THE HOME RULE CITY ACT
Act 279 of 1909

AN ACT to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1981, Act 175, Imd. Eff. Dec. 14, 1981;—Am. 1986, Act 64, Imd. Eff. Mar. 31, 1986;—Am. 1998, Act 150, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

117.1 Body corporate.

Sec. 1. Each organized city shall be a body corporate.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3304;—CL 1929, 2228;—CL 1948, 117.1.

Constitutionality: 1911 PA 203, which amended the title of this act and MCL 117.2, 117.4, 117.5, 117.18, 117.19, 117.20, 117.21, 117.25, and 117.28, and which added MCL 117.37, was held unconstitutional in its entirety in *Gallup v Saginaw*, 170 Mich 195; 135 NW 1060 (1912). See also *Attorney General v Detroit*, 168 Mich 249; 133 NW 1090 (1912); *Common Council of Detroit v Engel*, 187 Mich 88; 153 NW 537 (1915).

117.1a Short title.

Sec. 1a. This act shall be known and may be cited as "the home rule city act".

History: Add. 1945, Act 15, Eff. Sept. 6, 1945;—CL 1948, 117.1a;—Am. 1994, Act 89, Eff. Oct. 1, 1994.

117.1b Emergency financial manager; authority and responsibilities.

Sec. 1b. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to a city governed by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

History: Add. 1988, Act 190, Imd. Eff. June 27, 1988.

117.2 Saving clause.

Sec. 2. Each city now existing shall continue with all its present rights and powers until otherwise provided by law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3305;—CL 1929, 2229;—CL 1948, 117.2.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 2. Each city now existing shall continue with all its present rights and powers except as herein otherwise provided."

117.3 Mandatory charter provisions.

Sec. 3. Each city charter shall provide for all of the following:

(a) The election of a mayor, who shall be the chief executive officer of the city, and of a body vested with legislative power, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary. The city charter may provide for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan, or preferential ballot, or by any other legal method of voting. Notwithstanding another law or charter provision to the contrary, a city having a 1970 official population of more than 150,000, whose charter provides for terms of office of less than 4 years, and in which the term of office for the mayor and the governing body are of the same length, may provide by ordinance for a term of office of up to 4 years for mayor and other elected city officials. The ordinance shall provide that the ordinance shall take effect 60 days after it is enacted unless within the 60 days a petition is submitted to the city clerk signed by not less than 10% of the registered electors of the city requesting that the question of approval of the ordinance be submitted to the electors at the next regular election or a special election called for the purpose of approving or disapproving the ordinance.

(b) The nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

(c) The time, manner, and means of holding elections and the registration of electors, subject to section 26

and other applicable requirements of law.

(d) The qualifications, duties, and compensation of the city's officers. If the city has an appointed chief administrative officer, the legislative body of the city may enter into an employment contract with the chief administrative officer extending beyond the terms of the members of the legislative body unless the employment contract is prohibited by the city charter. An employment contract with a chief administrative officer shall be in writing and shall specify the compensation to be paid to the chief administrative officer, any procedure for changing the compensation, any fringe benefits, and other conditions of employment. The contract shall state if the chief administrative officer serves at the pleasure of the legislative body, and the contract may provide for severance pay or other benefits in the event the chief administrative officer's employment is terminated at the pleasure of the legislative body.

(e) The establishment of 1 or more wards, and if the members of the city's legislative body are chosen by wards, for equal representation for each ward in the legislative body.

(f) That the subjects of taxation for municipal purposes are the same as for state, county, and school purposes under the general law.

(g) The annual laying and collecting taxes in a sum, except as otherwise provided by law, not to exceed 2% of the taxable value of the real and personal property in the city. Unless the charter provides for a different tax rate limitation, the governing body of a city may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the taxable value of the real and personal property in the city. As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(h) An annual appropriation of money for municipal purposes.

(i) The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

(j) The public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, or township, or another city for services considered necessary by the legislative body. Public peace, health, and safety services may include the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers.

(k) Adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative. Whether or not provided in its charter, instead of publishing a true copy of an ordinance before it becomes operative, the city may publish a summary of the ordinance. If the city publishes a summary of the ordinance, the city shall include in the publication the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. A charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a city may adopt a provision of a state statute for which the maximum period of imprisonment is 93 days or the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. Except as otherwise provided under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, a city may adopt a law, code, or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, an international property maintenance code, or a code pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated or adopted by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public. Except as otherwise provided in this subdivision, a city shall not enforce a provision adopted by reference for which the maximum period of imprisonment is greater than 93 days. A city may adopt section 625(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, by reference in an adopting ordinance and shall provide that a violation of that ordinance is punishable by 1 or more of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) Imprisonment for not more than 180 days.

(*iii*) A fine of not less than $200.00 or more than $700.00.

(*l*) That the business of the legislative body shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Keeping in the English language a written or printed journal of each session of the legislative body.

(n) A system of accounts that conforms to a uniform system of accounts as required by law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3006;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2230;—Am. 1947, Act 344, Eff. Oct. 11, 1947;—Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948;—CL 1948, 117.3;—Am. 1949, Act 43, Eff. Sept. 23, 1949;—Am. 1960, Act 14, Imd. Eff. Apr. 13, 1960;—Am. 1967, Act 43, Eff. Nov. 2, 1967;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1977, Act 204, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 241, Imd. Eff. June 15, 1978;—Am. 1979, Act 59, Imd. Eff. July 18, 1979;—Am. 1991, Act 182, Imd. Eff. Dec. 27, 1991;—Am. 1993, Act 207, Imd. Eff. Oct. 19, 1993;—Am. 1999, Act 256, Imd. Eff. Dec. 28, 1999;—Am. 1999, Act 260, Eff. Dec. 29, 1999;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002;—Am. 2003, Act 303, Eff. Jan. 1, 2005;—Am. 2004, Act 541, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 7, Imd. Eff. Feb. 15, 2012.

117.3a Abolishment of at-large city council; election of members from single-member election districts; ballot question; approval; determination of city council president; adoption of apportionment plan by commission; qualifications of candidates; rules and procedures; amendment of charter.

Sec. 3a. (1) A city that has a population of not less than 750,000 as determined by the most recent federal decennial census and that has a city council composed of 9 at-large council members shall place a question in substantially the following form on the ballot at the general primary election held on Tuesday, August 6, 2002:

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"Shall the existing 9-member at-large city council
be abolished, shall the city be reapportioned into
9 single-member election districts, and shall
district residency requirements be imposed on
candidates for the city council?
Yes (_____)
No (_____).".
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(2) The result of the vote shall be canvassed by the local board of canvassers under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(3) If the question presented pursuant to subsection (1) is approved, the 9-member at-large city council is abolished on January 1, 2006 and shall be replaced by a city council of 9 members elected from single-member election districts at regular municipal elections beginning with the municipal primary election in 2005. Any charter provision to the contrary notwithstanding, the president of the city council shall be determined by a majority vote of the city council members elected and serving from single-member election districts.

(4) Within 30 days after the question presented pursuant to subsection (1) is approved, the city redistricting commission shall meet as the apportionment commission and adopt an apportionment plan. The city redistricting commission shall consist of 3 members, 2 of whom are appointed by the mayor and 1 of whom is appointed by the city council. The city redistricting commission shall thereafter meet within 30 days after the publication of the latest official figures of the federal decennial census to reapportion the city. To the extent consistent with this act, the procedural aspects of the apportionment process shall be governed by the same statutory procedures as those provided for a county charter commission apportionment pursuant to section 5(4), (5), (6), and (7) of 1966 PA 293, MCL 45.505. One of the 2 members appointed by the mayor under this subsection shall convene the city redistricting commission, sitting as the apportionment commission. As the apportionment commission, the city redistricting commission shall adopt its own rules of procedure. Two members shall constitute a quorum and all actions shall be by a majority vote.

(5) The city redistricting commission shall provide for equal representation for each single-member election district, and each single-member election district shall be as nearly equal in population and compact as is practicable based on the latest federal decennial census. In developing an apportionment plan, the city redistricting commission shall follow the lines used for planning sectors and subcommittees as provided by the city master plan and charter. In subsequent reapportionments, the city redistricting commission apportionment plan shall make only incremental changes to the single-member election district boundaries that are necessary to accommodate population change requirements. Each single-member election district

shall be designated by number.

(6) Each candidate for city council shall be a resident of the single-member election district he or she seeks to represent. A city council member's office is vacated if the member moves his or her residence outside of the single-member election district that the member represents.

(7) To comply with and implement this section, the city clerk shall promulgate necessary election rules and procedures consistent with other provisions of the city charter. The city council may amend the charter to comply with the intent and findings of this section in the same manner provided by law and charter for the adoption of an ordinance. However, any charter amendment to comply with the intent and findings of this section shall take effect immediately upon adoption by the council. The city clerk shall file a copy of any charter amendment with the secretary of state and the county clerk of the county in which the city is located. Sections 21 to 25 do not apply to the charter amendment required under this section.

History: Add. 2002, Act 432, Imd. Eff. June 6, 2002.

Compiler's note: 2002 PA 432 (HB 6114), which added MCL 117.3a, does not validly direct placement of the proposition on the ballot--to change from the current at-large system of electing the city council to a single-member district plan--because it was not passed by a 2/3 vote in each house of the legislature, as required by Const 1963, art 4, sec 29. Michigan v Wayne Co Clerk, 466 Mich 640, 649 NW2d 73 (2002).

***** *117.3b SUBSECTION (1) DOES NOT APPLY AFTER DECEMBER 31, 2006: See subsection (2)* *****

117.3b Terms of office; staggered terms; resolution; initial terms; applicability of subsection (1).

Sec. 3b. (1) Notwithstanding any charter provision, the city may provide by resolution for the terms of office of its elected officials and for staggered terms.

(2) The initial terms established under subsection (1) may be longer than allowed under the charter in order to facilitate the staggering of terms. This subsection does not apply after December 31, 2006.

(3) Notwithstanding any charter provision, the city may provide by resolution for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 2005, Act 64, Imd. Eff. July 7, 2005.

117.4 Conduct of racing event under MCL 257.1701 et seq.; powers and duties.

Sec. 4. A city may permit the conducting of a racing event under the "city motor vehicle racing act of 1981" and shall have the powers and duties provided for in that act.

History: Add. 1981, Act 175, Imd. Eff. Dec. 14, 1981.

117.4a Borrowing money and issuing bonds; net indebtedness; limitation; computation; borrowing in case of fire, flood, or other calamity; incurring obligation for construction, renovation, or modernization of hospital; bonds as obligation of special assessment district and city; validation of bonds issued and obligations incurred before July 31, 1973.

Sec. 4a. (1) Each city in its charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, for any purpose within the scope of the powers of the city.

(2) Notwithstanding a charter provision to the contrary, the net indebtedness incurred for all public purposes shall not exceed the greater of the following:

(a) Ten percent of the assessed value of all the real and personal property in the city.

(b) Fifteen percent of the assessed value of all the real and personal property in the city if that portion of the total amount of indebtedness incurred which exceeds 10% is or has been used solely for the construction or renovation of hospital facilities.

(3) In case of fire, flood, or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8 of 1% of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if the loan would cause the indebtedness of the city to exceed the limit established by this section.

(4) In computing the net indebtedness, all of the following shall be excluded:

(a) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city.

(b) Mortgage bonds that are secured only by a mortgage on the property or franchise of a public utility.

(c) Bonds issued to refund money advanced or paid on special assessments for water main extensions.

(d) Motor vehicle highway fund bonds, even though they are also a general obligation of the city.

(e) Revenue bonds.

(f) Bonds issued or contract or assessment obligations incurred to comply with an order of the water

resources commission or a court of competent jurisdiction.

(g) Obligations incurred before January 9, 1973 for water supply, sewage, drainage, or refuse disposal, or resource recovery projects, or incurred after January 8, 1973 for projects necessary to protect the public health by abating pollution. A certification by the county, district, or state health department shall be sufficient proof that the project is necessary to protect the public health by abating pollution.

(h) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(i) Obligations entered into under an intergovernmental self-insurance contract section 5 of 1951 PA 35, MCL 124.5, or issued to pay premiums or to establish funds to self-insure for losses under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(j) Bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(*i*) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(*ii*) "Combined sewer overflow abatement facility" means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(*iii*) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(*iv*) "Construction" means any action taken in the designing or building of a combined sewer overflow abatement facility. This term includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) City supervision of the project activities described in sub-subparagraphs (A) to (F).

(*v*) "Improvement" means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(*vi*) "Replacement" means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the indebtedness.

(6) An obligation for the construction, renovation, or modernization of a hospital under subsection (2)(b) shall not be incurred after July 1, 1978 unless the construction, renovation, or modernization has been approved in accordance with any applicable act or unless the obligation is to refinance a previous obligation.

(7) Each city may provide in its charter for the borrowing of money and issuing bonds for the borrowing of money in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.

(8) Bonds issued and obligations incurred before July 31, 1973 are validated.

(9) In computing the net indebtedness for the purposes of subsection (2), there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

History: Add. 1921, Act 353, Eff. Aug. 18, 1921;—Am. 1927, Act 351, Eff. Sept. 5, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2231;—Am. 1932, 1st Ex. Sess., Act 14, Imd. Eff. Apr. 29, 1932;—CL 1948, 117.4a;—Am. 1972, Act 374, Imd. Eff. Jan. 9, 1973;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1977, Act 263, Imd. Eff. Dec. 8, 1977;—Am. 1978, Act 634, Imd. Eff. Jan. 8, 1979;—Am. 1988, Act 268, Imd. Eff. July 15, 1988;—Am. 1992, Act 256, Imd. Eff. Dec. 7, 1992;—Am. 1994, Act 324, Imd. Eff. Oct. 12, 1994;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002.

117.4b Refunds; bonds; sewers; waterworks; lighting; permissible charter provisions.

Sec. 4-b. Each city may in its charter provide:

(1) For refunding money advanced or paid on special assessments imposed, for water main extensions; for borrowing money through its legislative body on the faith and credit of the city, to provide for such refunding from time to time as buildings shall be connected with such water main extensions; and for the issuance of bonds therefor due in not more than 30 years in an amount and at the rate of interest limited by the charter of such city;

(2) For the installation and connection of sewers and waterworks on and to property within the city; for assessing the cost thereof to the several properties and making the same a lien thereon; and for the borrowing of money and issuing bonds in anticipation of the collection of such special assessments;

(3) For the installation and connection of conduits for the service of municipally owned and operated electric lighting plants; and for the borrowing of money and issuing the bonds of the city therefor, for the purpose of providing the first cost of such installation and connection.

History: Add. 1927, Act 209, Imd. Eff. May 20, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2232;—CL 1948, 117.4b.

117.4c Permissible charter provisions.

Sec. 4-c. Each city which is authorized to acquire, own, purchase, construct or operate any public utility, may provide in its charter for the issuance of mortgage bonds therefor beyond the general limit of the bonded indebtedness prescribed by law, provided that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure. Such mortgage bonds shall be sold to yield not to exceed 6 per centum per annum. The charter shall also provide for the creation of a sinking fund in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

History: Add. 1927, Act 287, Imd. Eff. May 31, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2233;—CL 1948, 117.4c.

117.4d Permissible charter provisions; assessing costs of public improvement and boulevard lighting system; definitions.

Sec. 4d. (1) Each city may in its charter provide:

(a) For assessing and reassessing the costs, or a portion of the costs, of a public improvement to a special district.

(b) For assessing the cost, or a portion of the costs, of installing a boulevard lighting system on a street upon the lands abutting the street. A city shall not establish a special assessment district for a boulevard lighting system if the district includes the entire city, unless the special assessments against the real property within the district are levied on other than an ad valorem basis.

(2) As used in this section:

(a) "Boulevard lighting system" means any design or method of providing light to a street.

(b) "Cost" includes necessary condemnation cost and necessary expenses incurred for engineering, financial, legal, or administrative services; operation and maintenance of a boulevard lighting system, whether that service is provided directly by the city or is provided by an investor-owned utility; and other services of a similar kind involved in the making and financing of the improvement and in the levying and collecting of the special assessments for the improvement. If the service is rendered by city employees, the city may include the fair and reasonable cost of rendering the service. The inclusion of a cost specified in this subdivision as part of the cost of an improvement for which special assessments have been levied before the effective date of the 1987 amendatory act amending this section is validated.

(c) "Street" means a public avenue, street, highway, road, path, boulevard, or alley or other access used for travel by the public.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2234;—CL 1948, 117.4d;—Am. 1961, Act 124, Eff. Sept. 8, 1961;—Am. 1964, Act 27, Imd. Eff. Apr. 29, 1964;—Am. 1988, Act 201, Imd. Eff. June 29, 1988.

117.4e Public property; condemnation of private property; permissible charter provisions.

Sec. 4e. Each city may in its charter provide:

(1) For the acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees and embankments, watch-houses, city prisons and work houses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems, sewage disposal plants and systems, market houses and market places, office buildings for city officers and employees, public works, and public buildings of all kinds; and for the costs and expenses thereof;

(2) For the acquisition by purchase, gift, condemnation, lease or otherwise of private property, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property outside the corporate limits of such city, such condemnation proceedings may be brought under the provisions of Act No. 149 of the Public Acts of 1911, as amended or as may be amended, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporations', 'state agencies' and 'private property' as used herein," being sections 353 to 373 inclusive of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law;

(3) For the maintenance, development, operation, of its property and upon the discontinuance thereof to lease, sell or dispose of the same subject to any restrictions placed thereupon by law: Provided, That on the sale of any capital asset of a municipally owned utility the money received shall be used in procuring a similar capital asset, or placed in the sinking fund to retire bonds issued for said utility.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2235;—CL 1948, 117.4e;—Am. 1949, Act 207, Eff. Sept. 23, 1949.

Compiler's note: For provisions of Act 149 of 1911, referred to in subdivision (2), see MCL 213.21 et seq.

117.4f Permissible city charter provisions.

Sec. 4f. Each city may in its charter provide for any of the following:

(a) For the purchase or condemnation of franchises, if any exist, and of the property used in the operation of companies or individuals engaged in the road, cemetery, hospital, almshouse, electric light, gas, heat, water, and power business, and in cities having more than 25,000 inhabitants, for the purchase of the franchise, if any exist, and the property of street railway and tram railway companies. A city may in its charter allow for a contract, upon the terms, including terms of present or deferred payment, and upon the conditions and in the manner as the city considers proper, to purchase, operate, and maintain any existing public utility property for supplying water, heat, light, power, or transportation to the city and the city's inhabitants. The contract does not bind the city unless the proposition for the contract receives the affirmative vote of 3/5 of the electors voting at a regular or special election. For the purchase of a transportation utility, the charter amendment and the contract to purchase may provide for a sinking fund, into which shall be paid, from the earnings of the utility, sums sufficient to purchase the utility and perform the obligations of the contract. Within a reasonable time after the acquisition of a public transportation utility, a system of civil service for the selection and retention of its employees shall be established. If a vote is taken to amend a city charter to allow an acquisition under this subdivision, a vote may also be taken at the same election to approve a particular contract. The vote upon the charter amendment and upon the purchase contract shall be by separate ballots. If a transportation utility is acquired under this subdivision, state taxes and local taxes on any portion of the property lying outside of the city limits shall be paid as if privately owned. The powers under this subdivision are in addition to any other powers provided for under this section.

