person to perform the duties of City Manager during the temporary absence or incapacity of the City Manager and during a vacancy in the office. Any vacancy in the office of City Manager shall be filled by the Council within ninety (90) days after the effective date of such vacancy. No person who has been elected a member of the Council under this charter shall be eligible for appointment as City Manager or Acting City Manager until two (2) years have elapsed following the expiration of the term for which he was elected.

##### **FUNCTIONS OF THE CITY MANAGER:**

**Section 7.3.** The functions of the City Manager shall be:

(a) He shall see that all laws and ordinances are enforced.

(b) Except as otherwise provided in this charter he shall manage and supervise all public improvements, works and undertakings of the city. He shall have charge of the construction, repair, maintenance, cleaning, and lighting of the streets, sidewalks, bridges, pavements, sewers, and of all public buildings or other property belonging to the city. He shall manage and supervise all city utilities and shall be responsible for the preservation of property, tools, and appliances of the city.

(c) He shall see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed.

(d) He shall attend all meetings of the Council, with the right to take part in discussions, but without the right to vote.

(e) He shall be a member, ex officio, of all committees of the Council.

(f) Together with the Clerk, he shall prepare and administer the annual budget under - policies formulated by the Council and he shall keep the Council fully advised at all times as to the financial condition and needs of the city.

(g) He shall recommend to the Council for adoption such measures as he may deem necessary or expedient.

(h) He shall be responsible to the Council for the efficient administration of all departments of the city government.

(i) Except as otherwise provided in this charter, he shall assume all the duties and responsibilities as personnel director of all city employees or delegate such duties to some other officer or employee of the city. In no case shall such delegation relieve him of any responsibility for the proper conduct of such duties.

(j) He shall exercise and perform all administrative functions of the city that are not imposed by this charter or any city ordinance upon some other official.

(k) He shall perform such other duties as may be prescribed by this charter or as may be required of him by ordinance or by direction of the Council.

#### **CITY CLERK:**

**Section 7.4.** (a) The Clerk shall be clerk of the Council. He shall attend all meetings of the Council and shall keep a permanent journal in the English language of its proceedings. He shall

keep a record of all ordinances, resolutions, and regulations of the Council.

(b) He shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents and records pertaining to the City of Alpena, the custody of which is not otherwise provided for. He shall give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts, or agreements. He shall administer all oaths required by this charter or by the Council.

(c) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council, and perform any other duties required of him by this charter or by the Council or City Manager.

(d) He shall be the purchasing agent of the city.

#### **INTERNAL ACCOUNTING:**

**Section 7.5.** (a) Books of account of the receipts and expenditures of the city shall be kept by or under the direction of the Clerk.

(b) He shall keep accurate detailed accounts of:

1. All taxes assessed by the city, and, except as otherwise provided in this charter, all moneys due the city, or to any department, board, or agency thereof, from any and every source.

2. All moneys received and the several sources from which derived.

3. All funds of the city and its several departments, boards or agencies and of all disbursements made therefrom.

(c) The Clerk shall examine and audit all accounts and claims against the city and its several departments, boards, and agencies, except claims for unliquidated damages. He shall not issue or sign any draft, check, or warrant until he has verified the correctness of the account for which the same is issued; neither shall he allow the payment of any account unless the money has been appropriated therefor, nor shall he issue or sign any draft, check, or warrant for any account against the city unless sufficient money is in the fund on which it is drawn.

(d) The system of accounts of the city shall conform to such uniform system as may be required by law.

(e) All the books of account of the city and its several departments, boards, and agencies shall be balanced at the end of each calendar month, and a report made thereon by the Clerk to the City Manager.

(f) The Clerk shall, on the day following any meeting of the Council, certify to the Treasurer the amount of bills allowed by the Council, specifying the particular funds or budget items on which orders for such amount are to be drawn, and the amount thereof.

(g) The Clerk, in the performance of his duties relative to city accounts, shall perform such other duties as may be required of him in these duties by this charter or by the City Manager.

(h) The Council shall make provision for competent help in the office of the Clerk to carry out the provisions of this section and other sections of this charter imposing duties upon the Clerk.

#### **CITY TREASURER:**

**Section 7.6.** (a) The City Treasurer shall have the custody of all moneys of the city, the City Clerk's bond, and all evidence of value belonging to the city, or held in trust by the city.

(b) He shall receive all moneys belonging to and receivable by the city, including license fees, taxes, assessments, and all other charges belonging to and payable to the city and shall in all cases give a receipt therefor.

(c) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine. He shall report the same in detail to the City Clerk.

(d) He shall have and shall diligently exercise all powers and duties in regard to the collection and custody of state, county, school district, and city taxes and moneys as may be conferred upon him by this charter or by state law.

(e) He shall perform such other duties as may be prescribed for him by this charter or by the City Manager.

#### **DEPUTIES:**

**Section 7.7.** The Clerk and the Treasurer may deputize a member of his office as deputy clerk or deputy treasurer, as the case may be, subject to the written confirmation of the City Manager. The Clerk and the Treasurer may

terminate the status of any deputy at pleasure, upon notice to the City Manager. 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 his superior or by the City Manager.

#### **CITY ATTORNEY:**

**Section 7.8.** (a) The City Attorney shall act as legal advisor to, and attorney and counsel for, the Council and all its members in matters relating to their official duties. He shall give written opinions to any official or department of the city when requested in writing by the Council or the City Manager so to do, and shall file a copy of the same with the City Clerk.

(b) He shall conduct for the city all cases in all courts and before all legally constituted tribunals whenever the city is a party thereto.

(c) He shall prepare, or officially pass upon, all contracts, bonds, and other instruments in writing, in which the city is concerned, and shall certify before execution as to their legality and correctness of form.

(d) He shall file in the office of the City Clerk the original copy of all franchises granted by the city, of all contracts and agreements entered into by or in behalf of the city, and of all papers constituting a part of the proceedings in all courts or legally constituted tribunals to which the city is a party, together with the proper data and information concerning the same.

(e) He shall be charged with the responsibility of calling to the attention of the Council and the City Manager all matters of law and changes or developments therein affecting the city.

(f) He shall perform such other duties as may be prescribed by this charter or by the Council.

(g) Upon the recommendation of the City Attorney, approved by the City Manager, or upon its own motion, the Council may retain special legal counsel to handle any matter to which the city is a party or in which the city has an interest, or to assist and counsel with the City Attorney therein.

The remuneration set by the Council for the City Attorney as required in this chapter shall be in contemplation of the normal duties of that office. Special compensation may be provided at the discretion of the Council in cases of appeals to, or litigation commenced in, higher courts than

the circuit court, work requiring extensive hearings before the Michigan Public Service Commission and other quasi-judicial tribunals, and for legal work in connection with the issuance of bonds of the city. No such special compensation shall be given by the Council, except in accordance with an agreement between itself and the City Attorney, made before the service for which such special compensation is to be paid has been rendered.

### **HEALTH OFFICER:**

**Section 7.9.** The Health Officer shall be a regularly qualified physician, or a Doctor of Public Health. It shall be his duty to protect and safeguard, as much as possible, the health of the inhabitants of the city, and for that purpose he is empowered with all the authority granted by the ordinances of the Council and provided by the laws of the state, in relation to health. It shall be the duty of the Health Officer to see that all houses, yards, places and properties of the city are maintained in a sanitary and healthy condition, and he shall have the right at all times to enter upon the premises and property of any resident of the city for the purpose of investigating the same as to its sanitary condition, or for other purposes in relation to his duties. It shall be the duty of the Health Officer to report promptly to the Council any unhealthy or unsanitary condition existing in the city as well as any and all violations of the laws of the state and the ordinances of the Council enacted for the preservation of the public health. It shall be the duty of the Health Officer to take control of any and all houses or other places, where persons are afflicted with contagious disease, to see that such places are properly placarded, and that the laws in relation to quarantine and fumigation are rigidly enforced; and it shall be the duty of the Health Officer to discharge all other duties in relation to the public health and health affairs which may be imposed upon him by resolution or mandate of the Municipal Council, or by the laws of the State of Michigan. In the performance of the duties required of him herein and by state law, he shall have the powers, privileges and immunities of police officers of the city and of health officers under the general laws of the state. Insofar as the same may serve the best interests of the city and its inhabitants, the Council may elect to join or unite with the Health

Department or Health Unit of the County of Alpena, or any Health Unit of which the County of Alpena may constitute a part, in the administration of health laws and the control of communicable diseases in the city.

### **ASSESSOR:**

**Section 7.10.** (a) The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the state.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by this charter and the general laws of the state.

(c) He shall perform such other duties as may be prescribed for him in this charter or by the City Manager.

### **PURCHASING AGENT:**

**Section 7.11.** (a) All purchases and contracts for the city, its departments, boards, and agencies, for materials and supplies shall be executed by the Clerk and shall be only pursuant to a written requisition from the City Manager, and no contract or order shall be issued to any vendor unless there is a sufficient and unencumbered appropriation balance in the budget to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. He shall also conduct all sales of personal property which the Council may authorize to be sold as having become unnecessary or unfit for the city's use.

(b) All purchases and sales shall conform to such regulations as the Council may from time to time prescribe, but in either case, if an amount in excess of five hundred dollars (\$500.00) is involved, opportunity for competition shall be given and contracts given to the lowest responsible bidder who shall be deemed competent to do the work required, or to furnish the goods or materials required, and who shall give adequate security for the fulfillment of such contract.

(c) Under the direction of and with the assistance of the City Manager, he shall:

1. Establish and enforce specifications with respect to supplies, materials, and equipment required by the city government.

2. Inspect or supervise the inspection of all deliveries of supplies, materials, and equipment and determine their quality, quantity, and conformance with specifications; and

3. Have charge of the general storerooms and warehouses of the city.

### **BONDS (SURETY) REQUIRED:**

**Section 7.12.** Except as otherwise provided in this charter, the Council may require any officer or employee of the city, including those of any department or board of the city, to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in such sum as the Council shall determine. All such officers or employees receiving, disbursing or responsible for city funds shall be bonded. The resignation or removal of any administrative officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer or employee or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city, except as otherwise provided in this charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer to a position for which a bond is required, but a new bond shall be furnished. All bonds of administrative officers or employees shall be filed with the City Clerk, except that of the City Clerk which shall be filed with the City Treasurer.

### **OATH OF OFFICE:**

**Section 7.13.** Every officer appointed to any city office, before entering upon the duties of this office, shall take and subscribe to the oath of office prescribed by Article XVI, Section 2, of the State Constitution for officers of the state. The oath of office of each officer of the city shall be filed and kept in the office of the City Clerk. In case any such officer shall fail to take such oath, 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 Council.

### **NEPOTISM:**

**Section 7.14.** Except and unless relatives by blood or marriage of the Mayor, and Councilman, or the City Manager, within the second degree of consanguinity or affinity, are bona fide appointive officers or employees of the city at the time of the election of such officers or appointment of such City Manager, such relatives shall be disqualified from holding any appointive office or from being employed by the city, during the term for which such Mayor or Councilman was elected, or during the tenure of office of such City Manager.

### **RESTRICTIONS CONCERNING OTHER OFFICES:**

**Section 7.15.** No appointive city officer or employee shall seek any elective city office, unless he resigns from his position with the city. Members of the city police force may be appointed to the office of Deputy Sheriff and members of the fire service may be appointed to the office of Deputy Fire Marshal.

### **CITY EMPLOYEES:**

**Section 7.16.** The Council shall, within one (1) year after the date that this charter shall become law, provide by ordinance for a merit system for personnel management for the city. Such ordinance shall provide a professional and impartial approach to municipal personnel problems based solely upon the fitness, training, and experience of the individual with no discrimination on account of political or religious opinion. It is the intent of this section to establish a merit system program as an integral part of the administrative service, to the end that the handling of the personnel activities will be done in a manner equitable to the employee, satisfying for the administrative officials to use, and, by increased efficiency and improved administration, economical to the citizens.

