

Sec. 34-2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act No. 94 of the Public Acts of 1933 means MCL 141.101 et seq.; MSA 5.2731 et seq., which is known and cited as "The Revenue Bond Act of 1933."

Sanitary sewer means a sewer intended to carry only sanitary and industrial waste from residences, commercial buildings, industrial plants and institutions.

Sewage disposal system means all interceptors, sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities and properties used or useful in connection with the collection, treatment, and disposal of sewage and industrial waste.

Water supply system means all plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water and/or the distribution and sale of water.

(Ord. No. 82-129, § 2, 10-12-82)

Sec. 34-3. Rights of bondholders.

Pursuant to the covenants previously made with successive holders of water and sewer bonds and coupons representing interest thereon, the city states that it will seek permission from the current bondholders to repeal any and all conflicting ordinances pertaining to the water and sewer supply systems of the city to the extent that those ordinances have not been saved by section 34-25 and also to procure the permission of those bondholders to consolidate the rules and regulations pertaining to the administration and operation of the water and sewer system.

(Ord. No. 82-129, § 3, 10-12-82)

Sec. 34-4. Water and sewer commission.

(a) *Established.* There is hereby established a joint water and sewer commission which shall operate in matters relating to the administration, management, supervision, and control of the water and sewer division of the department of public works.

(b) *Ex officio members designated.* There shall be three (3) ex officio or standing members of the water and sewer commission. These shall be the mayor, the director of the department of public works, and the manager of the water and sewer division. The mayor, the director of the department of public works and the manager of the water and sewer division shall have no vote.

(c) *Appointment, qualifications of regular members; filling of vacancies.* There shall be five (5) other members of the water and sewer commission. These members shall be appointed by the mayor and are subject to confirmation by the city council. They must be qualified electors of the city. They shall not be employees of the city or elected officials. Vacancies on the water and sewer commission shall be filled in the same manner as the original appointments were made.

(d) *Terms of office, removal, compensation of members.* The terms of the mayor, the director of the department of public works and the manager of the water and sewer division as ex officio members of the water and sewer commission shall be co extensive with their terms of office in those capacities with the city. The five (5) members of the water and sewer commission appointed by the mayor shall be appointed on an annual basis with each member's term to commence in January. Any one (1) or all of these five (5) regular members of the water and sewer commission may be removed by the mayor with or without cause but subject to the approval of the city council. All members of the water and sewer commission shall be compensated for each meeting as shall be set by city council resolution.

(e) *Chairman.* The members of the commission shall elect one (1) member to serve as chairman of the water and sewer commission.

(f) *Powers and duties.* The water and sewer commission shall, within the limitations of the provisions of the City Charter and this article, assist in the direction of the water and sewer system. This shall include assistance in the preparation of an operating budget for the water and sewer system for the coming fiscal years.

(g) *Rules and regulations generally.* The joint water and sewer commission shall assist the department of public works in maintaining the water and sewer systems of the city and all improvements, extensions, and equipment pertaining thereto. The water and sewer commission shall also assist the manager of the water and sewer division in establishing rules and regulations governing the use of and connections to the water distribution system of the city. A copy of all such rules and regulations shall be submitted to the city council. The rules and regulations so promulgated shall be considered part of the contract of every person supplied with water from the city water system. In any case where circumstances make it necessary to deviate from the rules, special permission for so acting shall first be sought from the city council which shall request and receive advice from the water and sewer commission before deciding whether such deviation from the rules will be permitted.

(h) *Authority to restrict nonessential use of water.* The water and sewer commission may, pursuant to its rule-making authority, restrict the nonessential use of water throughout the city. Any person violating any duly enacted rule restricting the nonessential use of water may, upon conviction thereof, be fined for each violation.

(i) *Contracts and agreements.* All contracts and agreements which may lawfully be made by the water and sewer commission shall, after proper review by the water and sewer commission, be submitted to the city council for action and if approved be executed by the mayor and the city clerk.

(j) *Expenditures and withdrawals of funds.* All checks, drafts or other withdrawal of funds lawfully authorized shall be made upon warrants drawn and authorized by the mayor and city clerk and the checks shall be signed by the city treasurer.

(k) *Meetings.*

(1) *Rules of order, frequency.* The water and sewer commission shall provide for and establish its own rules of order. The meetings of the water and sewer commission shall be scheduled on a regular basis and shall be open to the public. Upon proper

notice, there shall also be special meetings of the water and sewer commission. Special meetings of the water and sewer commission may be held upon the call of the chairman or any three (3) members of the water and sewer commission.