(b) For owning, constructing, and operating transportation facilities within the city limits, and its adjacent and adjoining suburbs within a distance of 10 miles from any portion of the city limits.

(c) For the purchase and condemnation of private property for any public use or purpose within the scope of its powers; for the acquirement, ownership, establishment, construction, and operation, either within or outside its corporate limits, of public utilities for supplying water, light, heat, power, and transportation to the city and the city's inhabitants, for domestic, commercial, and municipal purposes; for the sale of heat, power, and light outside its corporate limits in an amount as determined by the governing body of the utility supplying the heat, power, or light except that electric delivery service is limited to the area of any village or

township that was contiguous to the city as of June 20, 1974, and to the area of any other village or township being served as of June 20, 1974 and retail sales of electric generation service are limited to the area of any city, village, or township that was contiguous to the city, village, or township as of June 20, 1974, and to the area of any other city, village, or township being served as of June 20, 1974 unless the municipal utility is in compliance with section 10y(4) of 1939 PA 3, MCL 460.10y; for the sale and delivery of water outside of its corporate limits in the amount as may be determined by the legislative body of the city; and for the operation of transportation lines outside the city and within 10 miles from its corporate limits. A city shall not render electric delivery service for heat, power, or light to customers outside its corporate limits already receiving that service from another utility unless that utility consents in writing, and shall not render retail electric generation service to customers outside its corporate limits receiving that service from another supplier except in compliance with section 10y of 1939 PA 3, MCL 460.10y. The acquirement of a utility together with all properties, franchises, and rights necessary for its establishment, ownership, construction, operation, improvement, extension, and maintenance, whether the properties, franchises, and rights are situated within or outside the corporate limits of the city, may be either by purchase or condemnation. If the acquirement is by condemnation, 1911 PA 149, MCL 213.21 to 213.25, may be used for instituting and prosecuting the condemnation proceedings. A public utility is not acquired unless the proposition to do so first receives the affirmative vote of 3/5 of the electors of the city voting at a regular or special municipal election. For purposes of this subdivision:

(*i*) "Electric delivery service" has the same meaning as "delivery service" under section 10y of 1939 PA 3, MCL 460.10y.

(*ii*) "Electric generation service" means the sale of electric power and related ancillary services.

(d) For the acquiring, establishment, operation, extension, and maintenance of sewage disposal systems, sewers, and plants, either within or outside the corporate limits of the city, as a utility, including the right to acquire necessary property by purchase, gift, or condemnation, and including the fixing and collecting of charges exclusively for service covering the cost of the service. This subdivision allows a return on the fair value of the property devoted to the service, excluding the valuations of the portions of the system that were paid for by special assessment, which may be made as a lien upon the property served and if not paid when due, collected in the same manner as other city taxes.

History: Add. 1927, Act 367, Eff. Sept. 5, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2236;—CL 1948, 117.4f;—Am. 1955, Act 26, Eff. Oct. 14, 1955;—Am. 1965, Act 116, Imd. Eff. July 2, 1965;—Am. 1974, Act 18, Imd. Eff. Feb. 15, 1974;—Am. 1975, Act 296, Imd. Eff. Dec. 11, 1975;—Am. 2000, Act 156, Imd. Eff. June 14, 2000.

117.4g Rapid transit system; permissible charter provisions.

Sec. 4-g. Each city may in its charter provide:

(1) For the acquisition by construction, condemnation or purchase and for the ownership, equipment, possession, leasing, operation and maintenance of a rapid transit system consisting of a tunnel, subway, surface or elevated system or any combination and qualification of these, in and through said city, and for a distance of not more than 10 miles beyond its limits, for the purpose of furnishing transportation facilities to the municipality and to the people thereof; for the preparation and publication of plans for such construction, equipment and maintenance in accordance with charter provisions adopted hereunder; for the operation of such facilities independently or in connection with other transportation facilities, or transportation system, owned, operated or controlled by such city or existing therein, or in the territory in which any such rapid transit system is established; for the appropriate designation of such facilities; for the taking of the fee of or easement or right of way on, under, above and through any property for the purposes thereof, by gift, grant and purchase, and by condemnation proceedings in accordance with any law of the state of Michigan providing therefor; and for the management of such facilities, for the purposes for which the same are or may be acquired or constructed. Provision may also be made for the execution of contracts incidental to the carrying out of the purposes hereby contemplated. In the event that property is taken by condemnation under any statute pertaining thereto, the actual benefits accruing to or received by a remainder of any such parcel on account of the construction of the improvement shall be taken into account in determining the damages to be awarded by way of compensation to the owner or owners of such property. The charter shall also provide for the proper financing of the acquisition and construction of any such system and facilities by direct taxation, special assessments on the basis of benefits actually and exclusively received by property affected by any such improvement, or by borrowing money and issuing bonds or other evidence of indebtedness therefor, or by a combination of such methods; and for the defraying of the cost of maintenance, operation and management of such facilities and for payment of interest on and a sinking fund to retire any bonds issued under this subsection, from the revenues received as a result of the operation thereof by the city. Bonds executed and sold for the purpose of raising money to cover the cost of such acquisition and construction may

be issued on the faith and credit of the city or same may be secured by mortgage on the property and revenues of the utility established pursuant hereto. The aggregate amount of bonds issued on the faith and credit of the city under this subsection shall not exceed 2 per cent of the assessed valuation of the taxable property within said city for the preceding fiscal year; and in computing the total indebtedness of the city for the purpose of determining whether any other limitation prescribed by law has been exceeded, such bonds shall not be included. Except as is in this subsection otherwise specifically provided, all bonds issued by a city for the purposes hereby contemplated shall be subject to the restrictions and conditions prescribed in section 4-a of this act. In case provision is made in the charter for raising money by direct taxation for the purposes hereof, the amount of such tax levied and assessed in any year shall not exceed 1/6 of 1 per cent of the assessed valuation of the city for such year; and the amount of any such tax shall not be subject to any other limitations prescribed by law, or considered in determining whether any such limitation has been exceeded. In no case shall more than 60 per cent of the total estimated cost of acquiring or constructing any such rapid transit system or portion of extension thereof, be raised by direct taxation, and by the issuance of bonds on the faith and credit of the city. As incidental to the authority hereby granted, provision may be made in any city charter for the exercise of powers incidental to the accomplishment of the purposes hereof, and reasonably calculated and designed to facilitate the furnishing of adequate transportation facilities by the means aforesaid to the municipality and the people thereof. No charter amendment or amendments, contemplating and providing for the exercise of the powers referred to in this subsection, shall be submitted to a vote of the electors unless and until the same shall have been published pursuant to the direction of the legislative body of the city, in at least 1 newspaper having a general circulation in such city at least once each week for 3 weeks in succession during the 30 day period immediately preceding the date of the election; and no plan for construction and operation of any rapid transit system shall be put into effect unless the same shall first have been submitted to the qualified electors of the city and approved thereby. Such submission of plan shall be made subsequent to the enactment of said charter amendments either at a general election or a special election called for that purpose by the legislative body of the city. Such contemplated plan shall, before its submission, and as a condition prerequisite thereto, be published once each week for 6 weeks in succession in some daily newspaper having a general circulation within the city, during the 60-day period immediately preceding the date of submission to the electors; and the contemplated plan as so published shall specify the route or routes of the proposed rapid transit system, the type of construction proposed for the various sections or parts thereof, the method or methods for financing the improvement, the order in which the various sections or parts are to be constructed or acquired, the system of management to be adopted, the estimated cost of the various sections or parts of the system, and such other matters as the legislative body of the city shall require: Provided, however, That the financial plan so submitted shall not permit special assessments against any property in excess of actual benefits, meaning increased value, accruing exclusively as a result of said improvement; and the payment of such special assessments made under this subsection, shall be prorated over a period of not less than 10 years.

(2) For negotiating, executing and performing contracts with any other municipality or municipalities, duly authorized and empowered to that end, with reference to the construction, equipment, operation, maintenance and management of a rapid transit system and facilities, and for the financing of any obligations, assumed under or imposed by any such contract. The grants, limitations and restrictions set forth in the preceding subsection of this section shall be deemed applicable to, and shall be observed in the adoption of, charter provisions and amendments hereunder and in the exercise of the authority hereby granted.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2237;—CL 1948, 117.4g.

117.4h Public ways; permissible charter provisions.

Sec. 4-h. Each city may in its charter provide:

(1) For the use, regulation, improvement and control of the surface of its streets, alleys and public ways, and of the space above and beneath them;

(2) For the use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

(3) For a plan of streets and alleys within and for a distance of not more than 3 miles beyond its limits;

(4) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the law or action thereunder where a navigable stream is bridged or dammed; or with riparian or littoral rights without their corporate limits;

(5) For securing by condemnation, by agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable stream an elevated structure of 1 or more levels for use as vehicular or pedestrian passageway, or for any other municipal purpose;

(6) For the acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

(7) For the acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of pleasure water crafts and/or hydroplanes within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2238;—Am. 1931, Act 295, Imd. Eff. June 8, 1931;—CL 1948, 117.4h

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117.4i Permissible charter provisions.

Sec. 4i. Each city may provide in its charter for 1 or more of the following:

(a) Laying and collecting rents, tolls, and excises.

(b) Regulating and restricting the locations of oil and gasoline stations.

(c) The establishment of districts or zones within which the use of land and structures, the height, area, size, and location of buildings, the required open spaces for light and ventilation of buildings, and the density of population may be regulated by ordinance. The zoning ordinance provisions applicable to 1 or more districts may differ from those applicable to other districts. If a city is incorporated, or if territory is annexed to a city incorporated under this act, the zoning ordinance provisions applicable to the territory within the newly incorporated city or the annexed territory shall remain in effect for 2 years after the incorporation or annexation unless the legislative body of the city lawfully adopts other zoning ordinance provisions.

(d) The regulation of trades, occupations, and amusements within city boundaries, if the regulations are not inconsistent with state or federal law, and the prohibition of trades, occupations, and amusements that are detrimental to the health, morals, or welfare of the inhabitants of that city.

(e) The regulation or prohibition of public nudity within city boundaries. As used in this subdivision, "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

(*i*) A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

(*ii*) Material as defined in section 2 of 1984 PA 343, MCL 752.362.

(*iii*) Sexually explicit visual material as defined in section 3 of 1978 PA 33, MCL 722.673.

(f) Licensing, regulating, restricting, and limiting the number and locations of billboards within the city.

(g) The initiative and referendum on all matters within the scope of the powers of that city and the recall of city officials.

(h) A system of civil service for city employees, including employees of that city's board of health, and employees of any jail operated or maintained by the city. Charter provisions providing for a system of civil service for employees of a local health board are valid and effective.

(i) A system of compensation for city employees and the dependents of city employees in the case of disability, injury, or death of city employees.

(j) The enforcement of police, sanitary, and other ordinances that are not in conflict with the general laws.

(k) The punishment of persons who violate city ordinances other than ordinances described in section 4*l*. The penalty for a violation of such a city ordinance shall not exceed a fine of $500.00 or imprisonment for 90 days, or both. However, unless otherwise provided by law, the ordinance may provide that a violation of the ordinance is punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. In addition, a city may adopt section 625(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, by reference in an adopting ordinance and shall provide that a violation of that ordinance is punishable by 1 or more of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) Imprisonment for not more than 180 days.

(*iii*) A fine of not less than $200.00 or more than $700.00.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2239;—Am. 1937, Act 309, Eff. Oct. 29, 1937;—Am. 1939, Act 175, Eff. Sept. 29, 1939;—Am. 1941, Act 10, Imd. Eff. Mar. 5, 1941;—Am. 1941, Act 283, Imd. Eff. June 17, 1941;—CL 1948, 117.4i;—Am. 1957, Act 131, Imd. Eff. May 25, 1957;—Am. 1963, Act 166, Eff. Sept. 6, 1963;—Am. 1991, Act 175, Eff. Mar. 30, 1992;—Am. 1994, Act 17, Eff. May 1, 1994;—Am. 1994, Act 313, Imd. Eff. July 21, 1994;—Am. 1996, Act 179, Imd. Eff. Apr. 19, 1996;—Am.

1999, Act 55, Eff. Oct. 1, 1999;—Am. 2012, Act 7, Imd. Eff. Feb. 15, 2012.

117.4j City departments; special acts; municipal powers; permissible charter provisions.

Sec. 4-j. Each city may in its charter provide:

(1) For the establishment of any department that it may deem necessary for the general welfare of the city, and for the separate incorporation thereof: Provided, however, That these provisions shall not be construed to extend to and include public schools;

(2) For altering, amending or repealing any special act affecting any municipal concerns or existing municipal department, but the department in control of the public schools shall not be construed to be a municipal department;

(3) For the exercise of 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; for 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 all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2240;—CL 1948, 117.4j.

117.4k Civic, artistic, and cultural activities; public funds.

Sec. 4k. Each city in its charter may provide for the appropriation and allocation of public funds to a public or private nonprofit institution engaged within the city in the provision of civic, artistic, and cultural activities, including but not limited to music, theater, dance, visual arts, literature and letters, architecture, architectural landscaping, and allied arts and crafts, to the general public.

History: Add. 1978, Act 499, Imd. Eff. Dec. 11, 1978.

117.4*l* Ordinance; designation as civil infraction or blight violation; civil fine; act or omission constituting crime.

Sec. 4*l*. (1) Consistent with any of the following statutes and whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

(a) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) 1969 PA 235, MCL 257.941 to 257.943.

(c) 1956 PA 62, MCL 257.951 to 257.955.

(2) Whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance shall not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (1). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(3) An ordinance shall not make an act or omission a municipal civil infraction or a blight violation if that act or omission constitutes a crime under any of the following:

(a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(b) The Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

(c) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(d) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(e) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

(f) The aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.

(g) Part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82160.

(h) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150.

(i) Sections 351 to 365 of the railroad code of 1993, 1993 PA 354, MCL 462.351 to 462.365.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(4) Whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a blight violation and provides a civil fine and other sanctions for that violation consistent with section 4q. An ordinance shall not designate a violation as a blight violation if that violation may be designated a civil infraction under subsection (1). An ordinance shall not designate a

violation as both a municipal civil infraction and a blight violation.

History: Add. 1994, Act 17, Eff. May 1, 1994;—Am. 1996, Act 44, Imd. Eff. Feb. 26, 1996;—Am. 2003, Act 316, Imd. Eff. Jan. 12, 2004.

117.4m Ordinance regulating recreational trailway; posting; violation as municipal civil infraction; penalty.

Sec. 4m. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or $500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that section 4 *l* prohibits an ordinance from designating as a municipal civil infraction.

History: Add. 1994, Act 89, Eff. Oct. 1, 1994.

117.4n Medical facility for public purpose; establishment, operation, or maintenance by private nonprofit corporation.

Sec. 4n. Each city may in its charter provide for the city or 1 or more of its public corporations to become a member or joint owner in an enterprise with a private nonprofit corporation to create a separate private nonprofit corporation that will establish, operate, or maintain a medical facility for a public purpose.

History: Add. 1998, Act 445, Imd. Eff. Dec. 30, 1998.

117.4o Formation of nonprofit corporation by city.

Sec. 4o. (1) The legislative body of a city may by ordinance or resolution authorize the formation of a nonprofit corporation under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192. A nonprofit corporation formed under this section may be organized only for purposes that are valid public purposes for cities in this state.

(2) Except as otherwise provided in this subsection, a nonprofit corporation formed under subsection (1) is subject to all local, state, and federal laws or ordinances that apply to the city that authorized its formation. A nonprofit corporation formed under subsection (1) is not subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or its successor act.

(3) A nonprofit corporation formed under subsection (1) is a public body for the purposes of the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

History: Add. 2001, Act 37, Imd. Eff. July 11, 2001.

***** *117.4q THIS SECTION IS AMENDED EFFECTIVE MARCH 14, 2014: See 117.4q.amended* *****

117.4q Administrative hearings bureau; establishment; administrative hearings; procedures.

Sec. 4q. (1) A city that has a population of 7,500 or more and is located in any county, or a city that has a population of 3,300 or more and is located in a county that has a population of 2,000,000 or more, may establish an administrative hearings bureau to adjudicate and impose sanctions for violations of the charter or ordinances designated in the charter or ordinance as a blight violation. The bureau may accept admissions of responsibility for blight violations. Pursuant to a schedule of civil fines and costs, the bureau may collect civil fines and costs for blight violations.

(2) The expense of the operation of an administrative hearings bureau shall be borne by the city establishing the bureau.

(3) An administrative hearings bureau shall not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions. The bureau and its hearing officers shall not have the authority to impose a penalty of incarceration and may not impose a civil fine in excess of $10,000.00. This section does not authorize a proceeding against a foreclosing governmental unit as defined under section 78 of the general property tax act, 1893 PA 206, MCL 211.78, or an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The city may waive a fine for a blight violation at an owner-occupied dwelling for a first time offender of a blight ordinance, if the offender has corrected the circumstances for the violation.

(4) A city that establishes an administrative hearings bureau under this section shall establish by ordinance the jurisdiction of the bureau for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation. The city may designate only a violation of any of the following types of ordinances as a blight violation:

(a) Zoning.

(b) Building or property maintenance.

(c) Solid waste and illegal dumping.

(d) Disease and sanitation.

(e) Noxious weeds.

(f) Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.

(g) Right-of-way signage. For purposes of this subdivision, right-of-way signage violation means the placement of signage in a right-of-way without a proper permit from the city.

(h) An ordinance that is substantially the same as sections 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538 to 125.542.

(5) To initiate a proceeding for a blight violation, the city shall issue and serve upon an alleged violator a written violation notice on which an authorized local official records the occurrence or existence of 1 or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the administrative hearings bureau as provided in this section. A violation notice to appear at an administrative hearings bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.". An authorized local official may issue a violation notice to appear if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a blight violation and if the city attorney or an assistant city attorney approves in writing the issuance of the violation notice.

(6) If a city has a rental inspection program with which a landlord must register in order to rent premises for residential purposes and if a landlord of premises rented in the city for residential purposes is registered with the city's rental inspection program, the city shall not issue a blight violation notice during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property including, but not limited to, a flooded basement or premises without heat.

(7) A city that does not have a rental inspection program, or does not require a landlord to register as part of a rental inspection program, shall not issue a blight violation notice to a landlord of premises rented in the city for residential purposes during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property, including, but not limited to, a flooded basement or premises without heat.

