



## **Resolution Proposing City Charter Amendments to Clarify Anti-Nepotism Language**

At the regular meeting of the City Commission of the City of Marquette, County of Marquette, State of Michigan, held on the 29<sup>th</sup> day of April 2024, at 6:00 o'clock p.m., prevailing Eastern Time.

**PRESENT:** Mayor Pro Tem Hanley. Commissioners: Larson, Mayer, Ottaway and Smith.

**ABSENT:** Mayor Davis. Commissioner Schloegel.

The following preamble and resolution were offered by Commissioner Larson and supported by Commissioner Smith:

**WHEREAS**, Marquette City Charter Sec. 13-7 requires that "Every ten years the city commission shall appoint a charter study group. The charter study group shall review this charter and make recommendations for changes in this charter. The charter study group shall make its recommendations within one year after appointment"; and

**WHEREAS**, at the December 19, 2022 regular meeting, the City Commission appointed the City Manager, City Attorney, and City Clerk to the charter study group; and

**WHEREAS**, at the City Commission's September 11, 2023 regular meeting, the charter study group provided recommendations for several amendments to the City Charter; and

**WHEREAS**, Section 21 of the Home Rule City Act, MCL 117.21, as amended, provides that the legislative body of a city may propose, by a vote of 3/5 of its members, an amendment to an existing city charter; and

**WHEREAS**, Section 21 details the procedure for submitting proposed charter amendments to the electors of the city for approval; and

**WHEREAS**, it is necessary to amend Section 6-11 of Chapter 6 and Section 11-7 of Chapter 11 of the City Charter to provide for the recommended changes;

### **NOW THEREFORE BE IT RESOLVED THAT:**

1. The City Commission hereby proposes that Section 6-11(a) of Chapter 6 of the Charter of the City of Marquette, shall be amended as follows:

Sec. 6-11(a). – Anti-nepotism.

- (a) THE CITY MANAGER'S SPOUSE AND AN ELECTIVE OFFICIAL'S SPOUSE AND the following relatives and their spouses of any elective official or of an elected official's spouse or of the city manager or of the manager's spouse are disqualified from holding any appointive city office or any city employment during the term for which said elective official was elected or during the tenure of office of the city manager respectively: Child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption.
2. The City Commission hereby proposes that Section 11-7(i) of Chapter 11 of the City Charter shall be amended as follows:

Sec. 11-7. – Board of light and power.

  - (i) THE DIRECTOR'S SPOUSE AND AN ELECTIVE OFFICIAL'S SPOUSE AND the following relatives and their spouses of any elective official or of the official's spouse, or of the director of the board of light and power, or of the director's spouse are disqualified from holding any appointive board of light and power office or any board of light and power employment during the term for which said elective official was elected or during the tenure of office of the director respectively; Child, grandchild, parent, grandparent, brother, sister, half-brother, and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the board of light and power at the time of the election or appointment of said elective official or the appointment of said director respectively.
3. The provisions of the existing Chapter 6 and Chapter 11 of the City Charter to be altered or abrogated by the proposed amendment, if adopted, now reads as set forth in Exhibit A attached hereto.
4. The proposed amendment of Chapter 6 and Chapter 11 of the City Charter shall be submitted to the electors in the following form:

**PROPOSED AMENDMENT OF SECTION 6-11(a) OF CHAPTER 6 AND SECTION 11-7(i)  
OF CHAPTER 11 OF THE CITY CHARTER OF THE CITY OF MARQUETTE.**

Shall Section 6-11(a) of Chapter 6 and Section 11-7(i) of Chapter 11 of the Marquette City Charter be amended to clarify anti-nepotism language to include the spouse of the city manager, the spouse of the Marquette Board of Light and Power (BLP) director, and the spouses of elective officials to the list of those disqualified from being employed by or holding any appointive office for the BLP or City during the term for which said elective official was elected or during the tenure of office of the city manager or BLP director respectively?

5. Copies of the proposed amendment shall be transmitted to the Governor of the State of Michigan for her approval, as required by law.
6. Copies of the proposed amendment shall be transmitted to the Attorney General of the State of Michigan for her approval, as required by law.
7. The proposed amendment shall be, and the same is hereby ordered to be, submitted to a vote of the qualified electors of the City of Marquette at an election to be held in the city on Tuesday, November 5, 2024. The ballot wording of the proposed amendment is hereby certified to the City Clerk and to the Marquette County Clerk. The City Clerk is hereby authorized and directed to file this order/

and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission by no later than 4:00 p.m. prevailing Eastern Time on August 13, 2024.