- (2) *Quorum.* The water and sewer commission shall hold a minimum of ten (10) meetings per year. Three (3) voting members of the commission shall constitute a quorum for the transaction of business.
- (3) *Records.* Minutes of each meeting of the water and sewer commission are to be kept. Complete records of the water and sewer commission shall be retained as required by law and shall be available for public inspection. The minutes of the water and sewer commission's meetings shall show the vote of each member upon any question or, if absent or failing to vote, shall indicate such fact. The water and sewer commission shall also keep records of its official actions. Every decision, recommendation, or determination of the water and sewer commission shall be filed within ten (10) days in the office of the city clerk and shall be a public record.

(Ord. No. 82-129, §§ 5—15, 38, 10-12-82; Ord. No. 86-158, §§ 7—10, 12-16-86)

Cross references—Administration, Ch. 2; boards and commissions generally, § 2-251 et seq.

State law references—Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

Sec. 34-5. Water and sewer division.

(a) *Established.* There is hereby established by this article a division of the department of public works, to be known as the water and sewer division.

(b) *Administration.* As provided by the City Charter, the water and sewer division shall be under the direction and control of the department of public works and administered by the manager of the water and sewer division.

(c) *Employees.* The mayor shall establish guidelines as to the duties and number of persons to be employed by the water and sewer division of the department of public works.

(Ord. No. 82-129, §§ 4, 5, 18, 10-12-82)

Sec. 34-6. Funds.

(a) *Separate accounts.* All funds, including surplus funds, if any, shall be kept in separate accounts for the benefit of the bondholders, the operation and maintenance of the water and sewer divisions, and for no other purpose.

(b) *Water and sewer divisions.*

(1) *Separate accounting.* The books of the city treasurer shall show the amount of monies received by each of the water and sewer divisions of the department of public works and the expenditures of funds by each such division.

(2) *Revenues.* Revenues from the operation of the water and sewer and divisions shall be maintained in separate funds.

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meetings of the water and sewer commission may be held upon the call of the chairman or any three (3) members of the water and sewer commission.

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(2) *Revenues.* Revenues from the operation of the water and sewer and divisions shall be maintained in separate funds.

(3) *Audits.* The separate funds of the water and sewer divisions shall be audited at least once each year by a certified public account. Such audits and accounts shall be open for inspection at all proper times to any taxpayer or user of the water and sewer systems or the holder of any bond or anyone acting for or on behalf of the taxpayer, user or bondholder. Copies of the audit, after approval by the water and sewer commission, shall be submitted to the city council for its final approval.

At such time as a regular Federal Decennial Census or a census ordered by the council shows that the population of the City exceeds 85,000, the number of Councilmen for the City shall automatically be increased to nine (9), and the added Councilmen shall be elected at the next regular City election following said census in accordance with the provisions of this Charter, and said added Councilmen shall be compensated the same as the other Councilmen provided for in this Charter.

(Amended 11-8-77; Amended 11-8-88)

State law reference—Mandatory that Charter provide for election of certain officers, MCL 117.3(a), MSA 5.2073(a).

Section 4.2. Eligibility For Elective or Appointive Office In City.

- (a) No person shall hold any elective office of the City unless he has been a resident of the City for at least two (2) years immediately prior to the last day for filing original petitions for such office or prior to the time of his appointment to fill a vacancy; and unless such person is a registered and qualified elector at the time of the filing of his petition or appointment for said office, and throughout his tenure of office except as hereinbefore provided;
- (b) Each candidate for elective office shall file with his nominating petition, his statement of candidacy that he possesses the qualifications for such office provided in this section. Failure to file such statement of candidacy shall invalidate his petition;
- (c) Each member of any City Board or Commission shall meet such qualifications of office;
- (d) No person who has been removed from office by recall or removed involuntarily pursuant to Section 4.3 or 4.4 of this Charter shall be eligible to be elected or appointed to any office within two (2) years after such recall or removal.

Editor's note—A two-year residence requirement for city office was held violative of equal protection by *Green v. McKeon*, 335 F. Supp. 630 (E.D. Mich. 1971), affirmed by 468 F.2d 883 (6th Cir. 1972); A one-year residency requirement was upheld by *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1981).

State law references—Mandatory that Charter provide for qualifications of officers, MCL 117.3(d), MSA 5.2073(d); recall, MCL 168.951 et seq., MSA 6.1951 et seq., Mich. Const. 1963, Art. II, § 8.

Section 4.3. Vacancy In Elective Office.

In addition to the other provisions of this Charter, a vacancy shall be deemed to exist in any elective office when such officer fails to qualify within ten (10) days after his election or appointment, fails to perform the duties of his office for a period of ninety (90) days, dies, resigns, or is voluntarily removed or recalled from office, moves from the City, is convicted by a Court of competent jurisdiction of a felony, or misconduct in office, or is judicially declared to be mentally incompetent.

Section 4.4. Vacancy on Boards and Commissions.

In addition to the other provisions of this Charter, a vacancy shall be deemed to exist on any Board or Commission to which members are appointed for a specific term of office, when
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