(8) The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

(a) If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the administrative hearings bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted under this section.

(b) If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(c) If the alleged violator fails to appear, a decision and order of default may be entered.

(9) If an admission of responsibility is not made and the civil fine and costs, if any, prescribed by charter or ordinance for the violation are not paid at the administrative hearings bureau, and the alleged violator fails to appear at a hearing scheduled in accordance with this section, a final decision and order of responsibility in the amount of the prescribed civil fine and costs may be issued by the administrative hearings bureau.

(10) The city establishing an administrative hearings bureau shall establish rules and procedures for an alleged violator to set aside the entry of a decision and order of default.

(11) The ordinance establishing the bureau shall provide for adjudicatory hearings by hearing officers. Each hearing officer shall be an attorney licensed to practice law in this state for at least 5 years. Hearing officers shall be appointed in a manner consistent with the charter of the city for the appointment of other municipal officers or employees and shall only be removed for reasonable cause. Before conducting

administrative adjudication proceedings, administrative hearing officers shall successfully complete a formal training program which includes all of the following:

(a) Instruction on the rules of procedure of the administrative hearings that they will conduct.

(b) Orientation to each subject area of the ordinance violations that they will adjudicate.

(c) Observation of administrative hearings.

(d) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(e) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(f) Instructions on the preparation of a record that is adequate for judicial review.

(12) The authority and duties of a hearing officer shall include all of the following:

(a) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.

(b) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.

(c) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.

(d) Issuing a determination, based upon the evidence presented at the hearing, whether a blight violation exists. The determination shall be in writing and shall include written findings of fact, a decision, and an order. The city shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.

(e) Imposing reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with the city's ordinances and is not applicable to enforce the collection of any tax imposed and collected by the city.

(13) In addition to fines and costs imposed under subsection (12), the hearing officer shall impose a justice system assessment of $10.00 for each blight violation determination. Upon payment of the assessment, the city shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(14) A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator if he or she requests shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(15) In an administrative hearing under this section, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(16) Any final decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(17) A party may file an appeal within 28 days after entry of the decision and order by the hearing officer. An appeal of a final decision and order of an administrative hearing officer is to the circuit court.

(18) An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of supreme court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on 7 days' notice to the parties. The

administrative hearings bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the city's attorney and a bond is not required.

(19) An appeal to circuit court shall be a review by the court of the certified record provided by the administrative hearings bureau. Pending appeal, and subject to the bond requirement under subsection (18), the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement under subsection (18), the court may stay the order and any sanctions or costs imposed. The court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

(a) In violation of the constitution or a statute, charter, or ordinance.

(b) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance.

(c) Made upon unlawful procedure resulting in material prejudice to a party.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

History: Add. 2003, Act 316, Imd. Eff. Jan. 12, 2004;—Am. 2008, Act 51, Imd. Eff. Mar. 28, 2008.

***** *117.4q.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 14, 2014* *****

117.4q.amended Administrative hearings bureau; establishment; administrative hearings; procedures; appeal; effect of nonpayment of civil fine or costs; "person" defined.

Sec. 4q. (1) A city that has a population of 7,500 or more and is located in any county, or a city that has a population of 3,300 or more and is located in a county that has a population of 1,500,000 or more, may establish an administrative hearings bureau to adjudicate and impose sanctions for violations of the charter or ordinances designated in the charter or ordinance as a blight violation. The bureau may accept admissions of responsibility for blight violations. Pursuant to a schedule of civil fines and costs, the bureau may collect civil fines and costs for blight violations.

(2) The expense of the operation of an administrative hearings bureau shall be borne by the city establishing the bureau.

(3) An administrative hearings bureau shall not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions. The bureau and its hearing officers shall not have the authority to impose a penalty of incarceration and may not impose a civil fine in excess of $10,000.00. This section does not authorize a proceeding against a foreclosing governmental unit as defined under section 78 of the general property tax act, 1893 PA 206, MCL 211.78, or an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The city may waive a fine for a blight violation at an owner-occupied dwelling for a first time offender of a blight ordinance, if the offender has corrected the circumstances for the violation.

(4) A city that establishes an administrative hearings bureau under this section shall establish by ordinance the jurisdiction of the bureau for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation. The city may designate only a violation of any of the following types of ordinances as a blight violation:

(a) Zoning.

(b) Building or property maintenance.

(c) Solid waste and illegal dumping.

(d) Disease and sanitation.

(e) Noxious weeds.

(f) Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.

(g) Right-of-way signage. For purposes of this subdivision, right-of-way signage violation means the placement of signage in a right-of-way without a proper permit from the city.

(h) An ordinance that is substantially the same as sections 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538 to 125.542.

(5) To initiate a proceeding for a blight violation, the city shall issue and serve upon an alleged violator a written violation notice on which an authorized local official records the occurrence or existence of 1 or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the administrative hearings bureau as provided in this section. A violation notice to appear at an

administrative hearings bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.". An authorized local official may issue a violation notice to appear if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a blight violation and if the city attorney or an assistant city attorney approves in writing the issuance of the violation notice.

(6) If a city has a rental inspection program with which a landlord must register in order to rent premises for residential purposes and if a landlord of premises rented in the city for residential purposes is registered with the city's rental inspection program, the city shall not issue a blight violation notice during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property including, but not limited to, a flooded basement or premises without heat.

(7) A city that does not have a rental inspection program, or does not require a landlord to register as part of a rental inspection program, shall not issue a blight violation notice to a landlord of premises rented in the city for residential purposes during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property, including, but not limited to, a flooded basement or premises without heat.

(8) The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

(a) If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the administrative hearings bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted under this section.

(b) If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(c) If the alleged violator fails to appear, a decision and order of default may be entered.

(9) If an admission of responsibility is not made and the civil fine and costs, if any, prescribed by charter or ordinance for the violation are not paid at the administrative hearings bureau, and the alleged violator fails to appear at a hearing scheduled in accordance with this section, a final decision and order of responsibility in the amount of the prescribed civil fine and costs may be issued by the administrative hearings bureau.

(10) The city establishing an administrative hearings bureau shall establish rules and procedures for an alleged violator to set aside the entry of a decision and order of default.

(11) The ordinance establishing the bureau shall provide for adjudicatory hearings by hearing officers. Each hearing officer shall be an attorney licensed to practice law in this state for at least 5 years. Hearing officers shall be appointed in a manner consistent with the charter of the city for the appointment of other municipal officers or employees and shall only be removed for reasonable cause. Before conducting administrative adjudication proceedings, administrative hearing officers shall successfully complete a formal training program which includes all of the following:

(a) Instruction on the rules of procedure of the administrative hearings that they will conduct.

(b) Orientation to each subject area of the ordinance violations that they will adjudicate.

(c) Observation of administrative hearings.

(d) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(e) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(f) Instructions on the preparation of a record that is adequate for judicial review.

(12) The authority and duties of a hearing officer shall include all of the following:

(a) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.

(b) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.

(c) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the

hearing.

(d) Issuing a determination, based upon the evidence presented at the hearing, whether a blight violation exists. The determination shall be in writing and shall include written findings of fact, a decision, and an order. The city shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.

(e) Imposing reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with the city's ordinances and is not applicable to enforce the collection of any tax imposed and collected by the city.

(13) In addition to fines and costs imposed under subsection (12), the hearing officer shall impose a justice system assessment of $10.00 for each blight violation determination. Upon payment of the assessment, the city shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(14) A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator if he or she requests shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(15) In an administrative hearing under this section, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(16) Any final decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(17) A party may file an appeal within 28 days after entry of the decision and order by the hearing officer. An appeal of a final decision and order of an administrative hearing officer is to the circuit court.

(18) An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of supreme court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on 7 days' notice to the parties. The administrative hearings bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the city's attorney and a bond is not required.

(19) An appeal to circuit court shall be a review by the court of the certified record provided by the administrative hearings bureau. Pending appeal, and subject to the bond requirement under subsection (18), the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement under subsection (18), the court may stay the order and any sanctions or costs imposed. The court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

(a) In violation of the constitution or a statute, charter, or ordinance.

(b) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance.

(c) Made upon unlawful procedure resulting in material prejudice to a party.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(20) Except as otherwise provided in subsection (21) or (22), if the civil fine and costs imposed against a person under this section are $1,000.00 or more and the person does not pay the civil fine and costs imposed within 30 days after a final decision and order of the hearing officer or of the circuit court under this section, the person is subject to the following:

(a) For a first violation, the person is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(b) For a second violation, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(c) For a third or subsequent violation, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined $500.00.

(21) Subsection (20) does not apply to any of the following that becomes the owner of a property after foreclosure or after taking a deed in lieu of foreclosure:

(a) A government-sponsored enterprise. As used in this subdivision, "government-sponsored enterprise" means that term as defined in 2 USC 622(8), or the Michigan state housing development authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) A financial institution. As used in this subdivision, "financial institution" means that term as defined in section 4(c) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(c) A mortgage servicer, as that term is defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, that is subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A credit union service organization that is organized under the laws of this state or the United States.

(22) Subsection (20) does not apply to the owner of a property if, at the time the civil fine and costs are imposed against the owner, the owner had filed a principal residence exemption affidavit as provided under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, certifying that the property is owned and occupied as a principal residence by that owner.

(23) An entity described in subsection (21) that becomes the owner of a property after foreclosure or after taking a deed in lieu of foreclosure shall adhere to all ordinances relating to vacant property or blight violations adopted by the city that established an administrative hearings bureau under this section.

(24) As used in subsection (20), "person" means an individual, partnership, corporation, limited liability company, association, or other legal entity. Person includes the partners or members of a firm, a partnership, or an association and the officers of a corporation.

History: Add. 2003, Act 316, Imd. Eff. Jan. 12, 2004;—Am. 2008, Act 51, Imd. Eff. Mar. 28, 2008;—Am. 2013, Act 188, Eff. Mar. 14, 2014.

***** *117.4r THIS SECTION IS AMENDED EFFECTIVE MARCH 14, 2014: See 117.4r.amended* *****

117.4r Nonpayment of civil fine or costs or installment payment by defendant; lien; recording; enforcement; priority; collection of judgment; duration of lien; default.

Sec. 4r. (1) If a defendant does not pay a civil fine or costs or an installment payment ordered by a hearing officer under section 4q within 30 days after the date on which payment is due for a blight violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the final decision and order requiring payment of the fines and costs with the register of deeds for the county in which the land, building, or structure is located. The order shall not be recorded unless a legal description of the property is incorporated in or attached to the order. The lien is effective immediately upon recording of the order with the register of deeds.

(2) The order recorded under subsection (1) with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the city by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by the city in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or by an ordinance duly passed by the governing body of the city. However, property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of a civil fine or costs or an installment ordered under section 4q unless the property is also subject to forfeiture,

foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

(a) The other lien is a lien for taxes or special assessments.

(b) The other lien is created before May 1, 1994.

(c) Federal law provides that the other lien has priority.

(d) The other lien is recorded before the lien under this section is recorded.

(5) The city may institute an action in circuit court for the collection of the judgment imposed by an order under section 4q for a blight violation. However, an attempt by the city to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 10 years after a copy of the order imposing a fine or costs, or both, is recorded, unless within that time an action to enforce the lien is commenced.

(7) A default in the payment of a civil fine or costs under section 4q or an installment of the fine or costs may be collected by a means authorized for the enforcement of a court judgment under chapter 40 or 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, and MCL 600.6001 to 600.6098.

History: Add. 2003, Act 317, Imd. Eff. Jan. 12, 2004;—Am. 2008, Act 51, Imd. Eff. Mar. 28, 2008.

***** *117.4r.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 14, 2014* *****

117.4r.amended Nonpayment of civil fine or costs or installment payment by defendant; lien; recording; enforcement; priority; collection of judgment; duration of lien; default; limitation on commencement of enforcement action.

Sec. 4r. (1) If a defendant does not pay a civil fine or costs or an installment payment ordered by a hearing officer under section 4q within 30 days after the date on which payment is due for a blight violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the final decision and order requiring payment of the fines or costs with the register of deeds for the county in which the land, building, or structure is located. The order shall not be recorded unless a legal description of the property is incorporated in or attached to the order. The lien is effective immediately upon recording of the order with the register of deeds.

(2) An order recorded with a register of deeds under subsection (1) constitutes notice of the pendency of the lien. In addition, the city shall send a written notice of the lien by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) A lien under this section may be enforced and discharged by the city in the manner prescribed by its charter, in the same manner as are liens for delinquent taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or by an ordinance duly passed by the governing body of the city. However, property that is exempt as a principal residence under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of a civil fine or costs or an installment ordered under section 4q unless the property is also subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

(a) The other lien is a lien for taxes or special assessments.

(b) The other lien is created before May 1, 1994.

(c) Federal law provides that the other lien has priority.

(d) The other lien is recorded before the lien under this section is recorded.

(5) A city may institute an action in circuit court for the collection of a judgment imposed by an order under section 4q for a blight violation. However, an attempt by the city to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien under this section expires 10 years after a copy of the order imposing a fine or costs, or both, is recorded, unless within that time an action to enforce the lien is commenced.

(7) A default in the payment of a civil fine or costs under section 4q or an installment of the fine or costs may be collected by a means authorized for the enforcement of a court judgment under chapter 40 or 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, and MCL 600.6001 to 600.6098.

(8) A city shall not commence an action to enforce a lien under this section if the city has commenced an action for a writ of garnishment with respect to the unpaid fine, costs, or payment under section 4027 of the

revised judicature act of 1961, 1961 PA 236, MCL 600.4027.

History: Add. 2003, Act 317, Imd. Eff. Jan. 12, 2004;—Am. 2008, Act 51, Imd. Eff. Mar. 28, 2008;—Am. 2013, Act 192, Eff. Mar. 14, 2014.

117.5 Prohibited powers.

Sec. 5. (1) A city does not have power to do any of the following:

(a) To increase the rate of taxation now fixed by law, unless the authority to do so is given by a majority of the electors of the city voting at the election at which the proposition is submitted, but the increase in any case shall not be in an amount as to cause the rate to exceed 2%, except as provided by law, of the assessed value of the real and personal property in the city.

(b) To submit to the electors a charter more often than once in every 2 years, nor unless the charter is filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities that may be incorporated under this act until they shall have first adopted a charter. Where a city submits to the electors a charter and the charter is adopted by the electors, and the city has operated under the charter, which charter has not, at the time it is adopted, been on file with the city clerk 60 days, then the legislative body of the city, upon its giving the notice of election as provided in the charter, may resubmit to the electors, at a special or general election, the charter, which, if adopted by the electors, shall be considered operative and effective as of the date of the first submission and adoption. The charter shall not be resubmitted unless 60 days have elapsed between the date of the filing of the charter and the date of the election at which the charter is resubmitted.

(c) To call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters of cities that may be incorporated under this act until they have first adopted a charter, and does not apply to elections that may be held in the resubmission of a charter once adopted as provided in subdivision (b).

(d) To decrease the salary of a municipal judge after his or her election or appointment, or during the judge's term of office, notwithstanding any charter provision to the contrary. The term of a public official shall not be shortened or extended beyond the period for which the official is elected or appointed, unless he or she resigns or is removed for cause, if the office is held for a fixed term.

(e) To adopt a charter or an amendment to the charter unless approved by a majority of the electors voting on the question; to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city; to engage in a business enterprise requiring an investment of money in excess of 10 cents per capita; or to authorize an issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made; bonds that the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law; special assessment bonds; bonds for the city's portion of local improvements; refunding bonds; emergency bonds as defined by this act; and bonds that the legislative body is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the question at a general or special election. In addition, a city that now has, or may subsequently have, a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the ad valorem taxes levied for the same year, exclusive of debt service taxes or taxes levied pursuant to other laws, will not exceed 2-1/2% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. For the purposes of this subdivision only, the assessed value of real and personal property in any city shall include the assessed value equivalent of money received during the city's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The assessed value equivalent shall be calculated by dividing the money received by the city's millage rate for the fiscal year. Notwithstanding the former provisions of this subdivision requiring approval by 3/5 of the electors voting on the question as a prerequisite to the exercise of certain powers, these powers may be exercised if approved by a majority of the electors voting on the question at a general or special election held on or after April 1, 1966.

(f) To make a contract with, or give an official position to, one who is in default to the city.

(g) To issue bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g(1), but sinking funds shall not be required in the case of serial bonds that fall due annually. Bonds, whether authorized under this act or any other act, except refunding bonds, revenue bonds, motor vehicle highway fund bonds, rehabilitation bonds, judgment bonds, bonds or other obligations issued to fund an operating deficit of a city, bonds or other obligations to pay premiums or to establish funds to self-insure for losses as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, bonds the issuance

of which has been approved by the voters, and bonds issued to comply with an order of a court of competent jurisdiction shall not be issued by a city unless notice of the issuance of the bonds is published once in a newspaper of general circulation in the city at least 45 days before the issuance of the bonds, within which period a petition may be filed with the legislative body signed by not less than 10% or 15,000 of the registered electors in the city, whichever is less, in which event the legislative body shall submit the question of the issuance of the bonds to the electors of the city, at a regular or special election in the city. The bonds shall not be issued unless a majority vote of the electors voting on the issuance vote in favor of issuing the bonds. The notice of intent to issue bonds shall state the maximum amount of the bond issue, the purpose of the bond issuance, source of payment, right of referendum on the issuance of the bonds, and other information as the legislative body determines to be necessary to adequately inform the electors and all other interested persons of the nature of the issue and of their rights with respect to the issue.

(h) To repudiate a debt by a change in its charter or by consolidation with any other municipality.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, is paid in advance to the city treasurer by the grantee in the franchise.