The merit system ordinance shall:

(a) Constitute a Civil Service Board to administer the program and to delegate to such board appropriate power required for the effective administration of the merit system. The Civil Service Board shall consist of three (3) electors of the city, two (2) of whom shall be

appointed by the Council, one to serve for two (2) years, and one for six (6) years, to take office thirty (30) days after the effective date of such ordinance and to assume office thereafter as appointed and qualified. The remaining member of the board shall be elected by the full time regular employees of the city to serve, in the first instance, for four (4) years. Thereafter members of the Civil Service Board shall be appointed or elected to serve for six (6) years and until their successors have been appointed or elected and have qualified. Members of the board shall serve without compensation and shall not hold any other public office or serve on any political committee or take part in the management of any political campaign. The Council may remove any members of the board upon stating in writing the reasons for removal and allowing him an opportunity to be heard in his own defense. Any vacancy shall be filled for the unexpired term in the same manner as the person who left the Board to create such vacancy was chosen as a member thereof in the first place. The Clerk shall act as secretary for the board.

(b) Define the scope of the program and provide for the establishment of professional standards and methods in obtaining the following objectives:

1. A duties classification plan based upon a study of the duties and responsibilities of all positions in the city service.

2. A compensation plan for positions in the city service in order that there may be equal pay for equal work and in order that proper pay differentials may be established between the positions which differ materially in duties and responsibilities exercised.

3. Selection, certification and appointment of qualified candidates seeking employment in or promotion to all positions within the city service except those positions hereinafter exempted.

4. The separation of employees from the city service when for the good thereof there is need for such separation except as such authority is herein limited and qualified.

(c) Specifically exempt from the jurisdiction of the Civil Service Board the following officers: (1) Administrative officers of the city, (2) all officials elected by the people, (3) the directors of departments, members of appointive boards, and city supervisors, (4) part-time employees working less than thirty (30) days in any calendar

year, (5) technical consultants employed under contract.

(d) Provided that no employee within the civil service shall be demoted or discharged except for cause and provide the means whereby such employee shall be entitled to a hearing and have the right to appeal to the Civil Service Board. Such board shall have the power to subpoena witnesses for any such hearing and to provide for the punishment of any person having been personally served with subpoena who refuses or neglects to comply with the same. Nothing shall prevent the discharge of any employee when the position he holds has been abolished or when a reduction of personnel is made necessary by lack of funds.

(e) Delegate to the authority or authorities constituted to administer the merit system, the right to formulate, adopt, and administer operating rules and regulations governing the specific administrative matters affecting operation of the personnel program.

(f) Define the status of present employees and the basis whereby they are to be inducted into the regular Civil Service.

(g) Provide that persons in the civil service of the city who have been promoted or appointed to positions which are not under the protection of the ordinance shall, in the event of demotion or dismissal from such position or in any case where such a person is not reappointed at the end of a specified term, be privileged to return to the position which he held before such promotion or appointment, or to a position of equal or similar rank or classification, unless such demotion or dismissal was for reasons which would have been grounds for dismissal from the civil service of the city.

(h) Provide a means whereby the Council may enter into contractual arrangements for securing the technical services of persons qualified in the personnel field to assist the Civil Service Board in carrying out the provisions of said ordinance.

## **PENSION PLAN:**

**Section 7.17.** The Council, within one (1) year after the effective date of this charter, shall pass an ordinance or submit to vote of the people for approval or rejection, an ordinance, or an amendment to the charter, making available to and maintaining for the regular employees of the city and its departments or boards a sound

pension and retirement plan. The Council, in such plan, shall recognize the service of employees prior to adoption of the plan to at least the extent that the city would have contributed financially to the plan, on behalf of all such employees had such a plan been in effect at the time they commenced their current employment with the city. The Council shall also have power to make available to the employees of the city any recognized standard plan of group life insurance, hospital, health, or accident insurance, either as a part of the pension plan herein provided or as a supplement thereto.

## **CHAPTER 8**

### **Municipal Court**

#### **PRESENT LAW:**

**Section 8.1.** No suit, cause or prosecution of any kind before or pending before the Municipal and the Justice Courts of the City of Alpena, on the 4th day of July, 1944, shall be in any manner affected by the adoption or taking effect of this charter and as to such suits, causes, or prosecutions, all of the provisions of the present law, whether general or special, applying to the Municipal and Justice Courts of the City of Alpena and relating to the power, jurisdiction and duties of the Municipal Judge and the Justice of the Peace of said courts and relating to appeals, and to the conduct of all proceedings, suits and prosecutions, before said courts shall remain in full force and effect and shall be followed by and be applicable to the Municipal Court herein created and the Municipal Judge who qualifies hereunder.

#### **OFFICE OF JUSTICE OF THE PEACE ABOLISHED:**

**Section 8.2.** The Justice Court and the Municipal Court and offices of the Justice of the Peace and Municipal Judge of the City of Alpena are hereby abolished and shall cease and terminate as of July 4, 1944, and the duties of said Courts are hereby consolidated into one court to be known as the Municipal Court of the City of Alpena, to be presided over by one judge to be known as a Municipal Judge, who shall have been a resident of the City of Alpena for five (5) years and who shall be an attorney admitted to practice law in this state for a period of not less than three (3) years prior to his election or appointment under the provisions of this charter.

#### **ELECTION OF MUNICIPAL JUDGE:**

**Section 8.3.** At the regular city election in 1949 and every fourth year thereafter a Municipal Judge shall be nominated and elected, as nearly as may be, in the manner the Mayor of the City of Alpena is nominated and elected.

#### **TERM OF OFFICE:**

**Section 8.4.** The term of office for the Municipal Judge shall be four (4) years and such term shall commence on the first day of July following his election.

#### **SALARY: FEES:**

**Section 8.5.** Such Municipal Judge shall tax costs as provided by statute, but shall receive no fees to his own use, except as hereafter provided, and shall be paid a salary by the City of not less than \$2,200.00 per annum, and not to exceed \$3,600.00 per annum, which salary shall be set by the Council not later than thirty (30) days before the final date and time for filing nominating petitions for the office of Municipal Judge prior to each regular election at which a Municipal Judge is to be elected for a full term, and which said salary shall be in lien of all fees both in civil and criminal cases to which said Judge might be entitled but for the provisions of this act, which fees in civil cases shall be collected by said Municipal Judge and turned over by him to the City Treasurer on the first and fifteenth of each month, and which fees in criminal cases shall be charged and presented to, and audited by the Board of Supervisors of Alpena County in the same manner and amounts as provided by law in the case of justices of the peace in townships, and upon the allowance by said Board of Supervisors, such criminal fees shall be paid monthly by said County of Alpena to the Treasurer of the City of Alpena for the use and benefit of the said City of Alpena, and said Municipal Judge shall turn over to the County Treasurer of the County of Alpena all costs and fines in state criminal cases, and shall turn over to the City Treasurer all costs and fines in city ordinance or charter cases and shall account to both the City and County for such costs and fines on the first of each month. The provisions of this section shall in no manner affect the fees or compensation to which said Judge may be entitled for the performance of marriage ceremonies, taking acknowledgments and administering oaths in matters not connected with any litigation begun or pending before him. The Municipal Judge shall not practice law in any manner nor engage in the business of collecting bills while in office.

#### **JURISDICTION:**

**Section 8.6.** The Municipal Court shall have jurisdiction in all causes arising in the County of Alpena up to the amount of \$500.00, and shall have the same jurisdiction in criminal matters as is conferred upon justices of the peace by the general laws of the state, and further, shall have authority to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by this charter and the ordinances of the City, and to punish offenders as prescribed and directed therein.

#### **POWERS OF MUNICIPAL JUDGE:**

**Section 8.7.** The Municipal Judge shall have the same powers and authority to set aside a verdict or judgment and grant a new trial therein upon legal cause therefor as the Circuit Courts of the state possess, in accordance with the rules and practice as provided by Section 2264 of the Compiled Laws of 1929, as amended.

#### **SHALL KEEP DOCKET OF SUITS AND PROSECUTIONS, ACCOUNTS OF ALL MONEYS, RECEIVED AND PAID OUT:**

**Section 8.8.** The Municipal Judge shall enter or cause to be entered in the docket or dockets kept by him the title of all suits and prosecutions commenced or prosecuted before them for violation of the charter and ordinances of the City and all the proceedings and the judgment rendered in such cause and shall itemize all costs taxed or allowed there in. He shall also enter or cause to be entered the amounts and dates of payment of all fines, penalties and forfeitures, moneys and costs received by him or the Clerk of the Court, on account of any such suit or proceeding. Such docket or dockets shall be submitted by the Municipal Judge at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the Municipal Judge to the Council and the Auditors of the city whenever required.

#### **COURT CLERK:**

**Section 8.9.** The Municipal Judge, may, with the consent of the Council, relative to the creation of such office, appoint a court clerk or

clerks. Such clerk or clerks, if appointed, shall, by virtue of his or their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and attest the same in the name of the Municipal Judge, and shall be required to collect all fines in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise and to enter a record of the same in books kept by him for that purpose and to pay over the same to the authorities of the City or County or other persons entitled to the same, and such books of such clerk shall be audited at least once each year to ascertain that such books are correctly kept and that all moneys received have been properly accounted for. Such clerk or clerks shall, before entering upon the duties of his or their office, give such bond as may be required by the Council and shall perform such other duties as may be from time to time prescribed by the Council.

#### **TRANSFER OF CAUSES:**

**Section 8.10.** Whenever the Municipal Judge is unable to act in any cause pending before him, such cause, at the time the matter comes before him, may be transferred, upon his order, or in case of his absence, by the court clerk to one of the Justices of the Peace of Alpena County or to any other person permitted by law to hear and determine such causes, without any notice to the parties in such cause, but a note of such transfer shall be entered upon the docket of the case, and when two or more Judges or Justices, or other proper persons, shall have acted in any one cause or proceedings, the docket shall be signed in the manner and within the time provided by law by the Judge or Justice who shall have given the final judgment in such cause. Any such Justice of the Peace or other person acting for the Municipal Judge during his absence or because of his disqualification to act shall be compensated by the City at the rate of six (\$6.00) dollars per day.

#### **COURT OFFICER:**

**Section 8.11.** The City Manager may assign a police officer of the City of Alpena to the Municipal Court who shall have all the duties and powers of court officers in the Circuit Courts of the state and shall serve in such capacity during

the pleasure of the Manager. Such officer shall receive no compensation except such as he may be entitled to as a police officer. All fees, except mileage allowances, received by such officer in the performance of the duties imposed upon him in accordance with the provisions of this charter shall be paid into the City Treasury.

### **JURY TRIALS:**

**Section 8.12.** Each period of three months throughout the year, beginning on the first day of January, April, July, and October respectively, is hereby designated and established as a term for the trial of jury cases and during each such term such cases may be set for trial upon one or more certain days of each month, or as soon thereafter as such trial can be reached. A panel of jurors shall be drawn from the citizens of the city having the qualifications of electors of the city for each panel to serve at each term of such court. Such selection of jurors to serve in each case shall be made, as nearly as may be, in the same manner as provided by law in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of the peace in townships, except that it shall be the duty of the judge to instruct the jury as to the law applicable to the case which instructions shall be received by the jury as the law in the case. As soon as all jury cases set for any term, and ready for trial, shall have been disposed of the panel of jurors called for said term shall be discharged: Provided, however, that when there is no jury in attendance in the court, the judge, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships. The Council may, in its discretion pass an ordinance embodying the provisions of Act No.288 of the Public Acts of 1929 governing the selection of jurors from among the qualified electors of the city and for the conduct of trials by jury, insofar as such act provides there-for. In the event that the Council shall pass such ordinance, the provisions thereof shall prevail over the provisions of this section insofar as they may be inconsistent therewith.

### **COURT ROOM SUPPLIES:**

**Section 8.13.** The Council shall provide a place which shall be suitable for holding Court and shall furnish the necessary furniture, fixtures, dockets, books, stationery for use in the business of the Court and shall provide for the heating, lighting, and maintenance of said Court room. The Municipal Court shall have a seal of office and copies of all records thereof, duly certified by the Judge or Clerk, under seal to be correct, shall be received in evidence in all of the courts of the state. The seal shall bear the words, "Municipal Court of the City of Alpena, Michigan."

### **RULES OF COURT:**

**Section 8.14.** The Council shall have power and authority by ordinance to regulate the office hours of the Municipal Judge and to make all other necessary and proper rules for the regulation and conduct of the Municipal Court, which rules shall not be inconsistent with the provisions of this charter and the general laws of the state. Such rules shall provide for a vacation period for the personnel of the Court of two (2) weeks in each year without loss of salary.