8. The City Clerk and the County Clerk are hereby authorized and directed to (a) post and publish notice of election required Michigan Election Law, MCL 168.1 et seq., as amended; and (b) have prepared and printed, as provided by Michigan Election Law, ballots for submitting the proposal at the election, which ballots shall contain the proposal appearing herein, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.
9. The proposed amendment shall be published in full together with the existing City Charter provisions which would be altered or abrogated thereby as part of the notice of election.
10. The canvass and determination of votes of the proposed amendment shall be made in accordance with the laws of the State of Michigan and the City Charter of the City of Marquette.
11. The resolution shall have immediate effect.
12. All resolutions and parts of resolutions insofar as they conflict with provisions of this resolution be and the same hereby are rescinded.

AYES: Mayor Pro Tem Hanley. Commissioners: Larson, Mayer, Ottaway and Smith.

NAYS: None.

**RESOLUTION DECLARED ADOPTED.**

  
\_\_\_\_\_  
Kyle Whitney, City Clerk

I HEREBY CERTIFY that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Marquette, County of Marquette, State of Michigan, at a regular meeting held on April 29, 2024, and that the meeting was conducted and public notice of meeting was given pursuant to the Michigan Open Meetings Act (MCL 15.261 et seq), and that the minutes of the meeting were kept and will be or have been made available as required by the act.

  
\_\_\_\_\_  
Kyle Whitney, City Clerk

## **EXHIBIT A**

### **PROVISIONS OF EXISTING CHAPTER 6 AND CHAPTER 11 OF THE CITY CHARTER TO BE ALTERED OR ABROGATED BY PROPOSED CHARTER AMENDMENT**

#### **Chapter 6. – GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL**

##### **Sec. 6-11. – Anti-nepotism.**

(a) The city manager's spouse and an elective official's spouse and the following relatives and their spouses of any elective official or of an elected official's spouse or of the city manager or of the manager's spouse are disqualified from holding any appointive city office or any city employment during the term for which said elective official was elected or during the tenure of office of the city manager respectively: Child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption.

(b) This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election or appointment of said elective official or appointment of said city manager respectively.

#### **Chapter 11 – MUNICIPAL UTILITIES AND BOARD OF LIGHT AND POWER**

##### **Sec. 11-7 – Board of Light and Power.**

(a) (1) The electric light and power utilities of the city shall be under the management control and supervision of a board of light and power as constituted in this charter.

(2) The board of light and power shall appoint a director of light and power, who shall be the executive officer of, and directly responsible to, the board of light and power. The director shall appoint an accountant who shall be responsible for the maintenance of a system of accounts which shall conform to this charter, to any uniform system required by law, and to generally accepted principles and practices of municipal utility accounting. The board of light and power shall have full, complete, and entire charge of the city light and power operations and services, shall make all contracts pertaining thereto, and shall organize and conduct the affairs of the city's light and power for the supply and distribution of light and power in a manner consistent with the best practice therefor.

(3) The board of light and power shall not be subject to, or limited by, provisions of this charter that are in conflict with, or inconsistent with, the stated powers and authority vested in this section in the board of light and power. To the extent that a particular matter is not specifically addressed in this section, the provisions found in other sections of this charter pertaining to operations and administration shall be applied to the board of light and power.

(b) The board of light and power shall have the power to acquire property, both real and personal, and interests in property in the name of the city for the purposes of the board of light and power and shall have the power to dispose of the same by sale, exchange or lease; provided, however, that the board of light and power shall not dispose of real property or any interests therein by sale or lease, except as provided in section 11-5 of this charter.

(c) The board of light and power shall have power and authority to fix all rates for light and power, subject to confirmation by the city commission, which rates shall become effective thirty days after such confirmation.

(d) The funds and revenues of the board of light and power shall be credited only to the funds and accounts of the board of light and power and shall not be withdrawn or used for any other purpose whatsoever, except as provided in section 11-7 of this charter. The board of light of power shall have and exercise full control over all of the funds of the board of light and power. All checks drawn for the payment of money, under authority of the board of light and power, shall be signed by the director and countersigned by the accountant of the board of light and power.

(e) The board of light and power may provide for the pensioning of any employee of the board of light and power or dependent of such employee, subject to section 6-10.

(f) The board of light and power shall provide its own rules of administration procedure, and accounting systems and procedures, which rules and any changes therein shall be consistent with the provisions of this charter and shall be effective when approved as to form by the city attorney and filed with the city clerk as a public record.

(g) The director shall employ such personnel as may be deemed necessary to carry out duties as provided by this charter, with full power to promote, demote, remove, or suspend personnel for reasons of discipline, incapacity, or for the good of the service.