(2) Beginning on the effective date of the amendatory act that added this subsection, a city shall not adopt a city charter or ordinance that includes any minimum staffing requirement for city employees. Except as otherwise provided in this subsection, any provision in a city charter or ordinance adopted on or after the effective date of the amendatory act that added this subsection that contains a minimum staffing requirement for city employees is void and unenforceable.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3308;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1919, Act 240, Eff. Aug. 14, 1919;—Am. 1923, Act 119, Imd. Eff. May 2, 1923;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2241;—Am. 1935, Act 239, Imd. Eff. June 8, 1935;—Am. 1941, Act 60, Eff. Jan. 10, 1942;—Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948;—CL 1948, 117.5;—Am. 1949, Act 207, Eff. Sept. 23, 1949;—Am. 1965, Act 65, Eff. Mar. 31, 1966;—Am. 1966, Act 32, Imd. Eff. May 17, 1966;—Am. 1966, Act 350, Imd. Eff. Dec. 21, 1966;—Am. 1969, Act 41, Imd. Eff. July 17, 1969;—Am. 1972, Act 8, Imd. Eff. Feb. 17, 1972;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1976, Act 178, Imd. Eff. June 30, 1976;—Am. 1981, Act 81, Imd. Eff. July 1, 1981;—Am. 1988, Act 268, Imd. Eff. July 15, 1988;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002;—Am. 2011, Act 133, Imd. Eff. Sept. 13, 2011.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows:

"Sec. 5. No city shall have power:

"(a) To lay and collect taxes in a sum in excess of two per centum per annum of the assessed value of the real and personal property in such city;

"(b) To submit to the electors a charter or to resubmit any amendment thereto oftener than once in every two years, nor unless it shall be filed with the city or village clerk ninety days before the election: Provided, however, That this provision shall not apply to the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

"(c) To call more than two special elections within one year: Provided, however, That this prohibition shall not apply to elections which may be held in the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

"(d) To change the salary or emoluments of any public official after his election or appointment or during his term of office;

"(e) To adopt a charter or any amendment thereto, unless approved by a majority of the electors voting thereon; to sell any property of a value in excess of ten cents per capita according to the last preceding United States census, or any park, cemetery, or any real estate used in carrying on a public utility, 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, or authorize any issue of bonds except special assessment bonds, refunding bonds, and emergency bonds as defined by this act and bonds that it is annually authorized to issue, unless approved by three-fifths of the electors voting thereon at any general or special election;

"(f) To make any contract with, or give any official position to one who is in default to the city;

"(g) To issue any bonds without providing a sinking fund, to pay them at maturity, but no sinking fund shall be required in the case of serial bonds which fall due annually;

"(h) To repudiate any debt by any change in its charter or by consolidation with any other municipality;

"(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, shall be paid in advance by the grantee in said franchise to the city treasurer."

117.5a Membership in certain societies not to affect employment.

Sec. 5a. No city shall have power to deny employment to any person for the reason that he is a member of any society which is incorporated under the laws of this state, the membership of which is composed solely of law enforcement officers, unless same is contrary to his oath of office.

History: Add. 1952, Act 225, Eff. Sept. 18, 1952;—Am. 1965, Act 260, Eff. Mar. 31, 1966.

117.5b Code of municipal ordinances; publication.

Sec. 5b. Each city shall have power, whether provided in its charter or not, to codify, recodify and continue in code its municipal ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code, as well as subsequent ordinances repealing, amending, continuing or adding to the code, shall be published as required by law. The ordinance adopting the code may amend,

repeal, revise or rearrange ordinances or parts of ordinances by reference by title only.

History: Add. 1960, Act 46, Imd. Eff. Apr. 19, 1960.

117.5c Local officers compensation commission; creation; purpose; appointment, qualifications, and terms of members; vacancies; determination of salaries; expenses; meetings; quorum; concurrence of majority required; election of chairperson; compensation of members; conducting business at public meeting; notice of meeting; availability of certain writings to public; resolution; changing procedure; petition for referendum.

Sec. 5c. In place of a charter provision existing on December 31, 1972 establishing the salaries or the procedure for determining salaries of elected officials, the governing body may establish, by ordinance, the procedure described in this section, in which case the restriction contained in a charter provision with respect to changing salaries during term shall be inapplicable. The ordinance shall provide the following:

(a) A local officers compensation commission is created which shall determine the salaries of each local elected official. The commission shall consist of 5 members in a city of 20,000 population or less and 7 members in a city of over 20,000 population. The members shall be registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members elected and serving in the legislative body. In the case of a 5-member commission, the terms of office shall be 5 years, except that of the members first appointed, 1 each shall be appointed for terms of 1, 2, 3, 4, and 5 years. In the case of a 7-member commission, the terms of office shall be 7 years, except that of the members first appointed, 1 each shall be appointed for terms of 1, 2, 3, 4, 5, 6, and 7 years. The first members shall be appointed within 30 days after the effective date of the ordinance. Members other than the first members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. A member or employee of the legislative, judicial, or executive branch of government or a member of the immediate family of a member or employee of the legislative, judicial, or executive branch of government shall not be a member of the commission.

(b) The commission shall determine the salary of each local elected official. The determination shall be the salary unless the legislative body, by resolution adopted by 2/3 of the members elected to and serving on the legislative body, rejects it. The determination of the commission shall be effective 30 days following its filing with the city clerk unless rejected by the legislative body. If the determination is rejected, the existing salary shall prevail. The expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(c) The commission shall meet for not more than 15 session days in each odd numbered year and shall make its determination within 45 calendar days after its first meeting. A majority of the members of the commission constitutes a quorum for conducting the business of the commission. The commission shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairperson from among its members. As used in this section, "session day" means a calendar day on which the commission meets and a quorum is present. The members of the commission shall not receive compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(d) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting of the commission shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(e) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(f) The governing body shall implement this section by resolution. After 1 year following the date the ordinance goes into effect the procedure for establishing the compensation of elected officials may be changed by charter amendment or revision.

(g) Not more than 60 days after the effective date of the ordinance, a petition for a referendum on the ordinance may be filed pursuant to the procedure provided in the charter or otherwise by filing a petition with the city clerk containing the signatures of at least 5% of the registered electors of the city on the effective date of the ordinance. The election shall be conducted in the same manner as an election on a charter amendment. If a petition for referendum is filed, a determination of the commission shall not be effective until the ordinance has been approved by the electors.

History: Add. 1972, Act 8, Imd. Eff. Feb. 17, 1972;—Am. 1977, Act 204, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 106, Imd. Eff.

Apr. 6, 1978.

117.5d Locomotives; enforceability of ordinance prescribing maximum speed limit.

Sec. 5d. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a city prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order. However, a city may prescribe the length of the time for which a passenger locomotive or passenger railroad train may obstruct vehicular traffic.

History: Add. 1984, Act 11, Imd. Eff. Feb. 16, 1984.

117.5e Municipal water or sewage system; annual audit; public hearing before proposed rate increase.

Sec. 5e. A municipal water or sewage system established by a city incorporated under this act which serves more than 40% of the population of the state shall:

(a) Be audited annually by an independent auditor designated by the legislative auditor general. No charter provision shall require an annual local audit for the same period. The auditor shall be paid by the system. The results of the annual audit shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The annual audit shall be submitted to the governing body of each city, village, or township served by the system and to the legislature before December 1 of each year. Each city, village or township served by the system shall be audited annually by an independent auditor. The auditor shall be paid by that city, village, or township served by the system. The results shall be made available to the public.

(b) Hold at least 1 public hearing at least 120 days before a proposed rate increase is scheduled to take effect. Each hearing shall be conducted in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Notice of the time, date, and place of each hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976, shall be prominently printed in a daily newspaper of general circulation within the area, and shall be mailed to each city, village, or township served by the system not less than 30 days before each hearing. A final vote by the governing body of the city to implement a proposed rate increase shall not be taken until the hearings provided for in this subdivision are concluded and the results of those hearings are considered by the city's governing body. This section shall not be construed to impair the obligations of a contract. A city shall not be required to hold a public hearing before the establishment of a water or sewer rate which is necessary for debt retirement under outstanding bond obligations.

History: Add. 1978, Act 383, Imd. Eff. July 27, 1978.

117.5f Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

Sec. 5f. (1) The legislative body of a city may provide by resolution for energy conservation improvements to be made to city facilities and may pay for the improvements from the general fund of the city or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The legislative body of a city may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the city, payable from tax levies and the general fund as pledged by the legislative body of the city. The notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a city as provided by law.

(3) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

History: Add. 1984, Act 401, Imd. Eff. Dec. 28, 1984;—Am. 1990, Act 231, Imd. Eff. Oct. 8, 1990;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002.

Compiler's note: For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

For transfer of powers and duties of the public service commission pertaining to energy conservation improvement reports from the public service commission to the state treasurer, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

117.5g Flood control project.

Sec. 5g. The legislative body of a city may provide by resolution for a flood control project financed in any manner that is authorized by statute or charter.

History: Add. 1986, Act 64, Imd. Eff. Mar. 31, 1986.

117.5h Regulation or prohibition of public nudity; "public nudity" defined.

Sec. 5h. (1) Whether or not so provided in its charter, a city may, by ordinance, regulate or prohibit public nudity within city boundaries.

(2) As used in this section, "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. A mother's breastfeeding of her baby does not under any circumstances constitute nudity irrespective of whether or not the nipple is covered during or incidental to the feeding.

History: Add. 1991, Act 175, Eff. Mar. 30, 1992;—Am. 1994, Act 313, Imd. Eff. July 21, 1994.

117.5i Snow removal from streets, mosquito abatement, and security services provided by private contractors; special assessment.

Sec. 5i. (1) Whether or not authorized by its charter, a city with a population of more than 600,000 may provide by ordinance a procedure to finance by special assessments the provision by private contractors of snow removal from streets, mosquito abatement, and security services. The ordinance shall authorize the use of petitions to initiate the establishment of a special assessment district. The record owners of not less than 51% of the land comprising the actual special assessment district must have signed the petitions.

(2) A service instituted under this section may be discontinued upon petition by the record owners of 51% of the land comprising the special assessment district.

History: Add. 1994, Act 431, Imd. Eff. Jan. 6, 1995;—Am. 2001, Act 173, Imd. Eff. Dec. 11, 2001;—Am. 2011, Act 287, Imd. Eff. Dec. 21, 2011.

117.5j Sewer separation; authorization; ordinance; special assessment.

Sec. 5j. A city, in order to protect the public health, may adopt an ordinance to provide for the separation of storm water drainage and footing drains from sanitary sewers on privately owned property. The legislative body of a city may determine that the sewer separation authorized by this section is for a public purpose and is a public improvement and may also determine that the whole or any part of the expense of these public improvements may be defrayed by special assessment upon lands benefited by the public improvement or by any other lawful charge. A special assessment authorized by this section shall be considered to benefit only lands where the separation of storm water drainage and footing drains from sanitary sewers occurs.

History: Add. 2002, Act 315, Imd. Eff. May 14, 2002.

117.6 Incorporation, consolidation, or alteration of boundaries; petition; signatures; deposit; enumeration.

Sec. 6. Cities may be incorporated or territory detached therefrom or added thereto, or consolidation made

of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city, or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, by proceedings originating by petition therefor signed by qualified electors who are freeholders residing within the cities, villages, or townships to be affected thereby, to a number not less than 1% of the population of the territory affected thereby according to the last preceding United States census, or according to a census to be taken as hereinafter provided, which number shall be in no case less than 100, and not less than 10 of the signatures to such petition shall be obtained from each city, village, or township to be affected by the proposed change: Provided, That in the incorporation of a city from an existing village without change of boundaries the requisite number of signatures may be obtained from throughout the village without regard to the townships in which the signers are residents: Provided further, That as an alternate method in the case of an annexation proceeding in which there are less than 10 persons qualified to sign the petition living in that unincorporated territory of any township or townships proposed to be annexed to a city, that the signatures on the petition of persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold equitable title as vendees under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 of the area of the land exclusive of streets, in the territory to be annexed at the time of filing the petition, will suffice in lieu of obtaining 10 signatures from the township in which such area to be annexed lies: And provided further, That on such petition each signature shall be followed by a description of the land and the area represented thereby and a sworn statement shall also accompany such petition giving the total area of the land, exclusive of streets, lying within the area proposed to be annexed: Provided further, That before any signatures are obtained on a petition as hereinbefore provided, such petition shall have attached to it a map or drawing showing clearly the territory proposed to be incorporated, detached, or added, and each prospective signer shall be shown such map or drawing before signing the petition. Such petition shall be verified by the oath of 1 or more petitioners. The county clerk upon the presentment of a petition for incorporation of a new city for filing shall forthwith estimate all necessary expense that may be incurred by the county in the incorporation proceedings, and the clerk thereupon shall require that the sum so estimated, which in no case shall exceed $500.00, be deposited with the clerk and shall refuse to accept the petition for filing until the sum is so deposited: Provided, That in proceedings for the incorporation of a new city or the consolidation of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, a petition signed by not less than 100 qualified electors who are freeholders residing within the territory so proposed to be incorporated or consolidated, praying for the taking of a census of the inhabitants of the territory affected thereby, may be filed with the county clerk of the county within which said territory is located. The county clerk shall, within 5 days after the filing of such petition, certify to the mayor of each city, president of each village, and supervisor of each township affected thereby, and to the secretary of state that such petition has so been filed. Within 5 days after the service of such certificate, the secretary of state shall appoint an enumerator or enumerators to enumerate the inhabitants of each such city, village, and the portion of each township proposed to be so incorporated, or a consolidation made thereof. Before entering upon the duties of said office, each such enumerator shall take and subscribe to the constitutional oath of office before some officer authorized to administer oaths and file the same with the secretary of state and with the county clerk of the county in which such territory is located. It shall be the duty of each enumerator so appointed to enumerate all of the bona fide inhabitants of such city, village, or township, territory or portion thereof assigned to the enumerator by the secretary of state and to visit each house or dwelling and to obtain the names of each known resident thereof. The city, village, or township within which the services of the enumerator are rendered shall pay for such services together with any actual and necessary expenses incurred by the enumerator. The rate of pay and actual and necessary expenses of the enumerator shall be set by the governing body of the city, village, or township in which the census takes place. Upon completing such enumeration it shall be the duty of the persons so appointed to make a return in duplicate of such enumeration showing the names of the inhabitants of each such city, village, or township, territory or district to the county clerk and to the secretary of state. No such enumeration or census shall be conducted in any city, village or township, or portion thereof, within 2 years of the date of the last enumeration in such territory. Every such enumeration shall be conducted under the general supervision and control of the secretary of state who is hereby empowered to make rules and regulations for the purpose of carrying out the provisions of this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3309;—Am. 1919, Act 84, Eff. Aug. 14, 1919;—CL 1929, 2242;—Am. 1931, Act 314, Imd. Eff. June 16, 1931;—Am. 1939, Act 231, Eff. Sept. 29, 1939;—Am. 1947, Act 334, Eff. Oct. 11, 1947;—CL 1948, 117.6;—Am. 1956, Act 77, Eff. Aug. 11, 1956;—Am. 1957, Act 210, Eff. Sept. 27, 1957;—Am. 1984, Act 352, Eff. Mar. 29, 1985.

117.7 Incorporation, consolidation or alteration of boundaries; fifth class cities; population

requisites; representation on board of supervisors.

Sec. 7. Said petition shall accurately describe the proposed boundaries of the city, or of the territory to be annexed thereto or detached therefrom, and if the purpose is to incorporate a new city, it shall represent that the territory described contains not less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile: Provided, That all incorporated villages in which a county seat is located are hereby authorized to incorporate under the provisions of this act as cities of the fifth class, without respect to the population of the territory included therein: Provided further, That any incorporated village having a population of more than 750 and less than 2,000 inhabitants, or any incorporated village lying within more than 1 township in the same county having a population of more than 600 and less than 2,000 inhabitants, or any territory containing a population of more than 750 and less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile may incorporate under the provisions of this act as cities of the fifth class. Such cities shall constitute but 1 voting precinct except in cities lying within more than 1 county and the mayor thereof, or whenever provided by resolution of the legislative body of any such city, the city attorney, city manager, or city superintendent shall be among the representatives of the city on the board of supervisors of the county or counties: Provided further, Whenever in the process of incorporating a city of the fifth class and adopting a charter therefor, it shall be disclosed by an official census that the population exceeds 2,000 inhabitants, then all proceedings theretofore taken shall be deemed to be for a non fifth class city under this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3310;—Am. 1917, Act 286, Eff. Aug. 10, 1917;—Am. 1923, Act 196, Eff. Aug. 30, 1923;—Am. 1927, Act 303, Imd. Eff. June 1, 1927;—CL 1929, 2243;—Am. 1947, Act 91, Eff. Oct. 11, 1947;—CL 1948, 117.7 ;—Am. 1951, Act 40, Eff. Sept. 28, 1951;—Am. 1953, Act 175, Eff. Oct. 2, 1953;—Am. 1955, Act 33, Eff. Oct. 14, 1955.

117.8 Incorporation, consolidation, or alteration of boundaries; petition; filing; resolution; adoption.

Sec. 8. (1) Subject to subsections (2) and (3), a petition filed under section 6 shall be addressed to the county board of commissioners of the county in which the territory to be affected by the proposed incorporation, consolidation, or change of boundaries is located, and shall be filed with the clerk of the county board of commissioners not less than 30 days before the convening of the board in regular session, or in any special session called for the purpose of considering the petition. The county board of commissioners shall by resolution determine whether the petition complies with the requirements of this act and whether the statements contained in the petition are correct. If a majority of the board determines that the petition does not comply with the requirements of this act or that the statements contained in the petition are not correct, the board shall not conduct further proceedings on the petition. Subject to subsection (4), if the board determines that the petition complies with the requirements of this act and that the statements contained in the petition are correct, the board shall, by resolution, provide that the question of making the proposed incorporation, consolidation, or change of boundaries be submitted to the qualified electors of the district to be affected at the next general election or at a special election before the next general election. The question shall not be submitted at an election to be held less than 60 days after the adoption of the resolution.

(2) If it is proposed to incorporate an incorporated village as a city without change of boundaries, both of the following apply:

(a) The initiatory petition provided for under section 6 shall be addressed to the village council or other legislative body of the village and shall be filed with the village clerk at least 30 days before final action is taken on the petition.

(b) The powers and duties of the county board of commissioners and county clerk under subsection (1) are assigned to the village council and village clerk, respectively.

(3) A petition covering the same territory, or part of the same territory, shall not be considered by the county board of commissioners more often than once in every 2 years, unless the petition is signed by not less than 35% of taxpayers whose names appear on the latest assessment rolls under the requirements of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, as being assessed for real property taxes within the area proposed to be annexed. The assessing officers who are charged with the duty of assessing real property within the area proposed to be annexed shall report as of the date on which the petition is filed the total number of names on the rolls, within that area, to the clerk of the county board of commissioners not more than 14 days after the filing date.

(4) A vote is not required if the city owns the land sought to be annexed.

(5) After the adoption of a resolution under subsection (1) submitting a question to a vote of the electors, neither the sufficiency nor legality of the petition under section 6 may be questioned in any proceeding.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3311;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2244;—CL 1948, 117.8;—Am. 1953, Act 169, Eff. Oct. 2, 1953;—Am. 1955, Act 147, Imd. Eff. June 7, 1955;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

117.8a Incorporation, consolidation or alteration of boundaries; filing substitute petition; action by supervisors.

Sec. 8a. In case a petition has been filed with the clerk pursuant to section 8, and subsequently another petition is filed by other petitioners proposing to affect the same territory in whole or part, then the subsequently filed petition shall not be submitted to the electors while in conflict with the prior petition: Provided, however, That if such prior petition on file is one on which the board of supervisors has not finally set the date for an election, and such subsequent petition has been filed as a substitute therefor encompassing all of the same territory and having among its signers at least 4/5 of the qualified petitioners shown on such prior petition, then the board shall act on such subsequent petition in the place and stead of said prior one. If the board finds that said substitute petition complies with the provisions of this act, an election shall be called thereon; otherwise the election shall be held on such prior petition if it complies with this act.