### **VACANCIES:**

**Section 8.15.** If the Municipal Judge shall be disbarred, or if, for any cause provided in this charter, a vacancy shall occur in the office of the Municipal Judge, the Council shall, except in case of recall, select a qualified and suitable person to serve until the successor of such Municipal Judge, whose office has become vacant, shall be elected at the next biennial city election and shall have qualified and assumed his office. Any person elected to fill a vacancy in the office of Municipal Judge shall assume office on the fourth day of July following his election and shall hold office under such election only for the residue of the term in which such vacancy occurs.

### **TRAFFIC VIOLATIONS BUREAU:**

**Section 8.16.** The City Council shall have power and authority to establish a traffic violations bureau within the Municipal Court and under the charge of the court clerk by ordinance for the handling of vehicular traffic cases, other than failure to stop in event of an accident,

driving while under the influence of intoxicating liquors or narcotics, reckless driving, or speeding. In such bureau, any person who has received any notice to appear in answer to a traffic charge under the ordinances of the city may, within the time specified in the notice, answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a prescribed fine which cannot be waived by the Bureau, and, in writing, pleading guilty to the charge, waiving a hearing in court and giving power of attorney to the court clerk to make such a plea and pay such fine in court. Acceptance of the prescribed fine and the power of attorney by the Bureau shall be deemed to be complete satisfaction for the violation and the violator shall be given a receipt which so states. The creation of such a bureau by the Council shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

#### **CONSTABLE:**

**Section 8.17.** At the regular city election held in 1947, and every second year thereafter, one (1) Constable shall be nominated and elected in the same manner, as nearly as may be, as the Mayor of the City of Alpena is nominated and elected. The term of office of the Constable shall be two (2) years and such term shall commence on the first Monday following his election.

#### **BOND:**

**Section 8.18.** The bond of the Constable shall be that required of constables in townships and any premium therefor or cost thereof shall be paid by the city.

#### **DUTIES OF CONSTABLE:**

**Section 8.19.** Such Constable shall have like powers and authorities in matters in 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 have power also to serve all process issued for breaches of ordinances of the city.

#### **COMPENSATION OF CONSTABLE:**

**Section 8.20.** The only compensation of the Constable shall be the usual fees of that office and an accounting of such fees shall be made to the city in the manner prescribed by law or in any rules which may be established for the regulation of the conduct of the Municipal Court by the Council.

#### **VACANCY IN OFFICE OF CONSTABLE:**

**Section 8.21.** Whenever a vacancy shall occur in the office of Constable by reason of death, resignation, removal, failure to qualify for office, or otherwise, except by reason of recall, the Council shall fill such vacancy by appointment. Said appointee shall hold office until his successor, elected at the next annual city election shall be qualified for office.

## **CHAPTER 9**

### **Supervisors**

#### **NUMBER OF SUPERVISORS:**

**Section 9.1.** Until such time as the City of Alpena shall be entitled to an additional number of representatives upon the Board of Supervisors of the County of Alpena, by reason of an increase of population or otherwise, under the laws of the state, the city shall be entitled to eight (8) representatives upon such board. Such eight (8) representatives of the city upon the Board of Supervisors of the County of Alpena shall be comprised of the five (5) members of the Council, the Clerk, the Assessor, and the City Attorney. In the event that the city may be entitled to additional representatives upon such Board of Supervisors, by reason of a population increase, or otherwise, as provided by state law, the Council shall appoint the supervisor or supervisors to which the city is so entitled.

#### **TERM OF OFFICE:**

**Section 9.2.** The five (5) members of the Council, the Clerk, the Assessor and the City Attorney shall serve upon the Board of Supervisors of the County of Alpena so long as they shall continue to hold their respective offices in the government of the city. Additional representatives of the city upon such board, to which the city may be entitled, shall be appointed by the Council on the first Monday following each biennial city election and shall serve in such capacity at the pleasure of the Council. Vacancies occurring among the number of such additional representatives shall be filled by the Council within thirty (30) days after such vacancy shall occur.

#### **DUTIES OF CITY SUPERVISORS:**

**Section 9.3.** The Supervisors of the city shall perform the duties required to be performed by Supervisors under the general laws of the state, except as otherwise provided in this charter. Each Supervisor shall, in the performance of his duties, to the best of his ability, represent the city, its inhabitants, and its government as a whole.

#### **COMPENSATION OF SUPERVISORS:**

**Section 9.4.** All Supervisors of the city shall be entitled to retain any compensation and mileage paid to them by the county as members of the Board of Supervisors of the County of Alpena.

**CHAPTER 10**  
**General Finance, City Budget and**  
**Funds**

**CITY PROPERTY AND FUNDS:**

**Section 10.1.** All money and other forms of personal property, and all real estate belonging to the city shall be carried in the name of the City of Alpena.

**FISCAL YEAR OF THE CITY:**

**Section 10.2.** Beginning July 1, 1945, the fiscal year of the city shall be the twelve months period from July 1st of one year to June 30th of the following calendar year.

**BUDGET:**

**Section 10.3.** Beginning in the year 1945, at the second regular meeting of the Council in March of each year, the City Manager and the Clerk shall submit to the Council in writing, a budget estimate of all income and expenditures of the city for the ensuing year. The budget estimate shall contain the following information:

(a) A brief and concise budget summary, showing the estimated receipts and expenditures of each fund and the total for all funds.

(b) A statement of the detailed estimates of all proposed expenditures for each fund, including a statement of all salaries paid to city officials, itemized for each department and activity by objects of expenditure showing, in parallel columns, the expenditures for the preceding year, the appropriation and expenditures for the current year, and the recommendations of the City Manager as to the appropriations to be made for the ensuing year, including an appropriation for contingencies and showing the increases or decreases in the recommended appropriations over the expenditures for the current year. Expenditures for the current year shall be computed as the actual expenditures to April 1st, plus the estimated expenditures for April, May, and June.

(c) Detailed statements of estimates of all anticipated income of the city from sources other than current taxes and borrowing, compared with the amounts received by the city from each of the

same or similar sources for the last preceding and for the current year. Receipts for the current year shall be computed as the actual receipts to April 1st, plus the estimated receipts for April, May, and June.

(d) A statement of the estimated financial condition of each city fund reflecting the estimated surplus or deficit in each such fund.

(e) A statement of the bonded and other indebtedness of the city showing the amount required in the ensuing year for retirement of principal on the debt, for interest and for a sinking fund for term bonds if such a fund is required.

(f) A statement of outstanding delinquent taxes and special assessments which have been levied during the current and preceding fiscal years of the city and an estimate of the amount thereof which may reasonably be expected to be collected or realized upon during the next fiscal year of the city.

(g) An estimate of the amount of money proposed to be raised by taxation and the amount to be raised from bond issues which together with the estimated income from other sources will be necessary to meet the proposed expenditures.

(h) Such other information as may be required by the Council.

**BUDGET HEARING:**

**Section 10.4.** A public hearing on the proposed annual budget shall be held before its final adoption. Notice of the time and place of holding the meeting shall

be given by publication at least one (1) week prior thereto. A true copy of the proposed budget shall be on file in the office of the Clerk for public inspection at least one (1) week prior to such meeting.

**APPROPRIATIONS FOR CITY PURPOSES:**

**Section 10.5.** At the second regular meeting of the Council in May in each year, the Council shall pass an annual appropriation resolution, which shall be based on the budget submitted by the City Manager and the Clerk, as approved or amended by the Council. The total amount of appropriation shall not exceed the revenues of the city as estimated by the Council, based upon

a tax levy for all city purposes which shall not exceed one and three-quarters per cent (1 3/4 %) of the assessed value of all real and personal property in the city, plus all miscellaneous revenues derived by the city in accordance with the provisions of state and federal law, this charter, and the ordinances of the city. The tax rate herein limited may be increased above such limitation for any tax year or specified number of years of the city where the authority to do so shall be given by a majority of the electors of the city voting at any regular biennial or special city election, held prior to the date of the second regular meeting of the Council in May preceding the commencement of such fiscal year at which said proposition shall be submitted, but the increase in any case shall not be such as to cause such rate to exceed two per cent (2%) of the assessed value of the real and personal property in the city.

#### **ADMINISTRATION: OF THE BUDGET:**

**Section 10.6.** Each officer, department, board, or agency of the city shall limit its expenditures for the various purposes set forth in the budget to the sums provided therein for such purposes. It shall be the duty of each such officer or department, board, or agency head to see that amounts appropriated in the budget for the various purposes therein set forth shall in no event be exceeded unless by specific authority of the Council in the form of a resolution. It shall be the duty of the Clerk to report to the City Manager, at least once a month, any violations of the foregoing provisions. All books, warrants, orders, and vouchers, or other official reference to any appropriation shall indicate the appropriated fund involved or to be drawn upon by code number or other designation set forth in the budget. The Council may transfer any part of an unincumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department, or between activities.

#### **COLLECTION AND DEPOSIT OF MONEYS:**

**Section 10.7.** Except as otherwise provided in this charter, all taxes and special assessments of the city shall be collected by the Treasurer and all water bills, license fees, and other moneys, regardless of their source, accruing to the city, shall be collected by such officers and departments of the city as the Council shall direct, which such officers or departments shall, in each case give receipts therefor and deposit the same with the Treasurer not later than the next secular day following receipt thereof. The Treasurer shall deposit each day's receipts of each fund intact in such responsible banking institutions as may be designated by the Council. All interest on such deposits shall accrue to the benefit of the city.

#### **FEES:**

**Section 10.8.** Except as otherwise provided in this charter, and except witness fees and mileage received by police officers for court attendance while off duty, all fees payable to any administrative officer of the city in the performance of any duties which may be required of him under the ordinances of the city, this charter, or by state law, shall belong to the city and shall be paid to the City Treasurer.

#### **DISBURSEMENT OF CITY MONEYS:**

**Section 10.9.** Except as otherwise provided in this charter, all claims and demands against the city together with any counter claims that may be credited thereto, shall be received and audited by the Clerk. No money shall be drawn from the city treasury except upon warrant checks signed by the Mayor and the Clerk. Every warrant check shall specify the fund from which it is payable and the bank account on which it is drawn. No warrant check shall be drawn which will overdraw the cash balance of the fund from which it should be paid.

#### **AUDIT:**

**Section 10.10.** The Council shall provide that an annual audit of the accounts of all officers, departments, and boards of the city government shall be made by certified public accountants, which audit shall be completed within ninety (90) days after the close of each fiscal year of the city.

## **CHAPTER 11**

### **General Taxation**

#### **SUBJECTS OF TAXATION:**

**Section 11.1.** The subjects of taxation for municipal purposes shall be the same as for State, County, and School purposes under the general law. No exceptions from taxation upon such subjects shall be allowed, except such exemptions as are expressly required to be made by state law. Except as otherwise provided by this charter, city taxes shall be levied, collected, and returned in the manner provided by state law.

#### **ASSESSMENT:**

**Section 11.2.** Unless otherwise provided by state law, the first day of April in each year shall be the assessment day for both real and personal property in the city.

#### **TIME FOR MAKING ASSESSMENT ROLL:**

**Section 11.3** Prior to the first meeting of the Board of Review in each year, the Assessor shall make and complete an assessment roll in the manner and form provided in the general tax law. Such roll shall be signed by the Assessor and delivered to the Board of Review at such first meeting of the Board.

#### **VALUING OF REAL AND PERSONAL PROPERTY:**

**Section 11.4.** Said Assessor shall estimate, according to state law, the value of every parcel of real property and set the same down opposite such description. He shall also estimate the value of all taxable personal property of each person and set the same down opposite the name of such person. The Assessor shall give notice by first class mail, placed in the Alpena post office with full postage prepaid, not less than ten (10) days prior to the date of the meeting of the Board of Review, of any increase in the assessment of any property to the owner thereof of record according to the last assessment roll of

the city addressed to the address of such owner shown on such roll, but the failure on the part of the assessor to give any such notice or of any such owner to receive any such notice shall not invalidate any assessment roll of the city or any assessment thereon.

#### **BOARD OF REVIEW APPOINTMENT OF MEMBERS:**

**Section 11.5.** The members of the Council shall comprise the Board of Review of the city's assessment rolls. Meetings of the Board shall not constitute meetings of the Council in its function as the legislative body of the city. The remuneration of the members of the Board of Review shall be five dollars (\$5.00) per day of actual attendance of its meetings.