(h) The compensation of all employees of the department of light and power shall be fixed by the director within the limits of budget appropriations and approved by the board of light and power, and in accordance with any pay plan adopted by the board of light and power, except the salary of the director which shall be fixed by the board of light and power. The respective salaries and compensation of employees of the board of light and power as fixed by the director and approved by the board of light and power shall be in full for all official

services of such employees and shall be in lieu of all fees, city commissions, and other compensations receivable by such employees for their services.

(i) The director's spouse and an elective official's spouse and the following relatives and their spouses of any elective official or of the official's spouse, or of the director of the board of light and power, or of the director's spouse are disqualified from holding any appointive board of light and power office or any board of light and power employment during the term for which said elective official was elected or during the tenure of office of the director respectively; Child, grandchild, parent, grandparent, brother, sister, half-brother, and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the board of light and power at the time of the election or appointment of said elective official or the appointment of said director respectively.

(j) The city commission shall by ordinance provide for a merit system of personnel management in relating to the personnel of the board of light and power, provided that the board of light and power shall function as the appeal board.

(k) The minutes of all meetings of the board of light and power shall be filed in the office of the city clerk as a public record. No official action taken by the board of light and power at any meeting shall be valid or effective until a copy of the minutes of the meeting at which such action was taken shall have been so filed with the city clerk. Immediately following the regular city election held in November of each year, the board of light and power shall appoint from its members a chair to preside at the meetings of the board of light and power, and a secretary.

(l) The board of light and power shall, on or before the first Monday in May in each year, file with the mayor and the city commission:

(1) A report, presenting an analysis of the status and needs of the works, services, and properties under its control; and

(2) A report of an independent audit to be made by a certified public accountant, experienced in utility accounting chosen by the board of light and power.

(m) (1) The director shall prepare and submit to the board of light and power on the first Monday in June of each year, a tentative budget covering operations for the ensuing fiscal year. After adoption of such budget by the board of light and power, a copy shall be filed with the city manager and the city commission.

(2) At the beginning of each quarterly period during the fiscal year, and more often if required by the board of light and power, the director shall submit to the board of light and power data showing the relation between the estimated and actual revenues and expenditures to date. If it shall appear that the revenues are less than anticipated, the board of light and power may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(3) From the revenues of the board of light and power, there shall be paid within 30 days after the end of each month or such other period as may be required by law, to the city treasurer for deposit in the general fund of the city, an amount equal to 5.5 per cent of the dollar amount of gross retail sales of the electric utility during such month or such other period to all electric customers located upon the electric utility's distribution system. This percentage may be reduced by the city commission for such time period as the city commission, in its discretion, shall determine by resolution. Such municipal utility shall not make any other tax payment of any kind, or any payment in lieu thereof, to any other unit of government unless required by law.

(4) If, in any year, the board of light and power has insufficient funds to make the payments to the general fund as required under section 11-7(m)(3) of this charter, then such payment or part thereof shall not be made that year, but the amount not paid shall be established clearly in both the utility and general city accounts as being a loan to the utility and shall be paid at the earliest possible date at which funds

are available. Loans for other purposes may be made to the board of light and power from any other city funds, but shall also be repaid at the earliest possible date at which utility funds are available.

(n) (1) The director shall be responsible for the purchase and sale of all light and power department property, but may designate another officer or employee of the city as purchasing agent. Comparative prices shall be obtained for the purchase or sale of all materials, supplies, and public improvements except in the employment of professional services and when the director, the purchasing agent if one be designated or the board of light and power as hereinafter provided shall determine that no advantage to the board of light and power would result.

(2) In all sales or purchases in excess of the amount established pursuant to section 10-1.

a. The sale or purchase shall be approved by the board of light and power;

b. Sealed bids shall be obtained unless the board of light and power by unanimous resolution of those present at the meeting, based upon the written recommendations of the director, determines that no advantage to the board of light and power would result from competitive bidding.

(3) No sale or purchase shall be divided, for the purpose of circumventing the dollar value limitation contained in this section. The board of light and power may authorize the making of improvements or the performance of any work without competitive bidding.

(4) Purchases shall be made from the lowest and best bid meeting specification. All purchases and sales shall be evidenced by written contract or purchase order.

(5) All purchases and sales shall be evidenced by written contract or purchase order.

(6) The board of light and power may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of at least four members of the board of light and power.

(o) The electric light and power utilities of the city shall include any other ancillary activities associated with the type of assets acquired by the board of light and power to provide such light and power as stated in subsection (a) of this section.