History: Add. 1951, Act 158, Imd. Eff. June 6, 1951.

117.9 Incorporation, consolidation, or change of boundaries; governing law; affected district; petition or resolution for annexation; voting; duties of commission.

Sec. 9. (1) In the event of a conflict between the provisions of this act and 1968 PA 191, MCL 123.1001 to 123.1020, regarding an incorporation or consolidation, the provisions of 1968 PA 191, MCL 123.1001 to 123.1020, shall govern. The district to be affected by the proposed incorporation, consolidation, or change of boundaries is considered to include the whole of each city, village, or township from which territory is to be taken or to which territory is to be annexed. When a territory is proposed to be incorporated as a city only the residents of the territory to be incorporated shall vote on the question of incorporation. When a petition signed by the appropriate agency designated by the state administrative board which holds legal title to the entire area of the land in the territory adjacent to the city to be annexed, is filed with the governing body of the city and township in which the territory is situated, the annexation may be accomplished by the affirmative majority vote of the governing body of the city and the approval of the township board of the township.

(2) Except as provided in subsections (1) and (8), a petition or resolution for annexation of territory shall be filed with the state boundary commission created under 1968 PA 191, MCL 123.1001 to 123.1020. The commission, after determining the validity of the petition or resolution, shall hold a public hearing in or reasonably near the area proposed for annexation. The commission in processing and approving, denying, or revising a petition or resolution for annexation shall have the same powers and duties as provided under 1968 PA 191, MCL 123.1001 to 123.1020, relating to petitions which propose incorporations. In addition to providing notice to property owners located in the area proposed for annexation, the commission shall also give notice of each public hearing held under this subsection to property owners located within 300 feet of the area proposed for annexation by certified mail not less than 30 days before the date of the public hearing. Not less than 45 days before the date of the public hearing, the local unit of government capable of producing the information required under this section shall provide the state boundary commission with a list of the names and addresses of all persons the commission is required to provide notice to under this subsection. The commission is required to provide notice only to the property owners included on the list provided by the local unit of government as required under this section.

(3) If an annexation is denied by the commission, the commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected.

(4) If an annexation is approved, and if on the date the petition or resolution was filed 100 persons or less resided in the area approved for annexation, the commission's order shall not be subject to a referendum. The commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected and to the secretary of state. The annexation shall be effective on a date set forth in the commission's order.

(5) If an annexation is approved, and if on the date the petition or resolution was filed more than 100 persons resided in the area approved for annexation, the commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected and to the secretary of state. The commission's order shall become final 30 days after the date of the order unless within that 30 days a petition is filed with the commission which contains the signatures of at least 25% of the registered electors residing in the portion of the territory approved for annexation, in the annexing city or in the balance of the township. The commission after verifying the validity of any referendum petition shall order that a referendum on the question of annexation be held in each area from which a valid petition was filed. If a valid petition is not filed within the 30 days or if the majority of the electorate voting on the question in each area in which a referendum was held, voting separately, approve the annexation, the annexation shall be effective on a date set by order of the commission, otherwise the annexation shall not take effect.

(6) The commission shall reject a petition or resolution for annexation of territory that includes all or any part of the territory which was described in any petition or resolution for annexation filed within the preceding 2 years and which was denied by the commission or was defeated in an election under subsection (5).

(7) In addition to the methods for initiating annexation as provided in this act, a petition or resolution as follows may be submitted to the state boundary commission in a form and manner prescribed by the commission:

(a) By resolution of the legislative body of the city to which the area is proposed to be annexed.

(b) By petition by the persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold equitable title as a vendee under a recorded land contract or memorandum of land contract, or record title to 75% or more of the area of the land exclusive of streets in the territory proposed for annexation at the time of filing the petition.

(c) By petition by 20% of the registered electors who reside in the area proposed for annexation.

(8) Where the territory proposed to be annexed to any city is adjacent to the city and consists of a park or vacant property located in a township and owned by the city annexing the territory, and there is no one residing in the territory, the territory may be annexed to the city solely by resolution of the city council of the city. In any case where the territory proposed to be annexed is adjacent to the city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city, village, or township, the annexation may also be accomplished by the majority vote of the legislative body of the city and the approval of the legislative body of the adjoining city, village, or township. As an alternate method, where there are no qualified electors residing in the territory proposed to be annexed to the city, other than the person or persons petitioning, a petition signed by a person or persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold the equitable title as a vendee under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 of the area of the land in the territory to be annexed is filed with the city council of the city and with the township board of the township in which the territory is situated, the annexation may be accomplished by the affirmative majority vote of the city council of the city and the approval of the township board of the township. At least 10 days prior to the approval by the township board, the township treasurer shall notify, personally or by registered mail with return receipt demanded, the owners of all real property in the territory to be annexed as shown on the assessment rolls of the township at the last known address on file with the township treasurer. Except as otherwise provided, this section shall not be construed to give any city the authority to attach territory from any other city unless the question relative to the territory has been voted upon by the voters of the entire cities affected where the territory proposed to be annexed is adjacent to a city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city.

(9) The provisions of section 14 shall not be applicable to an annexation approved by the commission of part of a township or village to a city except in the event of outstanding bonds or other evidences of indebtedness of the township or village. In such event, the commission shall determine and order an equitable division of assets and liabilities which relate to the bonds or other indebtedness.

(10) The provisions of sections 8 and 8a shall not be applicable to petitions or resolutions filed with the state boundary commission.

(11) After March 31, 1971, and so long as 1968 PA 191, MCL 123.1001 to 123.1020, is in effect, annexation of territory from a township or village to a home rule city shall be as provided in this section and no other means of annexation shall be effective.

(12) The state boundary commission shall mail a copy of any final order issued under this section to each property owner the commission is required to provide notice to under subsection (2).

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3312;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—Am. 1925, Act 337, Eff. Aug. 27, 1925;—CL 1929, 2245;—Am. 1931, Act 314, Imd. Eff. June 16, 1931;—Am. 1935, Act 48, Imd. Eff. May 6, 1935;—Am. 1947, Act 36, Eff. Oct. 11, 1947;—Am. 1947, Act 334, Eff. Oct. 11, 1947;—CL 1948, 117.9;—Am. 1951, Act 58, Eff. Sept. 28, 1951;—Am. 1956, Act 68, Eff. Aug. 11, 1956;—Am. 1970, Act 219, Eff. Apr. 1, 1971;—Am. 1984, Act 352, Eff. Mar. 29, 1985;—Am. 2004, Act 137, Imd. Eff. June 10, 2004.

Constitutionality: This section, the enabling legislation which grants the state boundary commission authority over annexation petitions or resolutions, is constitutional. *Midland Township v State Boundary Commission*, 401 Mich 641; 259 NW2d 326 (1977).

117.9a Annexation of township remnant territory to home rule city; procedure.

Sec. 9a. Whenever the process of incorporation, consolidation, or annexation leaves a portion of a township with no qualified electors residing in that portion and without the constitutional and statutory officers to perform their functions as prescribed by law, as part of the alternate method of annexation provided for by section 9, a petition signed by the owner or owners of record or the holder or holders of

equitable title under a recorded land contract or memorandum of land contract of all the real property of such portion of the township may be filed with the clerk of the city to which annexation is sought and with the county clerk of the county in which the territory is situated, seeking the annexation of such territory to such city. The annexation may be accomplished by the affirmative majority vote of the members-elect of the governing body of the city and approval of the majority vote of all of the members of the county board of commissioners.

History: Add. 1959, Act 92, Eff. Mar. 19, 1960;—Am. 1984, Act 352, Eff. Mar. 29, 1985.

117.9b Detachment of territory from city; conditions; intergovernmental agreement imposing conditions on detachment; reannexation to detaching city; detached territory not subject to annexation.

Sec. 9b. (1) In addition to the detachment procedures otherwise authorized by this act, territory may be detached from a city if all of the following conditions are met:

(a) The territory to be detached was annexed to the city after the city was incorporated.

(b) The territory to be detached is to be reattached to the municipality from which that territory was annexed.

(c) The city does not provide water or sewer service in the territory to be detached.

(d) The council of the city from which the territory is being detached approves a resolution authorizing the detachment of the territory and confirming an agreement relating to the detachment.

(e) The legislative body of the municipality from which the territory to be detached was annexed approves a resolution authorizing detachment of the territory and confirming an agreement related to the detachment.

(2) The city and municipality involved in a detachment under this section may enter into an intergovernmental agreement which imposes conditions on the detachment. The conditions may include, but need not be limited to, building restrictions and zoning within the territory to be detached.

(3) Territory detached under this section is immediately reannexed to the detaching city if any of the following occurs:

(a) The city can and agrees to provide water and sewer services, the city certifies these facts to the state boundary commission, and the state boundary commission finds that the city can provide water and sewer services to this territory.

(b) The municipality to which the territory was reattached fails to comply with the intergovernmental agreement, the city certifies that fact to the state boundary commission, and the state boundary commission finds that the municipality is not in compliance.

(4) Reannexation pursuant to subsection (3) shall not be subject to the annexation requirements and restrictions of this act; Act No. 191 of the Public Acts of 1968, being sections 123.1001 to 123.1020 of the Michigan Compiled Laws; or Act No. 359 of the Public Acts of 1947, being sections 42.1 to 42.34 of the Michigan Compiled Laws.

(5) All or part of territory detached under this section shall not be subject to annexation.

History: Add. 1982, Act 465, Eff. Mar. 30, 1983.

117.9c Repealed. 1986, Act 64, Eff. July 1, 1986.

Compiler's note: The repealed section pertained to an alternate method of annexation.

117.10 Certified copies of petition and resolution; transmittal; election notices.

Sec. 10. The county clerk shall, within 3 days after the passage of the resolution provided for in section 8 of this act, transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by the proposed incorporation, consolidation or change, and it shall be the duty of each of said city, village and township clerks to give notice of the date and purpose of the election provided for by said resolution by publication in 1 or more newspapers published within said district at least once in each week for 4 weeks preceding said election, and by posting a like notice in at least 10 public places in said district not less than 10 days prior to such election.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3313;—CL 1929, 2246;—CL 1948, 117.10.

117.11 Petition for incorporation, consolidation, or change of boundaries; affidavit; filing with secretary of state; certification; notice; election.

Sec. 11. (1) If the territory to be affected by a proposed incorporation, consolidation, or change of boundaries is situated in more than 1 county, the petition under section 6 shall be addressed and presented to the secretary of state. The petition shall be accompanied by 1 or more affidavits by 1 or more of the signers of the petition showing all of the following:

(a) That the statements contained in the petition are true.

(b) That each signature affixed to the petition is the actual signature of a qualified elector residing in a city, village, or township to be affected by the carrying out of the purposes of the petition.

(c) That not less than 25 of the petition signers reside in each city, village, or township to be affected.

(2) The secretary of state shall examine the petition and the accompanying affidavit or affidavits. If the secretary of state finds that the petition and accompanying affidavit or affidavits comply with the requirements of this act, he or she shall so certify and shall transmit the certificate and a certified copy of the petition and the accompanying affidavit or affidavits to the clerk of each city, village, or township to be affected by the proposal, together with a notice directing that the question of making the incorporation, consolidation, or change of boundaries petitioned for shall be submitted to the electors of the district to be affected. The notice shall provide that the question shall be submitted at the next general election or at an election before the next general election. However, the question shall not be submitted at an election to be held less than 60 days after the date of transmittal of the certificate.

(3) If the secretary of state finds that the petition and the accompanying affidavit or affidavits do not comply with the requirements of this act, he or she shall certify to that fact and shall return the petition and affidavits to the person from whom they were received, along with the certificate.

(4) The city, village, and township clerks who receive from the secretary of state the copies and certificates provided for in subsection (2) shall give notice of the election to be held on the question of making the proposed incorporation, consolidation, or change of boundaries as provided for in section 10.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3314;—CL 1929, 2247;—CL 1948, 117.11;—Am. 1956, Act 41, Imd. Eff. Mar. 28, 1956;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

117.12 Election returns; canvass; village clerk, duties.

Sec. 12. The returns by the several boards of election inspectors shall be made to the clerk of the county in which the city or proposed city, or the greater part thereof, if in more than 1 county, is located, and shall be canvassed on the first Thursday following said election in the manner provided by law for a county canvass: Provided, That if the purpose is to incorporate 1 village as a city the returns shall be made to the village clerk, and the vote canvassed the same as in other village elections, and in such case all duties which it is provided in this act shall be performed by the county clerk shall devolve upon the village clerk, and all petitions, certificates or other papers or documents provided in this act to be filed with the county clerk shall be filed with the village clerk, and all expenses to be borne by the county according to the provisions of said section shall be borne by the village.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3315;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2248;—CL 1948, 117.12.

117.13 Effective date of incorporation, consolidation, attachment or detachment; certificate of board of county canvassers; representation, transfer of property, governmental function.

Sec. 13. On the filing in the office of the secretary of state and the clerk of the county or counties within which the city or proposed city is located, of a copy of the petition, and of every resolution, affidavit or certificate necessarily following such petition, with the certificate of the board of county canvassers attached, showing that the purposes of such petition have been approved by a majority of the electors voting thereon, as provided in this act, which shall also give the number of votes cast on such proposition and the number cast for and against the same, the territory described in said petition shall be duly and legally consolidated as 1 city, or attached to or detached from the city named in such petition, as the case may be, and such petition and the subsequent proceedings thereunder shall be duly recorded in each of said offices in a book to be kept for that purpose, and either of such records or certified copies thereof shall be prima facie evidence of the consolidation or change of boundaries prayed for in such petition. Territory detached from any city shall thereupon become a part of the township or village from which it was originally taken: Provided, however, That when an incorporated city or village is annexed to and incorporated with a city, such annexed territory shall constitute 1 or more separate wards of the city to which it is annexed and have representation in the legislative body of such city to which it is annexed: Provided, The territory so annexed shall have a population equivalent to the approximate population of 1 or more wards of the city to which it is annexed: Provided, however, That in the case of annexation of part of a township to a city, the effective date of such annexation shall be 60 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 30 days after the election, and in the case of annexation of an entire township to a city the effective date of the annexation shall be 90 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 45 days after the date of

the election: Provided further, That in case of a vote on the incorporation of a new city, such proposed city shall not be deemed incorporated until a charter has been adopted and filed as hereinafter provided: Provided further, That no property, real or otherwise, owned by any such governmental unit or portion thereof shall be disposed of, nor shall any transfer of governmental function be made prior to such effective date, except by joint agreement of the legislative bodies of the units of government, nor shall any funds be expended except in payment of the costs of operation of normal business of said township.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 81, Eff. Aug. 1, 1911;—CL 1915, 3316;—Am. 1917, Act 233, Eff. Aug. 14, 1917;—CL 1929, 2249;—CL 1948, 117.13;—Am. 1952, Act 35, Eff. Sept. 18, 1952;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

117.14 Incorporation or annexation.

Sec. 14. Whenever an incorporated village is incorporated as a city, without change of boundaries, such city shall succeed to the ownership of all the property of such village and shall assume all of its debts and liabilities. Whenever a city, village or township is annexed to a city, the city to which it is annexed shall succeed to the ownership of all the property of the city, village or township annexed, and shall assume all of its debts and liabilities. Whenever a part of a city, village or township is annexed to a city, the real property in the territory annexed which belongs to the city, village or township from which it is taken shall be sold by the authorities of the city, village or township in which said land was located before such annexation, and that portion of the proceeds of such sale shall be paid to the city acquiring such territory which shall be in the same ratio to the whole amount received as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a part of a city, village or township is annexed to a city, all of the personal property belonging to any such city, village or township from which territory is detached shall be divided between the township, city or village from which said territory is detached and the city to which the territory is annexed, in the same ratio as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a new city shall be incorporated, the personal property of the township from which it is taken shall be divided and its liabilities assumed between such city and the portion of the township remaining after such incorporation, which incorporation shall be effective as of the date of filing the certified copy of the charter as hereinafter provided, in the same ratio as herein provided in case of the annexation of a part of a township to a city, and any real property of a township located in such new city shall be held jointly by such city and the remaining portion of the township in the ratio above mentioned. Such real estate shall be subject to sale by agreement of the governmental units or may be partitioned in the manner provided by law for partitioning of lands held by persons as tenants in common: Provided, That no cemetery within such territory shall be sold; but to the extent it is owned by the city, village or township within which it is located, it shall become the property of the city to which it is annexed.

Whenever a new city is incorporated from part of a township or townships, such city shall be entitled to its pro rata share of the amount thereafter due such township or townships or due any county agency in respect of population in such township or townships from any future distribution of gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, or any other state funds, moneys or grants which, by law, now or hereafter, are required to be distributed among cities, villages, townships and/or counties of the state, which pro rata distribution shall be determined as follows, to-wit:

(1) According to the latest federal census prior to date of distribution but since such annexation, if there be such census, showing the respective population of the township or townships and the municipalities affected;

(2) In the absence of such federal census, an official special census shall be taken of the areas detached from each township to form the newly incorporated city and of the entire township or townships from which such area was detached. Such census shall be taken by enumerators appointed by the secretary of state upon application by any one of the municipalities affected by such incorporation, which census shall be taken, as near as may be, in accordance with the provisions of section 6 of this act; the ratio of population between the areas incorporated from each township to form the newly incorporated city and the remainder of the respective township or townships from which the city was incorporated, shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed.

The township or townships from which such incorporated city is incorporated or the county agency receiving the funds, moneys or grants in respect of population in such township or townships shall be liable to the incorporated city for its proper pro rata share of any state funds, moneys or grants received by such township or townships or such county agency, respectively, after the date of incorporation;

(3) In the absence of such federal census and in lieu of an official special census determining the respective populations of the municipalities affected by such incorporation, the newly incorporated city and each township from which the same was incorporated, may agree, by joint resolution, as to the prorating between

them and between the city and any county agency receiving state funds, moneys or grants in respect of population in such township or townships of any funds, moneys or grants distributable by the state, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties affected by said incorporation.

Whenever a part of a city, village or township is annexed to a city, the city to which such territory is annexed shall be entitled to its proper pro rata share of any of the said state funds, moneys or grants thereafter distributable under the law to the city, village or township from which said territory was detached or to any county agency receiving state funds, moneys or grants in respect to population in such township or townships, determined as follows:

(1) According to ratio of population between the area annexed and the remainder of the township, city or village from which said area was detached, as determined by the latest official federal or state census showing such populations;

(2) If there be no official census by which said respective populations can be determined, then a census shall be taken of the territory detached and the remainder of the territory in the township, city or village from which it was detached as provided above in the case of a newly incorporated city;

(3) In the absence of such federal census and in lieu of taking an official special census, the city to which said territory was annexed and the cities, townships, or villages from which said territory was detached, may agree by joint resolution of their governing bodies as to the prorating of any such state funds, moneys, or grants between them and between the city and any county agency receiving said funds, moneys, or grants in respect to population in such township or townships as provided above in the case of a newly incorporated city, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties to said incorporation.