#### **ORGANIZATION AND FUNCTIONS OF THE BOARD OF REVIEW**

**Section 11.6.** On the first day of its meeting in each year, the Board of Review shall elect one of its members chairman. The Assessor shall be Secretary of the Board and shall consult with and advise the board and take part in its deliberations, but shall not be entitled to vote. It shall be the duty of the Assessor to keep a permanent record of all proceedings, and to enter therein all resolutions and decisions of the board. A majority of the members of the board shall constitute a quorum. The members of said Board shall take the constitutional oath of office which shall be filed with the 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 township, 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. In all cases, the assessment roll shall be reviewed according to the facts existing on the tax day and no change of the status of any

property after said day shall be considered by the Board in making its decisions.

### **NOTICE OF MEETINGS:**

**Section 11.7.** The Clerk shall give notice to the public of the time and place of meeting of the Board of Review by publication at least once in a newspaper published and circulated in this city not less than ten (10) days immediately preceding such meeting.

### **MEETING OF BOARD OF REVIEW**

**Section 11.8.** The Board of Review shall meet in two sessions in each year at such time and place as shall be designated by the Council. The first session of the Board shall convene on the last Monday in April of each year and shall continue in session from day to day for the purpose of considering and correcting the roll for three (3) days. In each case where the assessed value is increased or any such property added to the rolls by the Board, the Secretary shall, forthwith, give notice to the owners thereof according to the last assessment roll of the city or the records of the Register of Deeds of the County of Alpena by first class mail placed in the Alpena Post Office not later than midnight of the Wednesday following the first meeting of the Board. The second session of the Board shall convene on the first Monday of May of each year and shall continue in session from day to day for three (3) days. No assessment shall be changed in any way at any session of the Board except by a motion or resolution regularly put and adopted by a majority of the members of said Board, which motion or resolution shall state the amount at which the assessment is fixed as reviewed by the Board. Each day's proceedings of said board shall be read, approved and signed by the chairman thereof. At the conclusion of the review of said rolls, and prior to the second Monday in May following, said Board shall prepare a signed statement, showing the amount in gross and the additions or deductions made in total of the assessed valuations of the real and personal property made by them. No person other than the Board of Review shall authorize any change upon or additions or corrections to said roll.

### **CONFIRMATION OF ROLL:**

**Section 11.9.** The Board of Review shall complete its review and correction of assessment roll and shall certify to the same and deliver it to the Clerk on or before the date of the second meeting of the Council in May. The Clerk shall present the roll to the Council at the second meeting thereof in May, at which meeting the Council shall fully and finally confirm such assessment roll.

### **VALIDITY OF TAX ROLL:**

**Section 11.10.** Upon completion of said roll and its confirmation in the manner aforesaid, the same shall be conclusively presumed by all courts to be valid and shall not be set aside, except for causes mentioned in the general tax laws of the state.

### **SERVES FOR ALL TAX PURPOSES:**

**Section 11.11.** The assessment roll herein provided for shall be the assessment roll for the county school, and city taxes and for any other taxes on real and personal property that may be authorized by law.

### **CLERK TO CERTIFY TAX LEVY:**

**Section 11.12.** The Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general tax; all amounts of special assessments which the Council requires to be assessed or reassessed upon any property or against any person; and all other amounts which the Council may determine shall be charged, assessed, or reassessed against any person or property.

### **CITY TAX ROLL:**

**Section 11.13.** After the confirmation of the assessment roll by the Council, the Assessor shall prepare a copy thereof to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised as provided in the preceding section, the Assessor shall proceed forthwith to spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or re-

assessed against persons or property; and shall also proceed to spread the amounts of the general city tax according to and in proportion to the several valuations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the assessor may add to the amount of the several taxes to be raised not more than one per cent (1%); said excess shall belong to the general fund of the city. Such taxes shall be separately assessed and may be entered in separate columns or may be entered as one total sum: Provided, that if such taxes are entered as one total sum, there shall be printed upon the face of each tax bill and receipt the percentage which each such tax is of said total sum.

### **TAX ROLL CERTIFIED FOR COLLECTION:**

**Section 11.14.** After extending the taxes aforesaid, the Assessor shall certify said tax roll and the Mayor 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 named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and chattels, together with the costs and charges of such distress and sale. Said city tax roll and annexed warrant, together with a true copy or duplicate thereof, shall be delivered by the Assessor to the Treasurer on or before the 15th day of June of the year when made.

### **TAXES LIEN ON PROPERTY:**

**Section 11.15.** The city taxes thus 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, prior, superior, and paramount, 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 tax liens 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.

### **PROTECTION OF CITY LIEN:**

**Section 11.16.** The city shall have power to acquire by purchase any premises within the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the city for taxes or special assessments, or both, on said premises and may hold, lease, or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the city in the protection of its tax lien shall be deemed to be for a public purpose.

### **TAXES DUE:**

**Section 11.17.** 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.

### **NOTIFICATION OF TAXES DUE:**

**Section 11.19.** The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the taxpayers of the city, at least six (6) days prior to the first day of July in each year, of the time when said taxes will be due for collection by publication, at least once, in one or more of the newspapers of the city, which notice shall be deemed sufficient for the payment of all taxes on said tax roll. Failure on the part of the Treasurer to give said notice shall not invalidate tax on said roll nor release the person or property assessed

from the penalty provided in this chapter in case of non-payment of the same.

### **COLLECTION FEE AND INTEREST:**

**Section 11.19.** All taxes paid on or before the 31st day of July, or on or before the 30th day following receipt by him of the city's tax roll if such receipt shall occur after the 1st day of July, shall be collected by the Treasurer without additional charge. The Treasurer shall add to all taxes paid after such 31st day of July, or after the 30th day following receipt of the tax roll by the Treasurer if such receipt shall occur- after the 1st day of July, a three per cent (3%) collection fee and one-half of one per cent ( $\frac{1}{2}\%$ ) for each and every calendar month or fraction thereof that such taxes remain unpaid. Such added collection fees and interest charges shall constitute a charge and shall be a lien against the real property to which the taxes themselves apply of the same type and nature and collectible in the same manner as the taxes to which they are added.

### **APPORTIONING ON TAX ON PORTION OF TAXED ITEM:**

**Section 11.20.** Any person owning an undivided share or other part of any parcel of real property, assessed in one description, may pay on the share or 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 cases 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 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 (10) days before the hearing. Any person aggrieved by such determination may appeal therefrom to the Board of Review by filing notice thereof with the Clerk within ten (10) 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.

### **TAX ROLL TO COUNTY TREASURER:**

**Section 11.21.** If the City 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 township, school, and county taxes. Such returns shall be made upon a delinquent tax roll which the Treasurer shall make in duplicate and shall include all the additional charges and fees herein before provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The Treasurer shall retain the duplicate copy of said delinquent tax roll in the files of his office, upon which he shall record subsequent collections or reassessments as returned to him by the county treasurer or Auditor General of the State of Michigan. 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. All taxes upon lands so returned to the county treasurer as delinquent shall be and remain a lien thereon until paid.

### **CITY TAX SALE:**

**Section 11.22.** The Council may, by ordinance, adopted not later than the thirtieth (30th) day of June in any year, determine that the city shall conduct its own tax sale for the sale of real property upon which the taxes and assessments which become due and payable after the passage of such ordinance are not paid. After the Council has acted to proceed as herein permitted and provided, such action may be rescinded by repeal of the ordinance passed in the first instance: Provided, that such rescinding action shall apply only to taxes and assessments which are levied and assessed or become due and payable after the passage of such ordinance and before the repeal thereof. As to such taxes

and assessments, said ordinance shall continue in full force and effect until full and complete disposition has been made of all property subject to its provisions. In case the Council adopt an ordinance as herein provided, as soon as practicable after the first day in March in each year and not later than the first day of May of the same year, the Treasurer shall prepare and file in the Circuit Court for the County of Alpena, in chancery, a petition which shall state therein, by apt references to lists or schedules annexed thereto, a description of all lands upon which city taxes, special assessments, or charges have remained a lien and unpaid for one (1) year or more prior to such first day of March, together with all penalties, interest or collection fees which have been added thereto in accordance with the provisions of this chapter, and including a charge against each parcel of land of one dollar (\$1.00) for expenses to reimburse the city for costs of preparation and publication of lists of delinquent lands for sale and for other expenses incidental to the sale thereof and the preparation therefor. Such petition shall pray for a decree in favor of the city against said lands for the payment of the several amounts specified therein, and, in default thereof, that such lands be sold. Such petition shall be in a substantial record book, with the lists of lands and the taxes annexed following the same therein. Such record shall be ruled in appropriate columns providing for a description of the lands, the aggregate amount of taxes, special assessments, charges, interest, penalties and costs thereon, parts or descriptions of land upon which taxes, special assessments, or charges are paid before sale, the amount of such taxes, special assessments, or charges paid before sale, the aggregate amount of the taxes, special assessments, or charges, together with all penalties, interest, and collection fees decreed against the several parcels of land, special orders made by the court relating to any parcel of land or any tax, special assessment, charge, penalty, interest, or collection fee, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of the certificate of sale, together with such additional columns to accommodate any additional information as the Treasurer may deem necessary.

#### **COURT DECREE:**

**Section 11.23.** The sale of lands for city taxes, special assessments, and charges shall be decreed to take place and shall take place beginning at 10:00 o'clock on the first Monday of October following the filing of the above required petition in the Circuit Court for the County of Alpena and shall continue, beginning at the same hour, on each successive day, Sundays and legal holidays excepted, until all parcels of land have been sold or bid in by the city. All such sales shall be made by the Treasurer and shall take place in the city hall, or in such other place as may be designated by the Council after the giving of notice of such other place by published notice thereof in a newspaper published in the city at least once in each week for four weeks immediately preceding such sale.

#### **TAX SALE PROCEDURE:**

**Section 11.24.** Except as otherwise provided in this charter, the judicial process for ordering the sale of lands for city taxes, special assessments and charges, the sale of such lands and the redemption thereof at any time before the first Monday in April next following the sale thereof, which date, shall be the final date for the redemption of any lands sold as herein provided, the issuance of tax certificates and deeds in pursuance of the tax sale, the giving and publication of notice of such sale, the giving of notice of redemption, and all other matters, rights, or obligations pertaining thereto shall be the same, as near as may be and with like effect, as is now or may hereafter be provided by the general tax laws for like proceedings, rights, or duties in regard to taxes, state and county purposes, and the powers and duties of township treasurers, county treasurers and of the Auditor General under the general tax laws shall be vested in and exercised by the Treasurer; the powers and duties of the prosecuting attorney and Attorney General shall be vested in and exercised by the City Attorney; the powers and duties of county clerks under the general tax laws shall be vested in and exercised by the Clerk; and, except as otherwise provided herein, the rights, privileges, and duties of tax title buyers and property owners in and to and under any proceedings shall be the same as near as may be as the rights of like parties under said proceedings in connection with state and county taxes; and the rights of the City of Alpena to such

taxes, special assessments, and charges, to enforce the payment thereof, and to bid in and receive title to any property bid in by it shall be equal to the rights of the people of the State of Michigan with respect thereto under the general tax laws of the state, except that the title acquired by the city to any lands bid in by it shall be subject to the lien of all state, county, and school taxes and assessments which are due and payable thereon at the time of the holding of such city tax sale.

### **ADDITIONAL PROCEDURE BY COUNCIL:**

**Section 11.25.** Where additional procedures are required to make effective the city tax sale provisions of this chapter, such procedures shall be provided by the Council in the ordinance adopting such provisions, or in any amendment thereof, but no procedure under such provisions shall be invalidated by the failure of the Council to adopt any such procedure or procedures, where the action of the city has been in reasonable compliance with the spirit and intent of the tax sale provisions of this chapter.

### **APPROPRIATIONS FOR SCHOOL PURPOSES:**

**Section 11.26.** The Council shall have power and authority, within the limits of the city to raise annually by taxation for the maintenance and support of the public schools of the city, a sum of money sufficient to pay the cost and expenses incurred and to be incurred by the school board in conducting the public schools of the city by an assessment and levy of all property, real and personal, within the city, made subject to taxation, for state purposes, by the general laws of the State of Michigan, and which taxes shall be a lien on all said property from and after the date of the filing of the assessment roll with the City Treasurer for the collection of the same. All sums provided by the Council for the school fund shall constitute a part of the appropriation resolution of the Council, but shall not constitute any part of the taxes limited in this charter to the purposes of the city government. It is the purpose of this section to include in this charter the proceedings of the former charter of the city relative to the levy of taxes for school purposes.

