

CHAPTER V. THE COUNCIL, LEGISLATION AND RESTRICTIONS

REGULAR MEETINGS

Section 5.1 The council shall provide by resolution for the time and place of its regular meetings and shall hold at least one (1) regular meeting each month.

SPECIAL MEETINGS

Section 5.2 Special meetings shall be called by the City Clerk on the written request of the Mayor or any two (2) members of the Council on at least twenty four (24) hours' written notice to each member of the Council served personally or left at his usual place of residence; but any special meeting at which all members of the Council are present or have waived notice thereof in writing shall be a legal meeting.

Editor's Note:

For additional requirements imposed by the Open Meetings Act, see generally M.C.L.A. §§ 15.261 et seq. For special public notice requirements, see M.C.L.A. § 15.265.

SPECIAL MEETINGS - BUSINESS

Section 5.3 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 and consent thereto, then any business may be transacted at such special meeting.

PUBLIC MEETINGS

Section 5.4 All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

COUNCIL PROCEDURE

Section 5.5 The Council shall determine its own organization, rules and order of business subject to the following provisions:

5.5:1 A journal of the proceedings of each meeting shall be kept in the English language by the City Clerk and shall be signed by the presiding officer and clerk of the meeting.

5.5:2 A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.

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5.5:3 No member of the Council shall vote on any question in which he has a financial interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

5.5:4 The proceedings of the Council, or a brief summary thereof, shall be published within fifteen (15) days following each meeting. Any such summary shall be prepared by the City Clerk and approved by the presiding officer and shall show the substance of each separate proceeding of the Council.

5.5:5 There shall be no standing committees of the Council.

QUORUM

Section 5.6 A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the City Clerk may adjourn any meeting for not longer than one (1) week.

COMPELLING ATTENDANCE

Section 5.7 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, unless excused by the Council, or conduct himself in an orderly manner thereat, shall be deemed guilty of misconduct in the office.

POWER TO INVESTIGATE

Section 5.8 The Council, or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office, or officer of the city and 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 on the part of any officer of the city to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of an employee of the city, the same shall constitute a misdemeanor.

PUBLIC HEALTH AND SAFETY

Section 5.9 The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the Council shall constitute the board of health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

RESTRICTION - DEFAULT

Section 5.10 The Council shall not have the power to make any contract with, or give any official position to one who is in default to the city.

RESTRICTION - SALE OF PROPERTY - BUSINESS ENTERPRISES

Section 5.11 The Council shall not have the power to sell any park, cemetery or any part thereof, except where such park is not required under an official master plan of the city, or to engage in any business enterprise requiring an investment of money in excess of ten cents (10¢) per capita, unless these actions are approved by three fifth (3/5th) majority of the electors voting thereon at a regular or special election.

ORDINANCE FORM

Section 5.12 All legislation of the City of Ferrysburg 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.

5.12:1 Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, “The City of Ferrysburg Ordains:”.

5.12:2 No ordinance shall be passed at the same meeting at which it is introduced, unless it is declared to be an emergency ordinance by a vote of not less than four (4) members of the Council.

5.12:3 An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section.

5.12:4 An ordinance may be repealed by reference to its number or title only.

5.12:5 If a section of an ordinance is amended, such section shall be re-enacted and published at length. This requirement shall not apply to changes to the zoning map which is part of the zoning ordinance or to the schedules of one-way streets and to parking limitations contained in any traffic ordinance.

5.12:6 Each ordinance, after adoption, shall be identified by a number.

5.12:7 Each ordinance shall be recorded by the City Clerk forthwith in the Ordinance Book, and the enactment of such ordinance shall be certified by him therein by his signature.

ORDINANCE - PUBLICATION

Section 5.13 Each ordinance passed by the Council shall be published at least once within ten (10) days after the adoption of the ordinance by the Council. All ordinances of the city shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication thereof, is specifically provided in the ordinance itself. The publication of any ordinance in full or by reference in accordance with state law, after its final passage as part of the published proceedings of the Council shall constitute publication of such ordinance as required therein. An ordinance which is declared therein to be immediately necessary for the preservation of the public peace, health or safety may be given effect before publication as otherwise required by this charter if preliminary publication is accomplished by posting copies thereof in conspicuous locations in ten (10) public places in the city; and the City Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance, a certificate under his hand stating the time and place of such publication by posting, which certificate shall be prima facie evidence of such publication by posting; however, such ordinance shall also be published in the manner required for other ordinances within eight (8) days after its adoption.

ORDINANCE - PENALTY

Section 5.14 The Council may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars (\$500.00) or imprisonment for ninety (90) days or both in the discretion of the court.

Cross-reference:

General penalty, see § 10.99 of the City Code

Statutory reference:

Maximum penalty established, see M.C.L.A. § 117.4i(k)

ORDINANCE - ADOPTION BY REFERENCE

Section 5.15 The Council may adopt any provision of state law or any detailed technical regulation of 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 the public 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.

INITIATIVE AND REFERENDUM

Section 5.16 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.

INITIATIVE AND REFERENDUM - PROCEDURE

Section 5.17 An initiatory or a referendary petition shall be signed by not less than fifteen (15) per cent of the registered electors of the city who have signed said petition within six (6) months before date of filing the petition with the City Clerk. Before being circulated for signatures, all such petitions may be approved as to form by the City 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 signatures 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 City Clerk who shall, within fifteen (15) days, canvass the signatures thereon to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the city, or to be improper as to form or compliance with the provisions of this section, the City Clerk shall notify forthwith the person filing such petitions, and fifteen (15) days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the City Clerk shall present the petition to the Council at its next regular meeting.