The foregoing provisions shall be used hereafter in determining the pro rata distributions of any state funds, moneys or grants between townships or county agencies and any city which has become newly incorporated or annexed territory since the latest decennial federal census, either before or after the passing of this law; but in no event shall the sharing of any distribution of state funds, moneys or grants made previous to the effective date of this act be altered.

The indebtedness and liabilities of every city, village and township, a part of which shall be annexed to a city shall be assumed by the city to which the same is annexed in the same proportion which the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which such territory is taken. Assessed valuation shall be determined in every division pursuant to this section from the last assessment roll of the city, village or township which has been confirmed by the board of review.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3317;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2250;—Am. 1931, Act 233, Eff. Sept. 18, 1931;—Am. 1947, Act 53, Imd. Eff. Apr. 18, 1947;—CL 1948, 117.14;—Am. 1951, Act 158, Imd. Eff. June 6, 1951;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

117.14a Petition for vacating incorporation; initiation; election; certification; assets, disbursement; debts and obligations.

Sec. 14a. Whenever the qualified electors of any city incorporated under the provisions of this act shall file a petition with the city clerk, which petition shall be addressed to the board of supervisors of the county in which the city is located, and signed by not less than 1/4 of the registered electors of such city as shown by the registration lists of the city on the date of such filing, praying that the incorporation of such city be vacated, the city clerk shall, after checking the signatures to such petition to determine their genuineness and sufficiency, refer the same to the county clerk of the county in which such city is located not less than 30 days before the convening of the board of supervisors in regular session: Provided, however, That no such petition may be initiated within 2 years of the effective date of incorporation of said city. Upon receipt of any such petition by any county clerk, the board of supervisors of such county, the county clerk, and the clerks of the city and township or townships affected shall be governed by and do and perform all acts required to be performed by them by sections 8, 9, 10 and 12 of this act with respect to calling and holding an election upon the question petitioned for, the same as though the question were upon the annexation of a part of a city to a township, except that the electors of the city and of the township to be affected shall each vote separately, unless 2 or more townships are to be affected, in which case the votes cast in all such townships shall be cumulated and the result of the election on such question in such townships determined by the total vote therein which is cast for and against such question. In case a 2/3 majority of the qualified electors of such city shall vote in favor of the vacation of the incorporation of the same and a majority of the qualified electors of the township or townships to be affected shall vote in favor of the annexation of the territory of such city to such township or townships, the county clerk shall, within 30 days after the canvass of such votes, make and

certify 4 transcripts of all the proceedings in the matter and shall file 2 of such transcripts in the office of the secretary of state and the other 2 copies in his own office, and, upon such filing, the incorporation of such city shall be vacated and the territory thereof annexed to the township or townships from which such territory was detached at the time of the incorporation thereof and by subsequent annexations. Upon the vacation of the incorporation of any city, it shall be the duty of the officers of such city forthwith to deposit all books, papers, records and files relating to the organization of, or belonging or pertaining to such city, which are in their custody as such officers with the county clerk of the county in which such city is located, for safekeeping and reference. The assets of any city, the incorporation of which has been vacated, which have not been set aside or encumbered by the city for the payment of the funded debt or other outstanding obligations of the city, shall become the property of the township to which the territory of the city is annexed, or, if annexed to 2 or more townships, of said townships pro rata according to the assessed value of the portions of the city annexed to each of the townships as shown on the last assessment rolls of the city which were approved by the board of review of the city prior to the vacation of incorporation. The city clerk of such city shall certify to the board of supervisors of the county in which such city is located a statement of all outstanding debt and other obligations at the time the incorporation of such city was vacated, together with an accounting of all moneys on hand for the payment of such debt and other obligations. Said board of supervisors shall proceed to examine the same and shall pass a resolution authorizing the disbursement of such moneys and the assessment and collection of taxes within the area which had comprised the city for the purpose of paying such debt and other obligations in accordance with the conditions set forth in any bond or other instrument by which such debt or other obligations were incurred or secured. Assets of the city which had been set aside at the time of dissolution of incorporation for the payment of the debt or other obligations of the city shall be transferred to the township treasurer of the township to which the territory of such city is annexed or to which the largest portion of such city is annexed and shall be applied by him to the payment of such debt and other obligations in accordance with the conditions in any bond or other instrument by which such funds were set aside or encumbered. Upon the vacation or discontinuance of any city incorporation, under the preceding sections, the indebtedness of such city, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such city immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated city within 1 year from the date of the vacation of such city, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due, to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such city, the indebtedness of such city, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such city as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board for such purpose. For the purpose of paying the debt and other obligations of the city, as herein provided, the area comprising the city, the incorporation of which is sought to be vacated, shall constitute a de facto city for the purpose of assessing, levying, and collecting the taxes required therefor as a city tax, subject to the tax limitation provisions of the charter of such city and of the general law applicable thereto, and not as a township tax, notwithstanding the fact that the same are levied and spread upon the assessment rolls of any township.

History: Add. 1949, Act 220, Eff. Sept. 23, 1949.

117.14b Relocation of common boundaries.

Sec. 14b. Whenever the boundaries between cities lying within the same county and subject to this act divide platted lots, or are affected by the relocation of a river or of a natural drain or a street or highway, the boundaries may be relocated along adjacent lot lines or to the center of a common street or a common natural boundary upon resolution of the governing body of each city and upon agreement of the individual property owners affected. Boundaries shall be relocated so that the city in which the major part of the land is located shall gain the entire lot in case of following lot lines. A copy of each resolution shall be recorded with the register of deeds of the county where the land is situated.

History: Add. 1959, Act 192, Imd. Eff. July 22, 1959;—Am. 1962, Act 147, Imd. Eff. May 7, 1962.

117.15 Election on question of intent to incorporate or consolidate; electors as members of charter commission; notice; preparation, form, and contents of ballot; expenses; procedure; canvass; certification of election; oath; vacancies; quorum; convening of charter commission; framing charter; conducting business at public meeting; notice of

meeting; officers; rules; journal; roll call; nomination of candidates; holding election; publication of proposed charter; publishing and posting notice of election; polling places; canvassing results.

Sec. 15. (1) At an election on the question of the intent to incorporate a new city, or to make a consolidation permitted by this act, each elector residing within its proposed territorial limits shall be entitled to vote for 9 electors, residing in the territory which it is proposed to incorporate or consolidate, as members of a charter commission, and the notices required by section 10 shall include notice of the election of those electors. The ballot shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which the greater portion of the territory is located. The expense of the ballot preparation is to be borne by that county. If the proposed city is incorporated as provided in this act, the county shall be reimbursed by the city at the time the charter is filed. The county clerk shall prepare the ballot to be used at the election pursuant to the general election laws of the state as follows:

For city incorporation. Yes( )

For city incorporation. No ( )

Or, if the proposition be to consolidate, the ballot shall be as follows:

For consolidating (naming entities) into 1 city. Yes( )

For consolidating (naming entities) into 1 city. No ( )

(2) The county clerk shall also prepare a separate ballot and place on the ballot, without party designation, under the heading, candidates for members of the charter commission, the names of the electors having the qualifications required by this act for a member of the charter commission, who file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that their names be placed on the ballot. For a consolidation, the electors of each city, village, township, or part of a township, proposed to be consolidated shall vote for and elect the number of the 9 members of the charter commission as shall be substantially in proportion to the number of registered electors of the city, village, township, or part of a township, according to the registration rolls of the last regular state, city, or village election held in the city, village, township, or part of a township, but the number to be elected in a city, village, or township shall not be less than 1. The county board of commissioners or the secretary of state shall determine and prescribe the number of members of the charter commission to be elected from each city, village, township, or part of a township in the case of a consolidation, pursuant to this subsection. The position of the names of the candidates upon the ballots shall be interchanged as provided in the general primary election law of this state. The ballot shall also bear instructions directing that not more than 9 candidates shall be voted for or, if the proposition is to consolidate, the ballot for members of the charter commission in each city, village, township, or part of a township, proposed to be consolidated shall bear instructions directing that not more than the number of candidates determined by the county board of commissioners or the secretary of state to be elected in the city, village, township, or part of a township shall be voted for. On the vote being canvassed on the question of the intent to incorporate or consolidate, if the result is determined to be in favor of the intent to incorporate or consolidate, the board of canvassers shall canvass the votes cast for members of the commission, and certify the election of the 9 persons receiving the highest number of votes cast. The elected members of the commission shall take the constitutional oath of office, and may fill vacancies in their membership. Five members shall constitute a quorum.

(3) The charter commission shall convene within 10 days after election and frame a charter for the proposed city within 90 days after the meeting. The business which the charter commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976. Notice of the time, place, and date of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The charter commission shall choose its own officers, determine the rules of its proceedings and keep a journal. A roll call of its members on a question shall be entered on the journal at the request of any member. The commission shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. The commission shall fix the date of the first city election, and do and provide other things necessary for making the nominations and holding the election. The election may be held at a special election or on the same date as a general election. The commission shall publish the proposed charter in 1 or more newspapers published in the proposed city, at least once, not less than 2 weeks and not more than 4 weeks preceding the election, together with a notice of the election, and that on the date fixed for the election the question of adopting the proposed charter will be voted on, and that the elective officers provided for in the charter will be elected on the same date. Notice of the election shall also be posted in at least 10 public places within the proposed city not less than 10 days before the election. The commission shall provide for 1 or more polling places for the election, and give similar notice of their location as is given of the election, and shall appoint the inspectors of the election. The results of the election

shall be canvassed by the county board of canvassers.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3318;—CL 1929, 2251;—CL 1948, 117.15;—Am. 1956, Act 77, Eff. Aug. 11, 1956;—Am. 1965, Act 378, Imd. Eff. July 23, 1965;—Am. 1966, Act 246, Eff. July 11, 1966;—Am. 1977, Act 204, Imd. Eff. Nov. 17, 1977.

117.15a Incorporation; expenses of charter commission; payment.

Sec. 15a. When the residents of a township have voted to incorporate the entire township or fractional part thereof as a city, the township or townships may pay the expenses of a charter commission before an affirmative vote is taken on the charter.

History: Add. 1972, Act 58, Imd. Eff. Feb. 21, 1972.

117.16 Incorporation; rejection of charter; de facto mayor; duties; resubmission of charter, procedure; effect of nonadoption within 3 years of election to incorporate.

Sec. 16. (1) If the proposed charter is rejected at an election, the election of officers is void, except that the elector who receives the highest number of votes cast for the office of mayor shall be a de facto officer of the proposed city until a mayor for the proposed city is elected and qualified pursuant to a charter which the electors have approved. The mayor elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed, if the petition has not been filed with him or her, by notice, require the charter commission to reconvene and within 90 days after the notice provide any revision, amendment, or amendments to the original draft of the charter previously prepared by them as they consider necessary.

(2) The proposed charter, with amendment or amendments, shall be resubmitted to the qualified electors of the proposed city in the same manner and with the same notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of the proposed city have, by a majority vote, approved a charter for the proposed city.

(3) Any proposed charter, as originally submitted or resubmitted with any amendment or amendments, shall not be submitted more than 3 times to the qualified electors of the proposed city, and if rejected 3 times, or in the event that a charter is not adopted by the electors of the proposed city during a period of 3 years following the election on the question of the incorporation of the proposed city, the township clerk of the township in which the proposed city is located, or of that township having the largest portion of the population thereof, shall certify that fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which the proposed city is located. The territory of the proposed city shall thereupon revert to the status existing prior to the filing of the petition required by section 6, and the office of each charter commissioner and de facto officer of the proposed city shall terminate and cease to exist. Any sum of money deposited with the county clerk according to section 6 shall be paid by the county clerk into the general fund of the county.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3319;—CL 1929, 2252;—Am. 1947, Act 201, Eff. Oct. 11, 1947;—CL 1948, 117.16;—Am. 1956, Act 77, Eff. Aug. 11, 1956;—Am. 2008, Act 420, Imd. Eff. Jan. 6, 2009.

117.17 Incorporation; new charter commission, petition, procedure, eligibility, duties, expenses; control of territory pending adoption; date of incorporation; voting franchise.

Sec. 17. In cases where the qualified electors of a proposed city shall reject a proposed charter, any 300 electors of said proposed city may petition the de facto mayor for the selection of a new charter commission, and if said petition shall be filed with the de facto mayor of said proposed city on or before the expiration of 10 days from the canvass and determination of the vote on said charter, the de facto mayor of said proposed city shall, if said petition is signed by the requisite number of electors, certify such fact upon said petition and forthwith file the same with the county clerk or secretary of state, depending upon the office in which the original petition was filed, and such county clerk or secretary of state as the case may be, shall give notice of the filing of such petition in the same manner as upon the filing of the original petition and an election shall be called and held and a new charter commission shall be elected in the same manner as in the first instance. The duties of the new charter commission shall be the same as those of the former commission, and as many such successive commissions as necessary may be held in like manner until a charter for such proposed city is framed and approved by the electors thereof. All persons who have served on previous charter commissions within 1 year shall be ineligible as members of every such commission. The first legislative body assembled pursuant to a charter adopted by the electors of such city, shall provide for the payment of the necessary expenses incurred by the county and by the members of such commission or commissions, but the members of the commission shall receive no compensation for their services. The county clerk shall return any unexpended sum of money deposited under section 6 of this act to the depositor. The territory constituting the

city shall remain under the control and management of the respective cities, villages and townships from which it was taken and the authority of the officers of such city, villages and townships shall continue until the charter of the new city has been adopted and the officers have been elected and qualified as herein provided. No new city shall be deemed to be incorporated until a charter has been adopted and duplicate printed copies certified by the clerk filed in the office of the county clerk. The county clerk shall forthwith forward 1 copy to the secretary of state, and the date it is received shall be the date of incorporation of the new city. The general voting franchise of no qualified elector shall be lost because of the incorporation, annexation or consolidation processes and his voting rights where last eligible shall be unimpaired by the incorporation, annexation or consolidation processes.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3320;—CL 1929, 2253;—CL 1948, 117.17;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

117.18 Incorporation; revision of charter, procedure, commission, advisory vote; incorporation of provision in original charter granted by legislature.

Sec. 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter; when its legislative body shall by a 3/5 vote of the members elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor as provided in section 25, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be elected within 60 days consisting of 9 electors of such city having a residence of at least 3 years in the municipality, or the legislative body by a 3/5 vote of the members elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted. No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

In the cities where provision is made by the city charter for the nonpartisan elections of city officers, the method prescribed for such elections shall apply in the election of charter commissioners. Where no such provision is made by the charter of such city, candidates shall be nominated by petition without reference to or designation of party affiliation, signed by a number of qualified electors of such city equal to not less than 2% and not more than 4% of the total vote cast for the chief executive office, or the highest vote cast for any commissioner in cities having the commission form of government, of such city at the last preceding election, asking that the name of the candidate designated be placed upon the ballot. The names of all candidates so nominated shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the 9 candidates having the greatest number of votes shall be declared elected; the election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the election of city officers in the respective cities of this state unless special methods shall be otherwise provided in the charter of such city.

If the proposed revised charter is rejected by the electors of the city, the charter revision commission shall immediately reconvene and determine whether to take no further action, in which case it shall terminate and cease to exist, or whether to provide a revision of, or amendments to, the revised charter previously prepared by the commission. The proposed revised charter with amendments shall be resubmitted to the qualified electors of the city in the same manner and with like notice and proceedings as required in the first instance. A proposed revised charter, as originally submitted or resubmitted with amendments, shall be submitted not to exceed 3 times to the qualified electors of the city. If the charter is rejected 3 times, or if no revised charter is adopted during 3 years following the adoption of the proposition to revise, then the charter revision commission shall terminate and cease to exist. A new proposal to revise may be adopted at any time after termination of a charter revision commission.

When the question of having a general revision of the charter shall be submitted to the electors of any city, the legislative body of such city or the initiative petitions may provide for the submission with such question for an advisory vote of the question of a change in the form of government of such city, or the question of continuing any power, limitation or provision granted to such city in a charter granted or passed by the legislature for the government thereof. When such advisory vote is requested in an initiatory petition, such question shall be submitted as hereinbefore provided. In the revision of the charter of any city, any power, limitation or provision granted to such city in any charter granted or passed by the legislature for the government of such city and contained in the charter to be revised may be included in such revised charter, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when granted or passed by the legislature in the first instance.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—

CL 1915, 3321;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—CL 1929, 2254;—Am. 1941, Act 86, Eff. Jan. 10, 1942;—CL 1948, 117.18 ;—Am. 1966, Act 246, Imd. Eff. July 11, 1966.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter: When its legislative body shall by a two-thirds vote of the members-elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor, as provided in section twenty-five of this act, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election in case the electors shall, by a majority vote, declare in favor of such a revision, a charter commission shall be selected within sixty days consisting of one elector from each ward and three electors at large, having a residence of at least three years in the municipality, or the legislative body by a two-thirds vote of the members-elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted; no city officer or employee, whether elected or appointed, shall be eligible to a place on said commission. The names of all candidates who have been duly nominated as hereinafter provided shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the candidate having the greatest number of votes in each ward shall be declared elected and the three candidates at large having the greatest number of votes cast in the city shall be declared elected; the nomination and election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the nomination and election of city and ward officers in the respective cities of this State."

117.19 Charter; duty of legislative body.

Sec. 19. The legislative body of the municipality unless it is otherwise provided, shall fix in advance of the election of a charter commission the place of its meeting, the compensation of its members, the money for the expense thereof, and if need be provide the ballots for election.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3322;—CL 1929, 2255;—CL 1948, 117.19.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 19. The legislative body of the municipality (shall provide for the election of said charter commission at the next general or municipal election to be held in said municipality, if there shall be a general or municipal election within sixty days after such legislative body or the electors of said municipality shall have declared for such general revision in the manner provided in the preceding section, and if there shall be no such general election within said sixty days, then said legislative body shall within ten days after such declaration, call a special election for the selection of such charter commission to be held within sixty days and) shall fix in advance of the election of such charter commission the place of its meeting, the compensation of its members, and provide the money for the expense thereof and if need be, provide the ballots for election."

117.20 Charter commission; first meeting; duties of city clerk; powers and duties of commission; roll call; vacancy; compensation; quorum; public sessions.