In the event that the School District of the City of Alpena shall adopt the provisions of Chapter 6 of Act. No. 319 P. A. 1927, or any other act for the government of schools, the provisions of which are inconsistent with the provisions of this section, then, in that case, the provisions of this section shall become inoperative.

### **COUNTY AND SCHOOL TAXES:**

**Section 11.27.** Except as otherwise provided in this section in all proceedings in relation to assessment, spreading and collection of taxes for county and school purposes, and in relation to the receipt and disbursement of all moneys belonging to the county and the school district, the City Assessor, Clerk and Treasurer shall have like powers and duties as are prescribed by the laws of the states for supervisors of townships, township clerks, and township treasurers respectively. The Treasurer shall add to such taxes as collection fees the same amounts as are permitted to township treasurers as collection fees.

### **CERTIFICATES SHOWING LIENS:**

**Section 11.28.** It shall be the duty of the 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 Council charge the party requesting the same such fee as the Council 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 the Treasurer, except in event of fraud in the issuance thereof the person actually issuing the same shall be liable therefor.

### **TAX PENALTIES:**

**Section 11.29.** The fees and penalties for the collection of all taxes provided for by this charter, or the general laws of the state, except such as shall be added by the Clerk of the County of Alpena or the Auditor General under the general tax laws of the state, shall belong to the city and shall be credited to the general fund.

## **CHAPTER 12**

### **Bonds and Certificates of Credit**

#### **AUTHORITY TO BORROW:**

**Section 12.1.** The Council is hereby authorized and empowered to borrow money on the credit of the city for municipal purposes, in an amount not exceeding eight (8) percentum of the assessed value of the real and personal property of the city, as shown by the tax roll for the year next preceding that in which the loan is to be made, and to issue bonds therefor. All bonds hereafter issued by the Municipal Council shall be serial in form, payable in equal amounts, and shall not extend over a period of more than thirty years from the date of same. Provided, however, that no issue of bonds on the credit of the city, except as hereinafter specified, shall be made by the Council, until after such action has been approved by three-fifths of the taxpaying electors voting thereon at a general election, or at a special election called for that purpose.

#### **CALAMITY BONDS**

**Section 12.2.** In case of fire, flood or other calamity, the Council by a majority vote of its full membership may borrow for the relief of the inhabitants of the city and for the preservation of municipal property a sum not to exceed three-eighths (3/8) of one per cent of the assessed valuation of all real and personal property in the city, due in not more than five (5) years, even if such loan would cause the indebtedness of the city to exceed the limit fixed in this charter.

#### **REFUNDING OF BONDS:**

**Section 12.3.** The Council is authorized and empowered to issue refunding bonds, on the credit of the city, for the purpose of taking up and retiring any outstanding city bonds, when the object and purpose of such action is the relief of the tax payers or a resulting economy to the municipality. Said refunding bonds shall be in such form and amount as the exigency under which they are issued requires, and which to the Council shall seem most in the interest of the city.

#### **SPECIAL ASSESSMENT BONDS:**

**Section 12.4.** The Council shall, subject to the applicable provisions of the general laws of the state, have authority to borrow money, at interest rates not to exceed 6% per annum, in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and to issue bonds therefor. Such special assessment bonds may be secured by the faith and credit of the special assessment district or districts to which they apply or may be both an obligation of such special assessment district or districts and a general obligation of the city. Said bonds shall not be sold or otherwise disposed of by the city at less than their face or par values. All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

#### **GENERAL OBLIGATION SPECIAL IMPROVEMENT BONDS:**

**Section 12.5.** 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 Council 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 shall be construed to require the financing of the city's portion of the cost of any improvement in the manner herein specified.

#### **MORTGAGE BONDS:**

**Section 12.6.** When the city is authorized to acquire, own or operate any public utility, it may in accordance with the provisions of Section 23,

24 and 25 of Article VIII of the Michigan Constitution of 1908, issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law.

### **REVENUE BONDS:**

**Section 12.7.** The city shall have power to issue revenue or other types of bonds in the manner and for the purposes permitted by the Constitution and general laws of the State of Michigan.

### **TEMPORARY NOTES:**

**Section 12.8.** The city shall have power to issue temporary notes in anticipation of receipts to be realized from the sale of any bonds which the city is or shall be authorized to issue. Such notes to be repaid by the city from the proceeds of the sale of the bonds in anticipation of which they were issued within thirty (30) days after the receipt of such proceeds by the city.

### **UNISSUED BONDS:**

**Section 12.9.** If any bonds properly authorized are not issued within three (3) years after authorization, such authorization for the issuance of bonds shall thereafter be null and void.

### **PROCEEDS FROM SALE OF BONDS:**

**Section 12.10.** When the proceeds from the sale of any bonds shall have been paid into the city treasury the principal thereof shall be credited to the fund for which the bonds were issued, and be applied exclusively to the purpose for which the bonds are authorized. No moneys received from the sale of any bonds issued for any permanent public improvement shall be used for the maintenance thereof. The premiums and accrued interest received, if any, shall be credited to the interest fund.

### **TAX LEVIES TO COVER OBLIGATIONS:**

**Section 12.11.** It shall be the duty of the Council to include in the amount of taxes levied

each year an amount sufficient to pay the annual interest on all loans, any installments of the principal thereof falling due before the time of the following tax collections and all payments required to be made to the sinking fund.

### **INVESTMENT OF SINKING FUNDS:**

**Section 12.12.** The Council shall make such investment of the moneys in the sinking fund or funds, and make such disposal 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 for sinking fund purposes. The Treasurer shall have the custody of all securities and moneys held in the sinking fund.

### **RECORD OF BONDS:**

**Section 12.13.** Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidences of indebtedness issued by the city shall be signed by the Mayor and counter-signed by the City Treasurer, under the seal of the city. Interest coupons may be executed with the facsimile signature of the City Treasurer. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the City Clerk.

### **REGISTRATION:**

**Section 12.14.** The Council may, if it deems advisable, provide for the registration of any bonds issued by the city.

### **BORROWING IN ANTICIPATION OF TAX COLLECTION:**

**Section 12.15.** The city shall have power to borrow money and issue notes in anticipation of the collection of taxes and of delinquent special assessment in accordance with the provisions of Act No.26 of the Public Acts of 1931, as

amended by Act No. 71 of the Public Acts of 1935 and Act No.160 of the Public Acts of 1939.

**CANCELED WHEN PAID:**

**Section 12.16.** All bonds and evidences of debt which have been paid or which shall have been refunded, shall be properly canceled.

## **CHAPTER 13**

### **Special Assessments**

#### **GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS:**

**Section 13.1.** The Council shall have power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited.

#### **TO INITIATE SPECIAL ASSESSMENTS:**

**Section 13.2.** The making of public improvements within the city may be initiated by resolution of the Council, on its own initiative, or by petition of interested property owners addressed to the Council and filed with the Clerk. Such petition shall be signed by property owners whose aggregate property in the special assessment district was assessed for not less than sixty per cent (60%) of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll; provided, however, that in case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners to the extent of sixty (60%) per cent of the frontage of property to be assessed. Such petition, in addition to the signatures of the owners, shall contain a description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of one of the signers thereof that said signers are such owners and that such signatures are genuine and shall be verified by the Clerk.

#### **NOTICE TO BE GIVEN BY CLERK:**

**Section 13.3.** Within five (5) days after the passage of a resolution by the Council in contemplation of the making of any public improvement or of the receipt of any such resolution, the Clerk shall notify the City Manager of the passage of such resolution by the Council or of his receipt thereof and shall file with the City Manager a copy of such resolution or petition.

The Clerk shall give notice to the Council of any such petition at the next regular meeting of the Council after receipt thereof by him.

#### **PRELIMINARY SURVEY:**

**Section 13.4.** Within thirty (30) days after receipt of such notice and copy of resolution or petition, the City Manager shall prepare and submit to the Council at or before the first regular meeting of the Council after the expiration of such thirty (30) days preliminary plans, profiles, specifications, estimates, estimated life of the proposed improvement, and such other pertinent information as will permit the Council to determine the cost, extent, and necessity of the improvement proposed to be made and what part or proportion thereof should be paid by special assessment upon the property benefited and what part, if any, should be paid by the city at large. No final determination of such necessity shall be made by the Council until such report of the City Manager has been received by it, nor, except in case the petition for a public improvement is signed by all owners of record of property in the proposed special assessment district, until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such proposed public improvement.

#### **PUBLIC HEARING NOTICE:**

**Section 13.5.** A public hearing for the hearing of objections to the making of any public improvement shall be held at the meeting at which the Council shall receive the report of the City Manager on such improvement or at any regular meeting of the Council subsequent thereto. The date of such meeting to be determined by the Council not less than 14 days prior to the holding thereof. Notice of such meeting shall be given by the Clerk to each property owner of record by registered mail, return receipt requested, addressed to the last known address of such property owners according to the last assessment roll of the city and the records of the Register of Deeds of the County of Alpena, mailed not less than ten (10) days prior to the date of the holding of such meeting. Failure of any property owner whose ownership is not indicated by the last previous

assessment roll of the city or the records of the Register of Deeds of the County of Alpena to receive the notice heretofore provided, or in any case of failure to receive the notice herein provided, where there has been no willful negligence, fraud, or attempt to deceive, shall not invalidate the proceedings authorized to be taken under this chapter. In all cases where property is owned jointly by husband and wife, notice to either shall be sufficient.

#### **OBJECTIONS TO IMPROVEMENT:**

**Section 13.6.** If, at or prior to such meeting of the Council, more than fifty (50) per cent of the owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty (50) per cent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvements, the improvement shall not be made by proceedings authorized by this chapter without a four-fifths (4/5) vote of the members of the Council.

#### **DETERMINATION BY THE COUNCIL:**

**Section 13.7.** At such meeting, following the hearing herein provided, or at any regular meeting of the Council held within thirty (30) days thereafter, the Council shall determine by resolution whether or not to proceed with the public improvement proposed or for which the petition was filed or may modify the scope thereof in such manner as the Council shall deem to be in the best interest of the city as a whole. If the determination of the Council shall be to proceed with the improvement, the resolution shall set forth the nature of the improvement, designate the limits of the special assessment district to be affected, prescribe what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the city at large, specify the manner and method of paying for or financing the same in each case, and determine whether the cost of the improvement shall be spread upon a special assessment roll before or after the improvement has been completed.

#### **DETAILED ESTIMATE OF COST SPECIAL ASSESSMENT ROLL:**

**Section 13.8.** Within thirty (30) days after the passage of any resolution by the Council determining to proceed with any public improvement, the City Manager shall proceed to make and complete detailed plans, specifications, and estimates of the cost thereof, including the costs of notices and procedures required by this chapter, the cost of surveys, plans, materials and lands required, and the costs of construction. Such detailed estimate shall be filed with the Clerk who shall secure bids on such work or any part thereof for which he is required to receive bids by this charter or by direction of the Council. Such estimates and bids shall be brought before the Council not later than the second regular meeting of the Council following receipt of detailed plans, specifications by the Clerk from the City Manager. At such meeting, or at any subsequent regular meeting, the Council may let any necessary contracts in accordance with the provisions of this charter and instruct the City Manager to proceed with the work to be done.

#### **COST OF CONDEMNED PROPERTY ADDED:**

**Section 13.9.** Whenever any property is acquired by condemnation or otherwise for the purpose of any special improvement, the cost thereof may be added to the cost of such special improvement.

#### **SPECIAL ASSESSMENT ROLL:**

**Section 13.10.** Within thirty (30) days after the Council shall determine to proceed with the making of any public improvement, in any case where the Council shall determine that the cost thereof shall be spread upon a special assessment roll prior to the completion of the work, and within sixty (60) days after the City Manager shall notify the Council of the completion of the work ordered to be done, in any case where the Council shall determine that the cost thereof shall be spread upon a special assessment roll after the work has been completed, the Assessor shall make a special assessment roll of all lots and parcels of land

within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount benefited thereby. Where the assessment is levied prior to the completion of the improvement ordered, the amount spread in each case shall be based upon the detailed estimate of the City Manager, herein required, as modified by any bids upon which contracts have been let, where the same vary from the estimates of the City Manager. Where the assessment is levied after the completion of the improvement ordered, the City Manager shall within sixty (60) days after he shall give notice to the Council of the completion of the work, compile the actual cost thereof and certify the same to the Assessor, who shall spread such cost on the special assessment roll as herein required in cases where the levy is made prior to completion of the work. In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent (25%) of the value of such lot or parcel of land, as valued and assessed in the last preceding city tax roll. Any cost exceeding that per cent, which would otherwise be chargeable on such lot or premises, shall be paid by the city at large.

