

## **CHARTER OF THE CITY OF SOUTH HAVEN, MICHIGAN**

**\*Editor's note**--Printed herein is the Charter of the City of South Haven, Michigan, as adopted by the electors of the City on November 5, 1991, and effective on January 1, 1992. Amendments to the Charter will be indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

**State law reference(s)**--Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.; power to adopt and amend Charter, Mich. Const. 1963, art. VII, § 22.

### **PREAMBLE**

We, the people of the City of South Haven, County of Van Buren, State of Michigan, mindful of the principles and labors of our forefathers in founding and developing this community, and grateful to Almighty God for the blessings of freedom, peace and justice in our country, and being desirous of furthering these benefits to ourselves and our posterity by the aid of efficient self-government, do hereby ordain and adopt this charter.

# CHAPTER 1

## NAMES AND BOUNDARIES

### Section 1.1. Name and boundaries of city

The name of this organized city is "The City of South Haven". It is a body corporate and embraces the following described territory in the counties of Van Buren, and Allegan together with such territory as may from time to time be attached thereto, and less such territory as may from time to time be detached therefore in accordance with law:

Commencing at the west 1/8 post on the north section line of section 2, T1S R17W, Van Buren County. Thence south 3497.25 feet, thence southeasterly 569.68 feet, thence south 888.6 feet, thence west 660 feet, thence south 1789.48 feet, thence east 462 feet, thence south 310.6 feet, thence west 100 feet, thence north 283 feet, thence west 362 feet, thence south 815.5 feet to the north 1/8 line of section 11. Thence west 802.90 feet along said 1/8 line. Thence south to east west 1/4 line of section 11. Thence west to the west 1/4 post of said section 11. Thence south along the west section line of section 11, 824.80 feet, thence east 570.85 feet, thence south 398.09 feet, thence east 287.25 feet, thence south 90.75 feet, thence east 234.07 feet to westerly right-of-way of Blue Star Memorial Highway, thence southwesterly 669.00 feet, thence west 993.96 feet, thence south 659.15 feet, thence west 1999 feet, thence south 1317.38 feet, thence east 52.40 feet, thence south 210 feet, thence east 396.69 feet, thence 108.34 feet, thence east 225.6 feet, thence south 65.9 feet, thence west 212.6 feet, thence south 154 feet, thence west 223.0 feet, thence south 300 feet, thence west 880.69 feet to the north south 1/4 line [of] section 15, thence south along said 1/4 line to section center of section 15. Thence west to the west 1/8 line of section 15. Thence south along said 1/8 line to the westerly right-of-way line of Highway U.S. 31. Thence southwesterly along said right-of-way line 247.47 feet. Thence north 53 degrees, 36 minutes, 42 seconds west 256.19 feet to the north line of the south 1/2, southwest 1/4, southwest 1/4. Thence west along said north line to the east line of west 1/2, west 1/2, southwest 1/4 of section 15. Thence north 660 feet, thence west 659.40 feet, thence north 329.82 feet, thence east 659.49 feet, thence north to the east west 1/4 line of said section 15. Thence west to the west 1/4 post of section 15. Thence north to the west 1/8 post on the north 1/8 line of section 15. Thence west along the north 1/8 line of section 16 to Lake Michigan. Thence northerly along Lake Michigan shoreline to a point 247.38 feet north of the north line of section 3 T1S, R17W, thence east to west right-of-way line of North Shore Drive, extended, thence southwesterly 225.94 feet to the north line of said section 3, thence east along the north section lines of section 3 and section 2 to the beginning.

1. Packard Park City  
C-7 Lots 6, 7, 20, and 21, block 1, Dyckman and Woodman's Add.
2. North Beach  
C-434 All land lying southerly of north line of Avery Street extended westerly to Lake Michigan, westerly of westerly line of Monroe Park Subdivision, easterly of Lake Michigan, and northerly of Black River. Unplatted part of Sections 3 and 10, T1S, R17W.
3. Stanley Johnston Park  
(Oakland Park)

C-97A All land lying southerly of Dyckman Avenue, easterly of Park Avenue, northerly and westerly of Black River Street.