Sec. 20. The charter commission shall convene on the second Tuesday after the election at the place designated pursuant to section 19. The city clerk shall preside at the first meeting, shall administer the oath of office to the members-elect, and shall act as clerk of the commission. The charter commission shall be the sole judge of the qualifications, elections, and returns of its members, shall choose its officers except clerk, shall determine the rules of its proceedings, and shall keep a journal. A roll call of the members on a question shall be entered on the journal at the request of 1/5 of the members or less if the commission shall so determine. The commission may fill a vacancy in its membership, and shall fix the time for the submission of the charter to the electors. A member shall not receive compensation for more than 90 meetings of the commission, and only for actual attendance. A member of the commission shall not be paid for more than 1 meeting per day. A majority of the members shall constitute a quorum, and the sessions of the commission shall be public.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3323;—CL 1929, 2256;—CL 1948, 117.20;—Am. 1977, Act 27, Imd. Eff. June 8, 1977.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 20. The charter commission shall convene on the second Tuesday after the election at the place designated therefor. The city clerk shall preside at the first meeting, shall administer the oath of office to the members-elect, and shall act as clerk of the commission. It shall be the sole judge of the qualifications, elections and returns of its own members, choose its own officers, except clerk, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of one-fifth of its members or less if it shall so determine. It may fill any vacancy in its membership, and it shall fix the time for the submission of the charter to the electors. No members shall receive compensation for more than ninety days and only for actual attendance. A majority of all the members shall constitute a quorum and its sessions shall be public. The commission may submit with the charter, independent sections or propositions, and such of them as shall receive the approval of a majority of the electors voting thereon shall become a part of the charter if the charter is adopted by the electors."

Former law: See Act 279 of 1909.

117.21 Charter amendment; procedure.

Sec. 21. (1) An amendment to an existing city charter, whether the charter was adopted under this act or formerly granted or passed by the legislature for the government of a city, may be proposed by the legislative

body of a city on a 3/5 vote of the members-elect or by an initiatory petition. If the amendment is proposed by the legislative body of the city, the amendment shall be submitted to the electors of the city at the next regular municipal or general state election, or at a special election, held not less than 60 days after the proposal of the amendment. If the amendment is proposed by an initiatory petition, the amendment shall be submitted to the electors of the city at the next regular municipal or general state election held in the city not less than 90 days after the filing of the petition.

(2) Proposed charter amendments and other questions to be submitted to the electors shall be published in full with existing charter provisions that would be altered or abrogated by the proposed charter amendment or other question. The purpose of the proposed charter amendment or question shall be designated on the ballot in not more than 100 words, exclusive of caption, that shall consist of a true and impartial statement of the purpose of the amendment or question in language that does not create prejudice for or against the amendment or question. The text of the statement shall be submitted to the attorney general for approval as to compliance with this requirement before being printed. In addition, the proposed charter amendment in full shall be posted in a conspicuous place in each polling place. The form in which a proposed charter amendment or question shall appear on the ballot, unless provided for in the initiatory petition, shall be determined by resolution of the legislative body, and if provided for by the initiatory petition, the legislative body may add an explanatory caption.

(3) A proposed charter amendment shall be confined to 1 subject. If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each proposition. If a proposed charter amendment is rejected at an election, the amendment shall not be resubmitted for a period of 2 years.

(4) A city charter formerly granted by a different act of the state legislature, including the charter of a city of the fourth class, that adopts or comes under any part of this act by amendment under this section, and not by general revision, adoption, or incorporation under this act, may again be amended under this section, as to the part or parts that are amended, by re-enacting under this section that part or parts of the original act of incorporation that existed before any amendment was made under this act. The part or parts of the original act of incorporation that are re-enacted shall not be construed as operating or coming under the provisions of this act in any manner, it being the intention to permit a city described in this subsection, to adopt by amendment any part of the provisions of this act permissible or to withdraw from the provisions of this act.

(5) Propositions and questions shall be proposed, initiated, submitted and canvassed in a manner similar to that provided for charter amendments.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3324;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1917, Act 40, Eff. Aug. 10, 1917;—Am. 1917, Act 232, Imd. Eff. May 10, 1917;—Am. 1919, Act 403, Eff. Aug. 14, 1919;—Am. 1929, Act 279, Eff. Aug. 28, 1929;—CL 1929, 2257;—Am. 1939, Act 279, Eff. Sept. 29, 1939;—Am. 1947, Act 1, Imd. Eff. Jan. 23, 1947;—Am. 1947, Act 87, Imd. Eff. May 12, 1947;—CL 1948, 117.21;—Am. 1955, Act 117, Eff. Oct. 14, 1955;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 21. Any existing charter, whether passed pursuant to the provisions of this act or by the State legislature, may from time to time be amended as follows: An amendment may be proposed by the legislative body on a two-thirds vote of the members-elect or by an initiatory petition as herein provided, and shall be submitted to the electors as herein provided at the next general or special election. When it originates in the legislative body it shall be published and remain on the table for thirty days before action is taken thereon. The form in which any proposed amendment shall be submitted on the ballot, unless provided for in the initiatory petition, shall be determined by the legislative body."

117.22 Charter amendment; submission to governor, approval; re-consideration.

Sec. 22. Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall re-consider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3325;—CL 1929, 2258;—CL 1948, 117.22.

117.23 Publication of proposed charter and amendments; submission of charter and separate propositions to electors; adoption; ballot.

Sec. 23. (1) A proposed city charter and each amendment to an existing city charter before submission to the electors, shall be published as the charter commission or the legislative body may prescribe. A proposed charter may be submitted to the qualified electors as an entirety in a single proposition substantially as follows: "Shall the city charter proposed by the city charter commission be adopted?" Adoption of a proposed charter shall require a simple majority of those voting on the question.

(2) When submitting a proposed charter, separate propositions, on specific charter provisions may also be submitted to the qualified electors. In such case, all propositions shall be in such form as are approved by the attorney general as to clarity and impartiality. If the proposed charter and any of the separate propositions are adopted, the new charter shall take effect with the alternatives or additions contemplated by such separate propositions as are adopted. Adoption of a separate proposition which is an alternative to a provision contained in the proposed charter shall require approval by a majority of those voting on the separate proposition and also a majority of those voting on the proposed charter; otherwise the adoption of a separate proposition shall require a simple majority. The ballot shall contain voting instructions and a brief explanation of the effect of each of the propositions.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3326;—CL 1929, 2259;—CL 1948, 117.23;—Am. 1971, Act 223, Imd. Eff. Dec. 30, 1971.

117.24 Charters or amendments; filing; effective date.

Sec. 24. If the charter, or any amendment thereto, whether of cities incorporated under the provisions of this act, or under an existing charter of the city heretofore granted or passed by the legislature for the government of the city, be approved, then 2 printed copies thereof, with the vote for and against duly certified by the city clerk shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk of the county in which such city is located and shall thereupon become law, unless a different date for the taking effect of such charter or charter amendment, or any part thereof, is specifically set forth therein.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3327;—CL 1929, 2260;—Am. 1941, Act 175, Eff. Jan. 10, 1942;—CL 1948, 117.24.

117.25 Initiatory petition; filing with city clerk; contents; verification; signatures and inscriptions; perjury and other felonies; punishment; canvass; certifying sufficiency or insufficiency of petition; causing proposed amendment to be submitted to electors; calling special election; submitting proposal at primary, regular, or special election called for other purposes; initiative proposal receiving majority of votes; proposal contemplating increased expenditure of funds; proposal increasing ad valorem property tax limitation; effective date; tax levy; action against city clerk.

Sec. 25. (1) An initiatory petition authorized by this act shall be addressed to and filed with the city clerk. The petition shall state what body, organization, or person is primarily interested in and responsible for the circulation of the petition and the securing of the amendment. Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition. The petition shall be signed by at least 5% of the qualified and registered electors of the municipality. Each signer of the petition shall also write, immediately after his or her signature, the date of signing and his or her street address. A signature obtained more than 1 year before the filing of the petition with the city clerk shall not be counted. The petition is subject to the requirements of section 25a.

(2) A person who willfully affixes another's signature, or subscribes and swears to a verification that is false in any material particular, is guilty of perjury. A person who takes the oath of another to the petition not knowing him or her to be the same person he or she represents himself or herself to be or knowing that the petition or any part of it is false or fraudulent in any material particular, or who falsely represents that the proposed amendment is proposed by persons other than the true sponsors, is guilty of a felony and is liable for the same punishment as provided for perjury.

(3) Upon receipt of the petition, the city clerk shall canvass it to ascertain if it is signed by the requisite number of registered electors. For the purpose of determining the validity of the petition, the city clerk may check any doubtful signatures against the registration records of the city. Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency of the petition. If the petition contains the requisite number of signatures of registered electors, the clerk shall submit the proposed amendment to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

(4) If the petition contains the signatures of 20% or more of the persons residing in and registered to vote in the city as of the date when they signed it, and the petition requests submission of the proposal at a special

election, the city clerk, within 90 days after the date of the filing of the petition, shall call a special election to be held on the next regular election date that is not less than 120 days after the petition was filed. Other proposals, whether initiated by a 5% petition or proposed by the legislative body within the times within this act provided, may be submitted at that election. A proposal submitted to the electors by the initiative and receiving an affirmative majority of the votes cast on the proposal shall not be held unconstitutional, invalid, or void on account of the insufficiency of the petition by which the proposal was submitted.

(5) Except as provided by subsection (6), any proposal adopted by the electors that contemplates increased expenditure of funds by the municipality shall become effective only at the beginning of that fiscal year of the municipality commencing not earlier than 60 days following the election at which the proposal was approved by the electors.

(6) If a proposal that increases the city's ad valorem property tax limitation applies, by its terms, for a specific year or period commencing before the date the proposal would otherwise take effect under subsection (5), the proposal shall be effective both from the date it is approved by the electors and retroactively for the year or period specified in the proposal. Notwithstanding a charter provision to the contrary, if a proposal is approved by the electors and given effect under this subsection after the city has levied its ad valorem property tax levy for the fiscal year and if the adopted proposal authorizes the levy of a millage rate for the fiscal year during which the proposal was approved in excess of the rate the city was authorized to levy before adoption of the proposal, the city may levy an additional tax. The additional tax shall be collected either by a supplementary billing by the city or at the same time and in the same manner the county's ad valorem property tax levy is collected.

(7) A person aggrieved by an action, or failure of action, of the city clerk may bring an action against the clerk in the circuit court for writ of mandamus or for other appropriate relief.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3328;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1919, Act 403, Eff. Aug. 14, 1919;—Am. 1927, Act 187, Eff. Sept. 5, 1927;—CL 1929, 2261;—Am. 1939, Act 279, Eff. Sept. 29, 1939;—Am. 1947, Act 87, Imd. Eff. May 12, 1947;—CL 1948, 117.25;—Am. 1969, Act 114, Imd. Eff. July 29, 1969;—Am. 1982, Act 200, Imd. Eff. July 1, 1982;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows: "Sec. 25. The initiatory petitions herein referred to shall be signed at the regular registration or election places at a regular registration or election under the supervision of the officials thereof, who shall verify the genuineness of the signatures and certify the fact that the signers are registered electors of the city and shall be filed with the city clerk. No person shall be deemed to be an elector under the provisions of this section except male electors whose names shall appear upon the registration books in such city. No such initiatory petition shall be effective unless signed by twenty-five per cent of the registered voters entitled to vote for municipal officers."

117.25a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 25a. Except as otherwise provided in this section, a petition under section 3, 5, 5c, 6, 7, 8, 8a, 9(5), 11, 14a, 15, 16, 17, 18, 21, 22, or 25, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A petition under section 6 that is signed by landowners because there are not enough qualified electors residing in the territory or portion of the territory to be annexed is not subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 150, Eff. Mar. 23, 1999.

117.26 Elections; general provisions; applicability of MCL 168.641.

Sec. 26. (1) All elections held under this act shall be paid for by the locality where held. Except as otherwise provided by law or ordinance, the legislative body of the city shall determine the publication and notice of the election.

(2) Notwithstanding another provision of this act or a charter provision, an election under this act is subject to section 641 of the Michigan election law, 1954 PA 116, MCL 168.641.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3329;—CL 1929, 2262;—CL 1948, 117.26;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

117.27 Repealed. 1966, Act 261, Eff. Mar. 10, 1967.

Compiler's note: The repealed section pertained to determination of representation by cities on county board of supervisors.

117.27a Apportionment of wards; definitions.

Sec. 27a. (1) For the purposes of this section:

(a) "Local legislative body" means the council, common council or commission of a city.

(b) "Ward" means a district comprising less than all of the area of a city which constitutes the political unit from which 1 or more members of the local legislative body is nominated, elected or nominated and elected.

(2) The population of each city subject to the provisions of this section shall, in the first instance, be determined from the most recent official United States decennial census. Other governmental census figures of total city population may be used if taken subsequent to the latest decennial United States census and the last decennial United States census figures are inadequate for the purposes of this section. Each city shall have the power to conduct its own census for this purpose.

(3) This section shall be applicable to all cities that do not elect all the members of their local legislative body at large. This section shall not repeal any charter provisions meeting the standards established herein but shall be applicable to all charters that fail in whole or in part, to meet the standards herein, or the constitutional requirements of this state or United States constitution.

(4) In each such city subject to the provisions of this section the local legislative body, not later than December 1, 1967, shall apportion the wards of the city in accord with this section. In subsequent years, the local legislative body, prior to the next general municipal election occurring not earlier than 4 months following the date of the official release of the census figures of each United States decennial census, shall apportion the wards of the city in accord with this section.

(5) The local legislative body shall file the apportionment plan with the city clerk and make copies available at cost to any registered voter of the city. Such plan shall provide for wards which are as nearly of equal population as is practicable and contiguous and compact. Residents of state institutions who cannot by law register in the city as electors shall be excluded from population computations where the number of such persons is identifiable in the census figures available.

(6) Any registered voter of the city within 30 days after the filing of the apportionment plan for his city, or within 30 days after such apportionment plan shall be submitted, may petition the circuit court to determine if the plan meets the requirements of the laws and constitution of this state and the United States.

History: Add. 1966, Act 182, Eff. July 1, 1966.

117.27b Board of review; appointment of members, functions.

Sec. 27b. When the charter of any city heretofore adopted provides that the city representatives on the board of supervisors of the county shall be members of the city's board of review or act in any other official capacity or perform any other official function, such city may provide by ordinance for the appointment of the members of the board of review of the city from the citizens of the city and for the filling of such other offices and the performance of such official functions heretofore filled or carried out by such city representatives in such manner as the legislative body of such city shall prescribe.

In the years 1969 and 1970 the legislative body of any city whose charter provides for a board of review consisting of appointed members of the county board of supervisors may appoint a board of review consisting of the same number as those now serving as appointed members consisting of electors resident in the city, to review the assessment roll according to law, notwithstanding the provision of any charter or law to the contrary.

History: Add. 1969, Act 2, Imd. Eff. Mar. 25, 1969.

117.28 Charter change; laws in force; justice and police courts, justices, charter provisions, ordinances.

Sec. 28. In all cities now organized, which may hereafter amend or revise their charters under the provisions of this act, all of the provisions of the present law, whether general or special, applying to any such city relating to the qualifications, term of office, powers, jurisdiction, duties and compensation of justices of the peace and constables therein, and the conduct of all proceedings, suits and prosecutions before such justices of the peace and appeals therefrom, and all laws creating municipal courts and the proceedings thereof in any such city, shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers: Provided, That any city having a justice court and a police court or a justice court may, in or by amendment to its charter provide for the abolishment of said courts and the consolidation of the powers, jurisdictions and duties of said courts into 1 court to be presided over by 1 judge or justice, who is a qualified resident elector of the city in which election is sought, and who shall be an attorney admitted to practice law in the supreme court of this state immediately preceding the date of his appointment or election, and who shall be paid a salary by said city, in lieu of all fees, both in civil and criminal cases, to which said judge or justice might be entitled but for the provisions of this act, which fees in civil cases shall be collected by said judge or justice and turned over by him to the city treasurer of said city 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 the county in which said court is situated, in the same manner and

amounts as provided by law in the case of justices of the peace in townships, and upon allowance by said board of supervisors, shall be paid monthly, by said county to the treasurer of said city for the use and benefit of said city, and who shall turn over to the county treasurer of such county all costs and fines in state criminal cases, and who shall turn over to the city treasurer of such city all costs and fines in city ordinance or charter cases, and who shall give bonds to such city and the county in which such city is located, in amounts to be fixed by such charter, and who, in the first instance, shall be appointed by the city commission or common council of such city to hold such office from the date when said courts, first above mentioned in this proviso, shall be abolished until his successor shall have been elected and qualified, as hereinafter set forth, and who shall be nominated and elected, as nearly as may be, in the manner the mayor of such city is nominated and elected, at the first general municipal primary and the first general municipal election following the adoption of such amendment of such charter, and at each such primary and election every 6 years thereafter, and whose term of office shall be 6 years, and shall commence on the first day of January following his election, and who shall be empowered to receive and take from said offices, so abolished, all files, records and dockets kept therein, appertaining to said offices, and who shall be empowered to issue executions according to law, upon any judgment appearing upon said dockets with the same effect as if said judgment had been rendered by him, and who shall have transferred to him any and all actions or proceedings pending in either of said offices so abolished, and who shall have full jurisdiction to proceed with such actions or proceedings in the same manner as if they had been brought before him originally, and who shall have the same powers, jurisdiction and duties, except as it shall be hereafter otherwise lawfully provided by charter, as are now conferred upon the justice and/or judge of the courts, first above mentioned in this proviso, and except as it is hereafter otherwise lawfully provided by charter, all of the provisions of the present law, whether general or special, applying to any such city and relating to appeals and to the conduct of all proceedings, suits and prosecutions, before either or both of the courts first above mentioned in this proviso, shall remain in full force and effect and shall be followed by such court and the judge or justice thereof into which they shall be so consolidated; and that any such city may also in its charter provide that the civil jurisdiction of such judge or justice ex contractu and ex delicto shall be increased to $500.00 with such exceptions and restrictions as are provided by law; and that such city may also in its charter provide that such judge or justice shall have the same power 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: Provided, however, That a motion in writing be made and filed with the judge or justice before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and that such city may also in its charter provide that the city commission or common council shall fix the salary of such judge or justice; and such city may also in its charter provide that the city commission or the common council may provide for a clerk and 1 or more deputy clerks for such judge or justice to be paid such salary, give such bond and perform such duties as shall by ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of such judge or justice and shall be required to collect all fees 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, as directed by the proper authorities or by law, and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and all moneys received have been properly accounted for; and that such city may also in its charter provide that any cause pending before any such judge or justice may, whenever such judge or justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the justices of the peace of the county in which such city is located 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 2 or more judges or justices shall have acted in any 1 cause or proceeding, 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; and such o n its charter