**ASSESSOR TO ATTACH  
CERTIFICATE TO ASSESSMENT  
ROLL:**

**Section 13.11.** When the Assessor shall have completed such assessment roll, he shall attach thereto his certificate, in which he shall certify that such roll contains a description of all the parcels of land constituting the special assessment district and benefited by such improvement, the assessed valuation of each of such parcels and the names of the persons, if known, chargeable with the assessment thereon; that every assessment was made by benefits or by benefits measured by foot frontage in the case of streets, alleys and public places, and that such benefits equal that portion of the cost assessed against the parcels of land in such special assessment district; that no assessment against any parcel of land therein contained exceeds twenty-five per cent (25%) of the assessed valuation of each such parcel or description of land for any one (1) improvement; further, that he has complied with all the

provisions of this chapter regulating the making of such assessments.

**MEETING TO REVIEW SPECIAL  
ASSESSMENT ROLL OBJECTIONS  
IN WRITING:**

**Section 13.12.** Upon receipt of such special assessment roll, the Council, by resolution, shall order such assessment roll to be filed in the office of the City Clerk for public examination; and shall fix the time and place where and when the Council will meet to review such special assessment roll and to hear objections to the special assessments as assessed in said roll. At this meeting all persons or parties interested are required to present in writing their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

**NOTICE:**

**Section 13.13.** Notice of the filing of the roll with the Clerk for public inspection and of the time and place of the meeting of the Council, acting as the Board of Review, to hear complaints shall be published by the City Clerk at least one (1) week before the opening of the roll for public inspection.

**CHANGES AND CORRECTIONS IN  
ASSESSMENT ROLL:**

**Section 13.14.** The Council shall meet at the time designated for the review of such special assessment roll and, at such meeting or proper adjournment thereof shall consider all objections thereto submitted in writing. The Council may correct said roll as to any special assessment or description of any parcel of land or other errors appearing therein; or they may, by resolution, annul such assessment roll and the same proceedings shall be had as in the case of an original assessment. If, after hearing all objections and making and recording upon the roll call such changes or corrections as the Council deem justified, the Council is satisfied with said special assessment, it shall thereupon pass a resolution confirming such roll and in such

resolution shall find and determine that such roll contains a description of all the parcels of land constituting the assessment district; that the district as a whole and each parcel of land therein will be benefited to the full extent of the assessment levied against the district and against each parcel of land respectively; that the assessments have been apportioned to each parcel of land in accordance with the benefits derived from the improvement or in accordance with benefits accruing, in proportion to the foot frontage abutting upon the improvement, as the case may be; that no assessment exceeds twenty-five per cent (25%) of the assessed valuation of the parcel of land assessed for any one (1) improvement; and that all of the provisions of the Charter of the City of Alpena and of law authorizing all or part of the cost of a public improvement to be assessed to a special district have been complied with in the preparation of the assessment roll therein confirmed. Such roll shall have the date of confirmation endorsed thereon and be filed in the office of the Clerk and shall, from that time be final and conclusive.

### **COLLECTION OF SPECIAL ASSESSMENTS:**

**Section 13.15.** All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll.

### **PARTIAL PAYMENTS WHEN DUE:**

**Section 13.16.** The Council may provide for the payment of special assessments in annual installments. Such annual installments, however, shall not exceed ten (10) in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter. Interest shall be paid on all deferred installments at the rate of six per cent (6%) per annum, payable annually; provided that the whole or any part of the assessment with accrued interest thereon can be paid in advance of the due dates. In any case where the Council shall have provided for the payment of any special assessment in annual installments, any person owing such assessments or upon whose

land the same may be a lien may elect to pay the same, or any unpaid balance thereof in one lump sum and no interest shall be required to be paid on any such payment beyond that which may have accumulated thereon on the date of such payment.

### **DELINQUENT SPECIAL ASSESSMENTS:**

**Section 13.17.** Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for state and county taxes, and by this charter for city taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same penalties and collection fee shall be paid on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this charter to be paid on delinquent city taxes. Such delinquent special assessments shall be subject to the same penalties and the lands upon which the same are a lien shall be subject to sale therefor the same as are delinquent city taxes and the lands upon which they constitute a lien; provided, that no such delinquent special assessments, nor any delinquent installment thereof, shall be included in any petition filed in the Circuit Court of the County of Alpena praying for a decree against said lands unless and until such delinquency has continued for a period of three (3) months, nor until the first day of March next following such three (3) months' delinquency.

### **HAZARDS AND NUISANCES:**

**Section 13.18.** When any lot, building, or structure within the city, because of accumulation of refuse or debris, the uncontrolled growing of weeds, or age or dilapidation, or because of any other condition or happening, becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health or safety of the inhabitants of the city or of those of them residing or habitually going near such lot, building, or structure, the Council may, after investigation, give notice to the owner of the land upon which such nuisance exists, or to the owner of the building or structure itself, specifying the

nature of the nuisance and requiring such owner to alter, repair, tear down, or remove the nuisance promptly and within a time to be specified by the Council which shall be commensurate with the nature of the nuisance. If, at the expiration of the time limit in said notice, said owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may order such hazard or nuisance abated by the proper department or agency of the city which is qualified to do the work required and the cost of such abatement assessed against the lot, premises, or description of real property upon which such hazard or nuisance was located.

#### **ASSESSMENTS ON SINGLE LOTS:**

**Section 13.19.** When any expense shall be incurred by the city upon or in respect to any separate or single lot, parcel of land, or premises, which by the provisions of this charter the Council is authorized to charge and collect as a special assessment against the same, which is not of that class of special assessments required to be made pro rata upon several lots or parcels of land in a special assessment district, an account of the labor or services for which such expense was incurred, verified by the officer or person performing the labor or services, or causing the same to be done, with a description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or person, if known, chargeable therewith, shall be reported to the Council in such manner as they shall prescribe. The provisions of the preceding sections of the charter with reference to special assessments generally, and the proceedings necessary to be had before making the improvement shall not apply to assessments contemplated in this section.

#### **ADDITIONAL ASSESSMENTS, REFUNDS:**

**Section 13.20.** When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total assessed shall not exceed the value of benefits received by any lot

or parcel of land. Should the assessment prove larger than necessary to five per cent (5%) or less, the Council may place the excess in the city treasury. If more than five per cent (5%) the excess shall be refunded pro rata according to assessments.

#### **ADDITIONAL PROCEDURES:**

**Section 13.21.** In any case where the provisions of this chapter may prove to be insufficient to carry into full effect the making of any special assessment, the Council shall provide any additional steps or procedure required to effect the improvement by special assessment in the resolution declaring the determination of the Council to make such improvement in the first instance.

#### **SPECIAL ASSESSMENT ACCOUNTS:**

**Section 13.22.** Except as otherwise provided in this chapter, 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 any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this chapter.

#### **CONTESTED ASSESSMENTS:**

**Section 13.23.** Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any pavement, sewer, or other public improvement, the construction of any side-walk, or the removal or abatement of any public hazard or nuisance, within thirty (30) days after the date of the meeting of the Council, to hear objections to the making of such improvement, as required by section 13.4 of this chapter, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment; and, regardless of whether or not any public improvement is completed in any special assessment district no owner of real property

located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessment after he has received a benefit from the substantial completion of that portion of such public improvement for which he is assessed.

## **CHAPTER 14**

### **Elections**

#### **QUALIFICATIONS OF ELECTORS:**

**Section 14.1.** Each person who has the constitutional qualifications of an elector in the State of Michigan or who will have such qualifications at the next ensuing biennial or special city election, shall be entitled to register as an elector of the city of Alpena in the voting district in which he resides.

#### **ELECTION PROCEDURE:**

**Section 14.2.** The general election laws of the state shall apply to and control, as near as may be, all procedure relating to registration and city elections, except as such general laws relate to political parties or partisan procedure, or require more than one publication of notice, and except as otherwise provided by this charter.

#### **REGULAR ELECTIONS:**

**Section 14.3.** Except as otherwise provided in this charter, a non-partisan biennial city election shall be held on the first Monday in April in each odd numbered year.

#### **SPECIAL ELECTIONS:**

**Section 14.4.** Special elections shall be held when called by resolution of the Council at least twenty-one (21) days in advance of such election, or when required by this charter or the general laws of the state. Any resolution calling a special election shall set forth the purpose of such election. No more than two (2) special elections shall be held in any one calendar year.

#### **ELECTION COMMISSION:**

**Section 14.5.** An election commission is hereby created, consisting of the Clerk, the Mayor and the City Attorney. The Clerk shall be chairman. The commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the city. To assure rotation of the duties of election officials among the people of

the community, the aggregate number of inspectors of election, clerks of election, and gate keepers in each precinct at any biennial city election who have served in any such capacity within two years prior to such biennial city election shall not exceed three (3) in number. The compensation of election personnel shall be determined in advance by the Council, and shall be a fixed amount for each election; provided, such compensation shall not exceed the amount appropriated for elections in the budget, unless such increase shall first have been approved by the Council as are other increases in appropriations for any department or function. In the event of a conflict in election procedure as between the general election laws of the state and the provisions of this charter, or in any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

#### **NOTICE OF ELECTION:**

**Section 14.6.** Notice of the time and place of holding any election and 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 township clerks in state elections.

#### **VOTING HOURS:**

**Section 14.7.** The polls of all elections shall be opened at the time prescribed by law for the opening of polls at state elections, or as soon thereafter as may be, on election day and shall remain open until the time prescribed by law for the closing of polls at such elections of the same day. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

#### **NOMINATING PETITIONS:**

**Section 14.8.** Persons desiring to qualify as candidates for any elective office under this charter shall file with the Clerk a petition therefor signed by not less than fifty (50) nor more than seventy-five (75) registered electors of the city not later than 12 o'clock noon on the fourth

Saturday prior to the date of the biennial city election. Blank petitions in substantially the same form as required by state law for state and county officers, except for references to party, shall be prepared and furnished by the Clerk. At least one (1) week before, and not more than three (3) weeks before, the last day for filing nominating petitions, the Clerk shall publish notice to that effect. No person shall sign his name to a greater number of petitions of candidates for any one office than there are candidates to be elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

#### **APPROVAL OF PETITIONS:**

**Section 14.9.** The Clerk shall accept for filing only nominating petitions on official blanks containing the required number of signatures for candidates having those qualifications required for elective city officers by this charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall forthwith determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate, who may file an amended petition not later than five (5) days after the date and hour for filing the original petition. Each petition which is found by the Clerk to contain the required number of signatures of registered electors for candidates shall be marked "In Order," with the date thereof and he shall so notify the candidate whose name appears thereon, in writing.

#### **PUBLIC INSPECTION OF PETITIONS:**

**Section 14.10.** All nominating petitions shall be open to public inspection after being filed in the office of the Clerk

#### **NAMES ON BALLOTS:**

**Section 14.11.** The form of the ballot used in any city election shall conform as nearly as may be to that prescribed by the general laws of the state, except that no party designation or emblem shall appear upon any city ballot. The names of qualified candidates for each office shall be listed in a single column and shall be rotated on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the state, relating to elections.

#### **CANVASS OF VOTES:**

**Section 14.12.** The Council shall be the board of canvassers to canvass the votes cast at all elections under this charter. The Council shall meet at 8 p.m. legal time, on the first Thursday after each city election and publicly canvass the election returns 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. The candidate, or candidates, where more than one are to be elected to the same office, who shall receive the greatest number of votes, shall be declared to be elected.

#### **TIE VOTE:**

**Section 14.13.** If, at any city election, there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the Council shall name a date for the appearance of such candidates for the purpose of determining the election of such candidates by lot as provided by state law.

#### **RECOUNT:**

**Section 14.14.** A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

#### **RECALL:**

**Section 14.15.** Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any

elective official shall be filled in the manner prescribed by state law.