INITIATIVE AND REFERENDUM - DUTIES OF COUNCIL

Section 5.18 Upon receiving an initiatory or referendary petition from the City Clerk, the Council shall within thirty (30) days, either:

5.18:1 If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the city.

5.18:2 If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the city.

INITIATIVE AND REFERENDUM - SUBMISSION TO VOTERS

Section 5.19 Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or in the discretion of the Council at a special election called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred fifty days (150) from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special election within sixty (60) days from such date of presentation for the submission

of the initiative proposal. 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.

INITIATIVE AND REFERENDUM - AMENDMENTS AND REPEAL

Section 5.20 An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of two (2) years after the date of the election at which it was adopted and an ordinance repealed by the electorate may not be reenacted for a period of two (2) years after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with provisions of this chapter or if submitted to the electorate by the Council on its own motion.

CONFLICTING ORDINANCES

Section 5.21 If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

ORDINANCES - SEVERABILITY

Section 5.22 Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications are not determined by the court to be inoperative and to this end ordinances are declared to be severable.

PUBLIC UTILITY FRANCHISE - RESTRICTIONS

Section 5.23 Public utility franchises and all renewals, and extensions thereof, and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths (3/5ths) of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty (30) days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the City Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Council shall have first been paid to the City Treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the Council may be enacted by the Council without referral to the voters, but

shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the City Clerk for public inspection for at least four (4) weeks after publication of a notice that such ordinance is so on file.

PUBLIC UTILITY FRANCHISE - REVOCATION

Section 5.24 All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinances or not, shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the city to impose or require:

5.24:1 To repeal the same for misuse, non-use, or failure to comply with the provisions thereof.

5.24:2 To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency.

5.24:3 To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

5.24:4 To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

5.24:5 To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them.

5.24:6 To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

PUBLIC UTILITY FRANCHISE - RATES

Section 5.25 All public utility franchises shall make provision therein for fixing rates, fares and charges and may provide for readjustments thereof at periodic intervals. 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, good will or prospective profits.

PUBLIC UTILITY - PUBLIC WAYS

Section 5.26 Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city and by other utilities insofar as such joint use may be reasonable practicable and upon payment of reasonable rental thereof.

In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and compensation to be paid therefor, and the arbitration award shall be final.

Cross-reference:

Use of streets, see §§ 50.10 et seq. of the City Code

COUNCIL - CONTRACTING POWER

Section 5.27 The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law and this charter.

CONTRACTS - EXECUTION

Section 5.28 All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 5.29 hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the City Clerk.

CONTRACTS - PURCHASING AND SALE PROCEDURES

Section 5.29 The Council shall establish, by ordinance, the procedure for the purchase and sale of personal property. Such ordinance may provide for centralized purchasing on behalf of the city. The ordinance shall also provide the dollar limit within which purchases may be made without the necessity of Council approval. No purchase of personal property shall be made unless a sufficient unencumbered appropriation is available there for.

CONTRACTS - DEFERRED PAYMENT - RESTRICTION

Section 5.30 The Council shall have power, by the affirmative vote of not less than four (4) members of the Council approving the same, to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years or the expected life of the item to be purchased, whichever is shorter, and the total of such contracts in any one fiscal year shall not exceed 1/5th of 1%, unless such contracts shall first receive the approval of a majority of the qualified electors of the city voting thereon at a regular or special election. This limitation shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

CONTRACTS - REAL ESTATE

Section 5.31 The city shall not have power to purchase, sell, lease or dispose of any real estate unless:

5.31:1 The resolution authorizing the sale, lease or disposal thereof shall be completed in the manner in which it is to be finally passed and has been published as a part of the Council proceedings and has remained on file with the City Clerk for public inspection for fifteen (15) days before the final adoption or passage thereof.

5.31:2 Such action is approved by the affirmative roll call vote of four (4) or more members of the Council.

5.31:3 When the proposition is to sell any park, cemetery or any part thereof, except when such park is not required under an official master plan of the city, the proposition to sell, lease, or dispose of the same shall also be approved by a three-fifths (3/5ths) majority vote of the electors of the city voting thereon at any general or special election.

CONTRACTS - COMPETITIVE BIDDING

Section 5.32 Except as provided by ordinance authorized by Section 5.29 of this charter, each contract for the construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public in the Council room by the City Clerk at the time designated in the notice of letting, and shall be reported to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after two or more opportunities for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or may authorize the proper official of the city to negotiate for a contract in the open market.

CONTRACTS - DEFAULT

Section 5.33 No contract shall be made with any person who is in default to the city.

CONTRACTS - EXTRA COMPENSATION

Section 5.34 No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

CONTRACTS - OFFICER OR EMPLOYEE RESTRICTION

Section 5.35 An officer or employee of the city who intends to have business dealings with the city, whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties or employment, shall file with the City Clerk a statement, under oath, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the City Clerk and made a part of the record or the proceedings of the Council at the meeting prior to the meeting at which action will be taken by the Council or any other agency of the city upon the matter involved. In each case where the type of dealings with the city is on a continuing basis,

involving more than one or a sequence of transactions described in the statement, each such statement shall stand for and apply to such transaction for a period of one year's period or for so long as such transactions continue. Each such renewal shall be filed with the City Clerk and made a part of the record of the proceedings of the Council at the meeting prior to the meeting at which action will be taken by the Council or any other agency of the city upon the matter involved, as in the case of the original statement. In the event that the interest of any officer or employee of the city in any business dealings with the city changes at any time, he shall file a statement thereof as herein required, which statement shall also be spread upon the proceedings of the Council and published as herein required. Approval of any such business dealing shall require a concurring vote of the members of the Council, not including the member affected and any member who does not vote under Section 5.5:3 of this charter. Any business dealings with the city made in violation of this section shall be void.