provide for a court officer for such court who shall have all of the duties and powers of court officer in the circuit courts of this state; and such city may also in its charter provide that jury cases may be set for trial upon 1 or more certain days of each month, or as soon thereafter as such trial can be reached, and may establish terms for the trial of jury cases, and may provide that a panel of jurors shall be drawn and certified to the clerk of such court in the manner provided by law for the drawing of circuit jurors in the county in which such city is located, and may determine the number of jurors to be drawn for each panel to serve at each term of such court. The selection of jurors to serve in each case shall be made as nearly as may be, in the same manner as provided 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 peace in townships, and further that 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 said court, the judge or justice thereof, 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; and such city may also in its charter provide that it shall be the duty of said judge or justice to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of the case; and such city may also in its charter provide that such court shall be known as a municipal court and that said judge or justice shall be designated as municipal judge: Provided also, That any city may in its charter provide for and limit to 1 or more the number of justices of the peace for said city and may provide that the civil jurisdiction of such justice or justices ex contractu and ex delicto shall be increased to $500.00 with such exceptions and restrictions as are provided by law; and may also provide that such justice or justices shall have the same power and authority to set aside the verdict or judgment and grant a new trial therein, upon legal cause shown, therefor, as the circuit courts of the state possess: Provided, however, That a motion in writing be made and filed with the justice, before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and may also in its charter, or by ordinance, provide that any such justice or justices of the peace shall be paid a salary in lieu of fees, and the amount of said salary to be fixed by said charter or ordinance, in which case all fees chargeable by such justice of the peace shall be collected and paid over to such city; and that any city may also, in cases where its justice or justices of the peace have been placed on salary, provide in its charter or by ordinance for a clerk and 1 or more deputy clerks for such justice or justices of the peace to be paid such salary, give such bond and perform such duties as shall by charter or ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of either or any of the justices of the peace of the city and shall be required to collect all fees 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 a book kept by him for that purpose and be paid over by him to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and that all money received has been properly accounted for; and may also provide that any cause pending before any justice of the peace of said city may, whenever such justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the other justices of the peace of such city without any notice to the parties in the cause, but a note of such transfer shall be entered upon the docket of the case and when 2 or more justices shall have acted in any 1 cause or proceeding the docket shall be signed in the manner and within the time provided by law by the justice who shall have given the final judgment in such cause; and, in cases where such justices have been placed on salary and a clerk or clerks have been provided, such city may, by charter or ordinance, provide that jury cases may be set for trial upon 1 or more certain days of each month, or as soon thereafter as such trial can be reached, and to establish terms for the trial of jury cases and may provide that a panel of jurors shall be drawn and certified to the clerk of such justice court in the manner provided by law for the drawing of circuit court jurors in the county where such city is located, and shall

determine the number of jurors to be drawn for each panel to serve at each term of such justice court. The selection of jurors to serve in each case shall be made, as nearly as may be, in the same manner as provided 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, and further that 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 said court the justice thereof, 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.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1915, Act 82, Eff. Aug. 24, 1915;—CL 1915, 3331;—Am. 1917, Act 275, Eff. Aug. 10, 1917;—Am. 1919, Act 118, Eff. Aug. 14, 1919;—Am. 1927, Act 32, Imd. Eff. Apr. 12, 1927;—CL 1929, 2264;—CL 1948, 117.28;—Am. 1954, Act 75, Eff. Aug. 13, 1954;—Am. 1965, Act 359, Eff. Mar. 31, 1966.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows:

"Sec. 28. In all cities now organized, which may hereafter amend or revise their charters under the provisions of this act, all of the provisions of the present law, whether general or special, applying to any such city relating to the qualifications, term of office, powers, jurisdiction, duties and compensation of justices of the peace and constables therein, and the conduct of all proceedings, suits and prosecutions before such justices of the peace, and appeals therefrom, and all laws creating municipal courts and the proceedings thereof in any such city, shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers."

117.28a Municipal courts in cities in certain counties; civil jurisdiction.

Sec. 28-a. In counties having a population of less than 100,000 in which municipal courts are now or may be established, said courts shall have such jurisdiction in civil causes in all townships throughout the county up to the amount of the jurisdiction of said court.

History: Add. 1933, Act 241, Eff. Oct. 17, 1933;—CL 1948, 117.28a.

117.28b Municipal courts in cities in certain counties; attorney fees based on amount of judgment.

Sec. 28b. In all cases, in any municipal court now or hereafter established under the provisions of this act, where a contested trial takes place, and in all cases where an appearance has been entered by an attorney at law in behalf of the opposite party, if the plaintiff was the prevailing party and was represented by a legally licensed attorney and counsel, shall be entitled to tax, as an attorney fee, the sum of $10.00 in case of rendition of a judgment of $300.00 or less, and $15.00 in case of rendition of a judgment of over $300.00; and, if the defendant is the prevailing party and was represented by a legally licensed attorney and counsel, he shall be entitled to tax, as an attorney fee, the sum of $10.00 in case the plaintiff sought in his pleadings to recover a judgment of $300.00 or less, and $15.00 in case the plaintiff sought in his pleadings to recover a judgment of over $300.00.

History: Add. 1949, Act 241, Eff. Sept. 23, 1949.

117.29 Recovery and enforcement of fines, penalties, and forfeitures; violations; administrative hearings.

Sec. 29. (1) Except as provided in subsection (2), the district court, a municipal court, or the circuit court, as provided by law, may hear, try, and determine actions and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by the charter and ordinances of the city, and sanction offenders for the violation of the charter and ordinances, as is prescribed and directed in the charter or ordinances.

(2) Pursuant to section 4q, a city may provide for an administrative hearings bureau to adjudicate alleged violations of ordinances and impose sanctions consistent with this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3332;—CL 1929, 2265;—CL 1948, 117.29;—Am. 1978, Act 191, Imd. Eff. June 4, 1978;—Am. 1994, Act 17, Eff. May 1, 1994;—Am. 2003, Act 318, Imd. Eff. Jan. 12, 2004.

117.30 Appeal to circuit court; recognizance or bond.

Sec. 30. In all actions and prosecutions arising under the charter and ordinances of the city the right of appeal to the circuit court of the county, or to a court having jurisdiction, shall be allowed to a party, and the same recognizance or bond shall be given as is or may be required by law in analogous cases on appeal from the court that tried the city charter or ordinance violation.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3333;—CL 1929, 2266;—CL 1948, 117.30;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

117.31 Disposition of fines.

Sec. 31. All fines collected or received by the district court for or on account of violations of the charter or

ordinances of the city, shall be distributed by the district court pursuant to section 8379 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8379 of the Michigan Compiled Laws. All fines collected or received by a municipal court or the traffic and ordinance division of the recorder's court of the city of Detroit, for or on account of violations of the charter or ordinances of the city, shall be paid over to the city treasurer.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3334;—CL 1929, 2267;—CL 1948, 117.31;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

117.32 Constables; election or appointment; powers and duties; salary; fees; provisions inapplicable to certain cities; compliance with minimum employment standards.

Sec. 32. (1) Except as provided in subsection (3), there may be elected or appointed in each city 1 or more constables who shall have the same powers and authorities in civil and criminal matters, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. A city, by ordinance, may abolish, restrict, and limit the authority conferred upon a constable by law, except that a city constable may be appointed by a district court as a district court officer and may perform duties permitted pursuant to chapter 83 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being sections 600.8301 to 600.8395 of the Michigan Compiled Laws. Except as otherwise provided in section 8707 of Act No. 236 of the Public Acts of 1961, being section 600.8707 of the Michigan Compiled Laws, and section 742 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.742 of the Michigan Compiled Laws, a constable shall serve all process issued for breaches of ordinances of the city. A city may by ordinance provide for the appointment of additional constables except that the maximum number of persons who may be appointed as constables shall not exceed the number of elected constables provided for in the charter of the city on September 23, 1949. An appointed or elected constable may be paid a salary in addition to fees.

(2) This section does not apply to a city that has a population of 500,000 or more.

(3) A constable shall serve all warrants, notices, and process lawfully directed to the constable by the city and shall perform other duties required of a constable by law. A city, by ordinance, may restrict or limit the duties of a city constable prescribed by law. If the city requires the constable to perform both statutory criminal and civil duties, a person elected or appointed to the office of city constable shall fulfill the minimum employment standards established by the law enforcement council pursuant to section 9 of the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, as amended, being section 28.609 of the Michigan Compiled Laws. The cost of complying with these standards shall be borne by the city.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3335;—CL 1929, 2268;—CL 1948, 117.32;—Am. 1949, Act 71, Eff. Sept. 23, 1949;—Am. 1971, Act 26, Imd. Eff. May 13, 1971;—Am. 1976, Act 408, Imd. Eff. Jan. 9, 1977;—Am. 1994, Act 17, Eff. May 1, 1994.

117.33 Constables; election, qualification, and compensation.

Sec. 33. The provisions of the general law applying to the election, qualification, and compensation of constables in townships shall apply to the constables provided for in section 32 except that in the first instance they shall be elected at the first election at which other city officers are chosen and the first incumbents shall hold office only until the next regular election for the officers as fixed by the state law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3336;—CL 1929, 2269;—CL 1948, 117.33;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

117.34 Police officers; powers.

Sec. 34. When any person has committed or is suspected of having committed any crime or misdemeanor within a city, or has escaped from any city prison, the police officers of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3337;—CL 1929, 2270;—CL 1948, 117.34.

117.34a Police officer or constable; authority to execute bench warrant.

Sec. 34a. A police officer of a city or, if authorized by the legislative body, a constable of a city has the same authority within the city as a deputy sheriff to execute a bench warrant for arrest issued by a court of record or a municipal court.

History: Add. 1992, Act 48, Imd. Eff. May 12, 1992.

117.35 Acquisition of property; condemnation or purchase proceedings.

Sec. 35. Any city may acquire by purchase or condemnation proceedings any lands within or without its

corporate limits necessary for disposing of sewage or for obtaining or protecting a water supply for the city and the inhabitants thereof, and may acquire by purchase or condemnation proceedings when authorized by the electors of such city any public utility and any water power and water rights for the use of such city within the corporate limits of said city. The jury in condemnation proceedings shall consist of 12 freeholders drawn from the body of the county and if they find the necessity for such use exists and, in case of sewage that the use proposed will not materially injure the health or safety of persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law authorizing cities and villages to take or hold land or property outside of their corporate limit as contained in chapter 90 of the Compiled Laws of 1897, or any other appropriate act now or hereafter existing.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3338;—CL 1929, 2271;—CL 1948, 117.35.

Compiler's note: Chapter 90, referred to in the last sentence, was repealed by Act 120 of 1967. See now MCL 213.21 et seq.

117.35a General obligation bonds; issuance; conditions.

Sec. 35a. Any municipality with a population of 750,000 or more may issue general obligation bonds and other evidences of debt for all lawful purposes in accordance with state law, but subject to the overall debt limitations provided by state law or the charter of the municipality. No charter shall allocate the debt limitation or any part of the debt limitation to specific purposes.

History: Add. 1966, Act 30, Imd. Eff. May 3, 1966;—Am. 2001, Act 173, Imd. Eff. Dec. 11, 2001.

117.36 Charter provisions; conflict.

Sec. 36. No provision of any city charter shall conflict with or contravene the provisions of any general law of the state.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3339;—CL 1929, 2272;—CL 1948, 117.36.

117.36a Financial recovery bonds; amounts; terms and conditions; net indebtedness of city; limitations; "third-party tax collector" defined; refund; deposit of revenues into separate account for paying principal and interest; creation of lien and trust; ability of state treasurer to withhold distributable aid from city; bonds not subject to MCL 141.2101 to 141.2821.

Sec. 36a. (1) Except as otherwise provided under this section, if a financial emergency exists under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, a city may issue financial recovery bonds in amounts greater than the limitations established by the city charter or this act.

(2) Any financial recovery bonds issued under this section are subject to the terms and conditions approved by the local emergency financial assistance loan board created under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(3) Any financial recovery bonds issued under this section are not subject to section 5(g).

(4) Notwithstanding subsection (1), the net indebtedness of a city, reduced by any amounts excluded under section 4a(4), shall not exceed 20% of the assessed value of the city.

(5) Notwithstanding subsection (4), the net indebtedness of a city that issues financial recovery bonds under subsection (6), reduced by any amounts excluded under section 4a(4), shall not exceed 12% of the assessed value of the city, adjusted for additions as provided under section 4a(9).

(6) If financial recovery bonds are issued under this subsection by a city with a population of less than 10,000 according to the latest federal decennial census and located in a county organized under 1966 PA 293, MCL 45.501 to 45.521, the city may provide in the order authorizing the issuance of the bonds for the deposit of revenues generated from taxes levied by the city, including a tax levied by the city to pay a judgment or comply with a court order, into an escrow account to be used for the purpose of paying principal of and interest on the bonds and the administrative costs associated with issuing the bonds, and the tax revenues may be pledged by the city for the payment of the bonds issued under this section. Bonds issued under this subsection shall be limited in amount to that necessary to pay court-ordered judgments against the city existing on May 25, 2011 and administrative costs associated with issuing the bonds. If the city enters into an agreement with a third-party tax collector pursuant to which the third-party tax collector has the duty to collect taxes that otherwise would be collected by the city treasurer, the agreement shall also provide for the direct payment of all tax revenues pledged for payment of bonds issued pursuant to this section collected by the third-party tax collector to a trustee to be deposited into an escrow account and used for the sole purpose of paying principal of and interest on the bonds. If the city and a third-party tax collector enter into an agreement providing for the direct payment of taxes to a trustee, a statutory lien and trust is created applicable

to those tax revenues received or to be received from the third-party tax collector by the trustee. The tax revenues paid or to be paid to a trustee for the purpose of paying the principal of and interest on the bonds issued pursuant to this section shall be subject to a lien and trust, which is a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on bonds issued pursuant to this section and any other bonds subsequently issued by the city sharing a parity or subordinate pledge of those tax revenues. The lien and trust created under this subsection for the benefit of bondholders or others is perfected without delivery, recording, or notice. The tax revenues held or to be held by a trustee shall be held in trust for the sole benefit of the holders of the bonds issued pursuant to this section and are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the bonds to which the lien applies. As used in this subsection, "third-party tax collector" means a party that is not the city treasurer or other elected or appointed city official with whom the city has entered into a contractual agreement pursuant to which the third-party tax collector agrees to collect taxes that otherwise would be collected by the city treasurer.

(7) A city that issues financial recovery bonds under this section subsequently may refund all or a portion of those bonds subject to the terms and conditions approved by the local emergency financial assistance loan board. However, the local emergency financial assistance loan board shall not approve any term or condition under this subsection that materially alters any existing term, condition, lien, or priority that applied to the bonds before the refunding if the approval would constitute an impermissible contract impairment. If financial recovery bonds are or have been issued by a city under this section, the city may provide additional security for the prior bonds pursuant to this subsection and may issue financial recovery bonds pursuant to this subsection to be sold to the Michigan finance authority for the purpose of refunding all or a portion of the prior bonds, or other obligations of the city, and for such other purposes as approved by the local emergency financial assistance loan board. A city may by resolution or order provide for the deposit of revenues pledged for the payment of prior bonds or bonds issued pursuant to this subsection into a separate account for the purpose of paying principal and interest on those obligations, the administrative costs associated with those obligations, and any other obligations issued by the city that are secured by those revenues. For purposes of this subsection, principal and interest may include termination fees and credit enhancement fees, if any. If the city enters into an agreement with a third party that has a duty or obligation under the agreement or under state law to collect for, pay, remit, disburse, or distribute to the city all or a portion of the revenues pledged by the city for the payment of principal and interest on prior bonds or bonds issued pursuant to this subsection, the agreement shall also provide for the direct payment of the revenues that the third party has a duty or obligation to collect for, pay, remit, disburse, or distribute to the city, and that the city has pledged for payment of the prior bonds or bonds issued pursuant to this subsection, to a trustee to be deposited into an escrow account and used for the sole purpose of paying principal of and interest on the prior bonds or bonds issued pursuant to this subsection and related administrative costs and any other obligations issued by the city that are secured by those revenues. The agreement shall be authorized by resolution or order of the city and approved by the local emergency financial assistance loan board. If the city and a third party enter into an agreement providing for the direct payment of the revenues pledged by the city for the payment of prior bonds or bonds issued pursuant to this subsection to a trustee, a statutory lien and trust is created applicable to those revenues received or to be received from the third party by the trustee, and the revenues paid or to be paid to a trustee for the purpose of paying the principal and interest on prior bonds or bonds issued pursuant to this subsection shall be subject to a lien and trust that is a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal and interest on the prior bonds of the city or bonds of the city issued pursuant to this subsection and related administrative costs and any other obligations issued by the city that are secured by those revenues. The lien and trust created under this subsection is perfected without delivery, recording, or notice. The revenues held or to be held by a trustee pursuant to an agreement shall be held in trust pursuant to this subsection and are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the obligations and related administrative costs to which the lien applies. A statutory lien and trust created by this subsection applicable to distributable aid received or to be received from the state treasurer by a paying agent, escrow agent, or trustee, shall apply only to the distributable aid, as that term is defined in section 9 of the fiscal stabilization act, 1981 PA 80, MCL 141.1009, after it has been appropriated and shall be subject to any subsequent reduction of that appropriation by operation of law or executive order. Nothing in this subsection shall abridge or reduce the ability of the state treasurer to withhold distributable aid from a city as provided by the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. Financial recovery bonds issued pursuant to this subsection are not subject to subsection (4). This subsection shall not be construed to do any of the following:

(a) Create or constitute state indebtedness.

(b) Require the state to continue to impose and collect taxes from which distributable aid is paid or to make payments of distributable aid.

(c) Limit or prohibit the state from repealing or amending a law enacted for the distributable aid, or for the manner, time, or amount of distributable aid.

(8) Financial recovery bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 2003, Act 210, Imd. Eff. Nov. 26, 2003;—Am. 2011, Act 7, Imd. Eff. Mar. 16, 2011;—Am. 2011, Act 36, Imd. Eff. May 25, 2011;—Am. 2011, Act 143, Imd. Eff. Sept. 21, 2011.

117.37 Saving clause.

Sec. 37. All charters heretofore formulated and all proceedings of charter commissions heretofore had under this act are hereby validated and made effectual so far as the same shall conform to and be within the provisions of this act as amended.

History: Add. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3340;—CL 1929, 2273;—CL 1948, 117.37.

Compiler's note: Act 203 of 1911, which added this section, was held unconstitutional and void. See note to MCL 117.1.

117.38 Construction of act.

Sec. 38. It is intended by this act to re-enact sections 21, 22, 23 and 24, as above amended pursuant to the adoption of the amendment to section 21 of article 8 of the state constitution by vote of the electors on November 5, 1912, so that cities under existing charters heretofore granted by the legislature shall have the same right and power to amend such charters under the act hereby amended as cities that have adopted complete charter revisions.

History: Add. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3341;—CL 1929, 2274;—CL 1948, 117.38.

Compiler's note: In this section, "section 21 of article 8 of the state constitution" refers to the Constitution of 1908. See now Const. 1963, Art. VII, § 22.