## **CHAPTER 15**

### **Contracts, Franchises, Permits**

#### **CITY MAY PERFORM PUBLIC WORK:**

**Section 15.1.** The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. The Council shall also have power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or the State of Michigan, or which is wholly or in part financed by them or either of them.

#### **PLANS AND SPECIFICATIONS:**

**Section 15.2.** The responsibility for the preparation of plans and specifications, estimating of the cost, advertising for bids, supervision and approval of the work upon or for any public work or public or special improvement is vested in the City Manager.

#### **CONTRACTS:**

**Section 15.3.** Whenever it becomes desirable for the city to enter into a contract with a second party for any purpose whatever, such instrument shall be drawn or approved as to form by the City Attorney and certified to by the Clerk as to sufficiency of funds. The lettings and making of such contracts is hereby vested in the Council. The Council, in its discretion, shall have the power to reject any or all bids. Copies of all contracts shall be filed in the office of the Clerk.

#### **MODIFICATIONS IN CONTRACTS:**

**Section 15.4.** When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Council. No such order shall be effective

until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Council and a copy thereof and of the proceedings authorizing such alteration or modification certified by the Clerk, attached by the Clerk to the original contract on file in his office. If any officer or employee of the city shall knowingly permit or allow any deviation from the plans and specifications as shown by the record in the office of the Clerk, he shall be deemed guilty of misconduct in office.

#### **OFFICIAL INTEREST IN CONTRACTS:**

**Section 15.5.** Except as otherwise provided in this charter, no person holding any elective or appointive office in, or employment by, the city shall be permitted to enter into any contractual relation with the city in which such officer or employee shall or may have any direct or indirect pecuniary interest. The city shall not have power to make any contract with any person, firm, or corporation who or which is in default to the city.

#### **FRANCHISES:**

**Section 15.6.** No franchise or grant which is not revocable at the will of the Council shall be granted or become operative until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths (3/5) of the electors voting thereon at such election. All irrevocable public utility franchises and all renewals, extensions, and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall be submitted to the electors at an election to be held less than thirty (30) days after the grantee named therein has filed with the Clerk its unconditional acceptance of all of the terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the Council, shall have been paid to the Treasurer by the grantee. No exclusive franchise

shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years.

### **LICENSES AND FRANCHISES REMAIN IN EFFECT:**

**Section 15.7.** All licenses and franchises granted by the City of Alpena and in force within the city when this charter becomes law, shall remain in full force and effect until the expiration of the time for which they were respectively granted.

### **CONTROL AND REVOCATION:**

**Section 15.8.** The Council shall cause to be instituted such actions or proceedings as may be necessary to prosecute a public utility company for violations of its franchise, the city charter, or ordinances of the city, and may revoke, cancel or annul all franchises that may have been granted by the city, which, for any reason, have become inoperative, illegal, or void and not binding upon the city.

### **PROVISIONS STATED NOT TO BE EXCLUSIVE:**

**Section 15.9.** The enumeration and specification of particular matters in this charter which must be included in every franchise or grant shall never be construed as impairing the right of the Council to insert in such franchise or grant any other and further matters, terms or conditions as may be within the power of the city to impose or require and which the Council shall deem proper to protect the interests of the people of the city.

### **RIGHT OF REGULATION:**

**Section 15.10.** All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city (a) to repeal the same for misuse, or non-use, or for failure to comply with the provisions thereof; (b) to require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency; (c) to establish reasonable standards of service and

quality of products, and prevent unjust discrimination in service or rates; (d) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (e) to impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

### **REGULATION OF RATES:**

**Section 15.11.** All public utility franchises shall make provision therein for fixing rates, fares, and charges, and for readjustments thereof at periodic intervals at the election of the city. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, goodwill, or prospective profits.

### **REVOCABLE PERMITS:**

**Section 15.12.** Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by ordinance on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises.

### **USE OF STREETS BY UTILITY:**

**Section 15.13.** Every public utility franchise shall be subject to the right of the city to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places, as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use; and may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city, by the city, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that, in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions

of such joint use and the compensation to be paid therefor, which award shall be final.

**LICENSE FEES WHAT MAY BE TAXED:**

**Section 15.14.** The city shall have the right to license and impose a license fee on busses, street cars, telephones, gas meters, electric meters, water meters, or any other device used for measuring service, also telephone, telegraph, electric light and power poles and wires. All said license fees shall be exclusive of and in addition to other lawful taxes upon the property of the holder thereof.

## **CHAPTER 16**

### **Municipally Owned Utilities**

#### **GENERAL POWERS RESPECTING UTILITIES:**

**Section 16.1.** The city shall possess and hereby reserves to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, public utilities including public utilities for supplying water, light, heat, power, gas, sewage and garbage disposal facilities, and transportation facilities or any of them, to the municipality and the inhabitants thereof; and may also sell and deliver water, light, heat, power, and gas without its corporate limits to an amount not to exceed twenty-five per cent (25%) of that furnished by it within the corporate limits.

#### **CONTROL OF UTILITIES:**

**Section 16.2.** The Council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control, and operation of any public utilities which the city may in any manner acquire, own, or operate and all fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the city by the provisions of this charter, including the fixing of just and equitable rates and charges as may be deemed advisable for supplying the inhabitants of the city and others with water, with electricity for light, heat, and power and with such other utility services as the city may acquire.

#### **UTILITY CHARGES COLLECTION:**

**Section 16.3.** The Council shall provide, by ordinance, for the collection of all public utility charges made by the city and for such purpose, shall have all the power granted to cities by Act 178, P.A. 1939. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the city any sums due on utility bills, which are not covered by deposits, the utility service or

services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction.

#### **ACCOUNTS:**

**Section 16.4.** Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership or operation, or both, including all assets, liabilities, revenues, and expenses. The Council shall annually cause to be made and published or printed for public distribution a report showing the financial results of such city ownership or operation, or both, which report shall give, for each utility, the information specified in this section, and such further information as the Council shall deem expedient.

#### **DISPOSAL OF PLANTS:**

**Section 16.5.** The city shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege, or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at a special election held for the purpose in the manner provided in this charter, to the electors of the city who are qualified to vote on questions involving the direct expenditure of money or the issuance of general obligation bonds of the city and approved by them by a three-fifths (3/5) majority vote of the electors voting thereon. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any articles of equipment of any city-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

## **CHAPTER 17**

### **Alpena General Hospital**

#### **HOSPITAL COMMISSION:**

**Section 17.1.** There is hereby created the Alpena General Hospital Board of Trustees consisting of five (5) lay persons, who are electors of the city, to be appointed by the Council. In the first instance, the members of the Board shall be appointed respectively for terms of one (1), two (2), three (3), four (4) and five (5) years and thereafter, one (1) member shall be appointed for the full term of five (5) years at the second meeting of the Council in April of each year. Members of the Board shall serve without compensation. In at cases where a vacancy occurs, the Council shall fill such vacancy within thirty (30) days for the balance of the term in which the vacancy exists.

#### **ORGANIZATION OF BOARD:**

**Section 17.2.** Said Board shall, within ten (10) days after their first appointment, and annually thereafter, within ten (10) days after the second meeting of the Council in April, organize and elect one (1) of their number president. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall appoint a secretary and, subject to the civil service provisions of this charter and ordinance of the city relating thereto, shall employ all necessary personnel required to operate and conduct the affairs entrusted to it, and, subject to budget appropriations, fix their salaries and compensation. The secretary of the Board shall be responsible for the efficient performance of all the clerical work required by said Board and for the keeping of the books, records, papers, and accounts of the Board in conformity with the provisions of this charter regarding the keeping of the accounts of the city and its several departments, boards, and agencies. All accounts of the Board shall be subject to audit by the Clerk of the city, the same as the accounts of other departments and boards of the city, and to such other audit as this charter or the Council shall require.

#### **POWERS AND DUTIES OF BOARD:**

**Section 17.3.** The Hospital Board shall hold at least one regular meeting in each calendar month and shall be charged and entrusted with the construction, management, supervision, and control of all hospitals and hospital facilities which are or shall be owned or operated by the city and shall have power to make and adopt all such bylaws, rules, and regulations as they may deem necessary and expedient for the transaction of their business, not inconsistent with the general ordinances of the city or the provisions of this charter. Such Board shall have the control and management of all trusts and bequests to or for the benefit of the city's hospitals, unless otherwise provided in the instruments creating such trusts or making such bequests, and shall administer such trusts and bequests as provided in this charter for the administration of trusts.

#### **CONSTRUCTION AND IMPROVEMENTS:**

**Section 17.4.** Whenever the expense of constructing, repairing, or improving any hospital or hospital facility shall not exceed the sum of two thousand five hundred dollars (\$2,500.00), the work shall be done by the Board in such manner as they deem proper; but whenever the expense thereof shall exceed such sum, then the Board shall submit plans, specifications, and estimates thereof to the Council for its approval. The Council shall have the power to approve or to revise and approve such plans. After such approval, the Board shall cause the construction or repairing of such hospital or hospital facilities to be done in accordance with the approved plans, specifications, and estimates of the Council. Where the cost of such work shall exceed the sum of \$2,500.00, the work shall be done under contract let in accordance with the provisions of this charter and the ordinances of the city governing such cases. Performance bonds may be required at the discretion of the Council or the Board, which bonds shall be in such form as shall be prescribed or approved by the Council.

#### **DISBURSEMENTS FOR HOSPITAL PURPOSES:**

**Section 17.5.** The Hospital Board shall have full authority to make all necessary disbursements needed to pay all claims and accounts which in any manner relate to the hospitals or hospital facilities of the city. It shall be the duty of the Board to make an annual report to the Council on the first Monday in April in each year, which report shall embrace an itemized statement of all revenues and expenditures relating to or connected with the hospitals and hospital facilities of the city and a statement of the physical condition, the progress, and the operation of said works. The Board shall also make such other reports and furnish such other information to the Council as that body shall require.

### **HOSPITAL BUDGETS:**

**Section 17.6.** On or before the first Monday in April of each year, the Board shall submit to the Council careful estimates in detail of the amount of money which, according to the judgment of the Board, will be required for the hospitals and hospital facilities of the city during the ensuing year, which estimates may be increased, modified, or adopted by the Council as in its judgment may seem justifiable. Insofar as possible, the budget of the Hospital Board shall be administered by it in the manner provided by this charter for the administration of the budget of the city. Except in the event that additional funds are required from the city for the operation of the hospital, it shall not be necessary for the Hospital Board to obtain the authority of the Council to exceed any budget appropriation where the Board can transfer a sufficient amount from unencumbered balances within its budget.

### **HOSPITAL RECEIPTS TO CITY TREASURER:**

**Section 17.7.** The Board shall, daily, pay into the city treasury all moneys received by it. The Treasurer shall deposit all such moneys in a special hospital account of the city. The Treasurer shall make disbursements from such account only upon order or warrant signed by the president and the secretary of the Hospital Board.

### **HOSPITAL RATES:**

**Section 17.8.** The Board shall set the rates to be charged for the services of the hospitals and hospital facilities of the city and may provide when and to whom the same shall be paid and what steps shall be taken to enforce the payment thereof and may collect the same by suit in any court of competent jurisdiction.

## **CHAPTER 18**

### **City Liability**

#### **NOTICE TO CITY OF CLAIM FOR NEGLIGENT INJURY:**

**Section 18.1.** No action shall be brought against the city for any negligent injury to person or property unless brought within the period limited by law from the time such injury was sustained, nor unless the person or persons claiming to be so injured shall serve or cause to be served, within sixty days after such injury shall have occurred, a notice in writing upon the Clerk, which notice shall set forth substantially the time when and the place where such injury took place, the nature of the injury, the manner in which it occurred, the extent of such injury so far as the same has become known, the names and addresses of the witnesses known at the time by claimant, and that the person receiving such injury intends to hold the city liable for such damages as may have been sustained by him; and unless he shall, also, within ninety days after such injury, present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claims shall be presented to the Council. It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city for any negligent injury that the notice of injury and the verified proof of claim, as in this section required were not presented and filed within the time and in the manner as herein provided.

#### **NOTICE TO CITY OF CLAIM FOR INJURY ARISING FROM STREET DEFECTS:**

**Section 18.2.** The city shall not be liable in damages sustained by any person in the city, either to his person or property, by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert or by reason of any obstruction, ice, snow or other incumbrance upon such street, sidewalk, crosswalk or public highway, situated in the city, unless such person shall serve or cause to be served, within sixty days after such injury shall have occurred, a notice in

writing, upon the Clerk, which notice shall set forth substantially the time when and the place where such injury took place, the nature of the defect, the manner in which it occurred, and the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time by claimant, and that the person receiving such injury intends to hold the city liable for such damages as may have been sustained by him, and unless he shall also, within ninety days next after such injury, present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claims shall be presented to the Council. It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city, under this section that the notice of injury and the verified proof of claim, as in this section required were not presented and filed within the time and in the manner as herein provided.

#### **NO ESTOPPEL BY REPRESENTATION:**

**Section 18.3.** No official of the city shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement, contrary to any public record of the city. Any such representation shall be void and of no effect as against the city.

## **CHAPTER 19**

### **Miscellaneous**

#### **TENSE:**

**Section 19.1.** Except as otherwise specifically provided or indicated by the context, all words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made therein, either as a power, immunity, requirement, or prohibition.

#### **HEADINGS:**

**Section 19.2.** The chapter and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

#### **EFFECT OF ILLEGALITY OF ANY PART OF CHARTER:**

**Section 19.3.** Should any provision or section, or portion thereof, of this charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section, it being here by declared to be the intent of the charter commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any other part of this charter except that specifically affected by such holding.

#### **AMENDMENTS:**

**Section 19.4.** This charter may be amended at any time in the manner provided in Act. No. 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

## CHAPTER 20

### Schedule

#### ELECTION TO ADOPT CHARTER:

**Section 20.1.** This charter shall be submitted to a vote of the qualified electors of the City of Alpena at a special city election to be held Monday the 13th day of March in the year 1944. Notice of such election and of the officers of the city to be elected thereat shall be given and published with the publication of this charter as required by state law. The Charter Commission shall do and provide all things necessary for making the nominations required herein and for the holding of the election above prescribed and the votes cast at such election shall be canvassed by the Charter Commission.

#### FORM OF BALLOT:

**Section 20.2.** The form of the ballot on submission of this charter shall be as follows:

Instruction--A cross (X) in the square  before the word "Yes" is in favor of the proposed charter, and a cross (X) in the square  before the word "No" is against the proposed charter.

"Shall the proposed charter, drafted by the Charter Commission elected on June 28, 1943, be adopted?"

--Yes

--No

#### FIRST ELECTORS UNDER THIS CHARTER:

**Section 20.3.** The first election of officers under this charter shall be held on the first Monday in April of 1944, at which election there shall be elected a Mayor and two (2) Councilmen who shall serve for terms of three (3) years from the first Monday next following their election, a Municipal Judge who shall serve for a term of five (5) years from the fourth day of July next following his election, and a Constable who shall serve for the term of three (3) years from the first Monday next following his election. The second election of officers under this charter shall be held on the first Monday in April of 1946, at which election there shall be elected two (2) Councilmen who shall serve for terms of three (3)

years from the Monday next following the date of their election. No election shall be held in 1945, except for the purpose of filling vacancies or voting on questions properly before the electorate. The terms specified in this section are for the purpose of bridging the transition between the schedules of terms of office in the prior charter of the city and the schedule of terms of office herein before provided. The results of the election herein provided shall be canvassed in the manner provided in this charter.

#### NOMINATION OF CANDIDATES:

**Section 20.4** Candidates for election to the offices of Mayor, Councilman, Municipal Judge, and Constable shall be nominated in the manner provided for the nomination of candidates for such offices in the charter of the City of Alpena in force at the time of their nomination and each such candidate shall be a candidate for office both under said charter and this charter and shall hold office subject to the terms specified and provisions of this charter if it shall be adopted.

#### BUDGET ADJUSTMENTS:

**Section 20.5.** The Council shall have authority on the recommendation of the City Manager and the Clerk to make any interim budget required to defray the cost of operating the city from March 1, 1944, to July 1 1945, in order to bring the city's financial plan in conformity with the fiscal year herein provided.

#### APPOINTIVE OFFICERS TO HOLD OVER:

**Section 20.6.** All officers of the city holding office under and by virtue of the previous charter, shall hold office until their successors shall be chosen and shall qualify, or until the office shall be abolished in accordance with the provisions of this charter. On the second Monday in April in the year 1944, the Council shall appoint the officers required to be appointed by section 7.1 (c) of this charter for terms of one (1) year from that date and shall, at that time, fix the salaries of said officers for that term. The terms specified in this section are for the purpose of bridging the transition from the terms of office and sequence

thereof provided in the prior charter of the city and the schedule of terms of office for such officers provided in this charter.

### **FILING OF CHARTER:**

**Section 20.7.** If this charter is adopted, the clerk of the Charter Commission shall, on or before March 31, 1944, certify the adoption of this charter upon his journal, and six (6) printed copies thereof shall be duly certified by the Clerk; and on or before said 31st day of March, 1944, two (2) such certified copies together with the vote for and against duly certified by Clerk shall be filed with the Secretary of State and a like number with the County Clerk and in the office of the Clerk respectively. The effective date of this charter shall be March 31, 1944.

### **Resolution of Adoption**

At a meeting of the Charter Commission of the City of Alpena held on the 5th day of January, 1944, the following resolution was offered by Commissioner Robert S Scott:

Resolved that the Charter Commission of the City of Alpena does hereby adopt the foregoing proposed City Charter, and the clerk of this Commission is directed to forthwith transmit a copy thereof to the Governor of the State of Michigan for his approval in accordance with the statute of the State.

The resolution was seconded by Commissioner Gordon J. Wheaton and adopted by the following vote:

Yeas: Walter W. Colby, Earl S. Estes, William F. Knapp, C. M. Elmer Lundquist, Frank B. Oles, John Emmet Richards, Robert S. Scott, Anthony S. Skiba, Gordon J. Wheaton.

Nays: None.

The Chairman declared the foregoing resolution carried unanimously and requested the members of the Charter Commission to authenticate said resolution and also the copy of the Charter presented to the Governor and filed with the City Clerk by attesting their names thereto in the following manner:

Attested by Commissioners:

JOHN EMMET RICHARDS  
WALTER W. COLBY  
ROBERT S. SCOTT  
FRANK B OLES

EARL S. ESTES  
ANTHONY S. SKIBA  
C. M. E. LUNDQUIST  
GORDON J. WHEATON  
WILLIAM F. KNAPP, Chairman

All of the Commissioners having attested as to said resolution as above and also having attested the copy to be signed by the Governor, the meeting adjourned subject to the call of the chairman.

State of Michigan:

County of Alpena: ss

I, Herbert M. Howe, Clerk of the Charter Commission of the City of Alpena, being duly sworn say that at an election duly called and held in the City of Alpena on the 28th day of June, 1943, the following named persons were duly elected as a commission to frame a revised charter for the City of Alpena, namely: Walter W. Colby, Earl S. Estes, William F. Knapp, C. M. Elmer Lundquist, Frank B. Oles, John Emmet Richards, Robert S. Scott, Anthony S. Skiba, Gordon J. Wheaton, and that the annexed and foregoing charter was duly framed and adopted by said Charter Commission by the foregoing resolution which is a true and correct copy thereof, and that the said Charter Commission directed that said charter be presented to the electors of the City of Alpena in accordance with the requirements of the laws of the State of Michigan which provides therefor.

Further deponent saith not.

HERBERT M. HOWE,  
Clerk of the  
Charter Commission  
of the City of Alpena.

Dated January 5, 1944

Subscribed and sworn to before me this 5th day of January, 1944

MARY K. MacGREGOR,  
Notary Public,  
Alpena County, Michigan

My commission expires Sept.7, 1947.

I do hereby approve the above and foregoing charter of the City of Alpena.

Dated Jan. 11, 1944.

HARRY F. KELLY,  
Governor of the  
State of Michigan.

I do hereby certify that the above and foregoing is a true copy of the proposed Charter of the City of Alpena which has been approved by the Charter Commission of the City of Alpena.

Dated January 12, 1944

HERBERT M. HOWE,  
Clerk of the  
Charter Commission  
of the City of Alpena, Michigan

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**CHARTER  
of the  
CITY OF ALPENA**

**Amendment No.1**

**Chapter 8, Section 8.16** shall be amended to read as follows:

**TRAFFIC VIOLATIONS BUREAU:**

**Section 8.16.** The City Council shall have power and authority to establish a traffic violations bureau within the Municipal Court and under the charge of the court clerk by ordinance for the handling of vehicular traffic cases, other than failure to stop in event of an accident, driving while under the influence of intoxicating liquors or narcotics, or reckless driving. In such bureau, any person who has received any notice to appear in answer to a traffic charge under the ordinances of the city may, within the time specified in the notice, answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a prescribed fine which cannot be waived by the Bureau, and, in writing, pleading guilty to the charge, waiving a hearing in court and giving power of attorney to the court clerk to make such a plea and pay such fine in court. Acceptance of the prescribed fine and the Power of Attorney by the Bureau shall be deemed to be complete satisfaction for the violation and the violator shall be given a receipt which so states. The creation of such a bureau by the Council shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

The Section of the present charter to be altered or abrogated by the proposed amendment is Chapter 8, Section 8.16.

Adopted: November 7, 1950.

**CHARTER  
of the  
CITY OF ALPENA**

**Amendment No. 2**

**Chapter 16** of the Charter of the City of Alpena shall be amended by adding Section 16.6 to read as follows:

**Section 16.6.** The Council may provide ordinance for the appointment of a commission or board to take the charge and management of the waterworks system of the City of Alpena in the manner and to the extent that the Council shall deem proper and expedient and such ordinance may provide for and regulate the purchasing of supplies, materials and equipment, contracting for improvements, repairs and alterations, rates to be charged, accounting and fiscal policies, employment of waterworks personnel, the making and enforcement of rules and regulations governing the supplying of water to the users thereof, and any other matter relating to the operation of said waterworks in such manner as to the Council shall seem best, anything in this Charter to the contrary notwithstanding. Such ordinance may provide for the appointment of the members of the board by the Council and may require that said board report to and be directly responsible to the Council. Such ordinance may also provide that said board shall have the authority and power and perform the duties otherwise delegated to the City Manager by this Charter with respect to the operation and management of the Waterworks. The compensation of the members of the board may be established by such ordinance."

The sections of the present Charter to be altered or abrogated by the proposed amendment are Sections 7.1 (sub-sections (b), (d), (e), (f), (g), 7.3 (sub-section (b), and 7.11 (sub-section (a) ).

Adopted: April 6, 1953

**CHARTER  
of the  
CITY OF ALPENA**

**Amendment No.3**

**Section 13.10** of the Charter of the City of Alpena shall be amended to read as follows:

**Section 13.10.** Within thirty (30) days after the Council shall determine to proceed with the making of any public improvement, in any case where the Council shall determine that the cost thereof shall be spread upon a special assessment roll prior to the completion of the work, and within sixty (60) days after the City Manager shall notify the Council of the completion of the work ordered to be done, in any case where the Council shall determine that the cost thereof shall be spread upon a special assessment roll after the work has been completed, the Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount benefited thereby. Where the assessment is levied prior to the completion of the improvement ordered, the amount spread in each case shall be based upon the detailed estimate of the City Manager, herein required, as modified by any bids upon which contracts have been let, where the same vary from the estimates of the City Manager. Where the assessment is levied after the completion of the improvement ordered, the City Manager shall, within sixty (60) days after he shall give notice to the Council of the completion of the work, compile the actual cost thereof and certify the same to the Assessor, who shall spread such cost on the special assessment roll as herein required in cases where the levy is made prior to completion of the work. In no case shall the special assessment upon any lot or premises exceed such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or premises bears to the total benefits to all lands in such district.

Adopted: May 24, 1960

**CHARTER  
of the  
CITY OF ALPENA**

**Amendment No.4**

**Chapter 4, Section 4.2** shall be amended to read as follows:

**SALARIES OF MEMBERS OF THE  
COUNCIL:**

**Section 4.2.** Each member of the council shall receive as remuneration for his services to the City of Alpena, the sum of \$1,000 per year. The Mayor shall receive the sum of \$500.00 per year in addition to the remuneration received by him as a member of the Council. Such salaries shall be payable quarterly and shall constitute the only salary or remuneration which may be paid for services performed by members of the Council for the discharge of any official duties for or on behalf of the City during their term of office.

Adopted: April 7, 1969.