4. Municipal Marina #1 (North side)

C-59, C-60, C-98

Commencing on southerly line of Dyckman Avenue 31.5 feet northwesterly from northwest corner lot 2, block 8, thence south 17 degrees, 40 minutes west 153 feet, thence south 47 degrees, 34 minutes west 288.2 feet, thence south 65 degrees, 54 minutes west 259.7 feet, thence south 75 degrees, 56 minutes west 106.6 feet to point of beginning, thence continuing south 75 degrees, 56 minutes west 26.8 feet, thence south 89 degrees, 15 minutes, west 234.15 feet, thence south 21 degrees 08 minutes west 215.40 feet, thence south 1 degree, 17 minutes east 166.28 feet, thence southeasterly along westerly line of lot 21 as platted 1868 to waters edge thence northeasterly to a point south 23 degrees 41 minutes east of beginning, thence north 23 degrees, 41 minutes west about 282 feet to beginning.

Also all of Park Avenue lying southerly of Black River Street as platted 1868, and Black River.

Also lots 1, 2, 3, and 4, block 15. All being part of Dyckman and Woodman's Add.

5. Black River Park

Part of C-306A, and C-307

Beginning at the northwest corner of lot 6, Assessor's replat of block 18 and parts of 6, 17, 19, Hale, Conger and Co. Add., thence westerly to waters edge of Black River, thence northerly and easterly along waters edge to a point in line with the westerly fence of the Wastewater Treatment Plant, extended, thence southerly to a point about 75 feet southerly of the southwesterly corner of fence of said plant, thence easterly at right angle about 170 feet, thence southerly to the northerly line of said lot 6, extended, thence westerly to point of beginning.

6. Optimist Tot Lot

C-566 (Part of)

Beginning on the northeast corner of Wilson and Bailey, thence north about 220 feet, thence east 297 feet, thence south 220 feet, thence west 297 feet to point of beginning. Unplatted Section 2, T1S, R17W.

7. Hartman Street Park

B-492 Block 6, Hartman's Add. and that part of Huron Street north of said block 6.

8. Dyckman Park

B-296 (Part of)

Lots 16, 23, and the west 48 feet of lot 24, Block 3, Dyckman, Hale and Co. Add.

9. Monroe Playground

A-458, A-759

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, block 44, O.V.P.

Also lots 8, 9, 10, 11, 12, 13, 14, 15, 16, J.R. Monroe Sub. No. 2.

10. Elkenburg Playground

A-715 Lots 1, 2, 3, 4, 5, 6, 13, 14, 15, 16, 17, 18, Block 10, Home Add.

11. Cable Street Tot Lot

A-603 Lot 14 and east 1/2 of lot 13, Highland Add.

12. South Beach

A-467A (Part of)

All land lying westerly of the water filtration plant, northerly of the northerly line side of Superior Street, easterly of Lake Michigan, southerly of the old Coast Guard property, (extended).

The property lying westerly of the old Coast Guard property west concrete fence, belongs to the Corps of Engineers. While we use it, it is not ours to dedicate.

A-763

All land lying westerly of Monroe Boulevard, northerly of the northerly line (extended) of Chestnut Street, easterly of Lake Michigan, southerly of the northerly line (extended) of Clinton Street.

13. Municipal Marina #2 (South side)

A-475A, A-474, A-474A, A-470, A-469

Beginning at a point found by commencing at the north 1/4 part of Section 10, T1S, R17W, South Haven Township, Van Buren County, Michigan. Thence south 89 degrees, 34 minutes, 36 seconds west on the north line of the section, 631.40 feet to the place of beginning of this description, thence south 62 degrees, 01 minute, 50 seconds west along the northerly line of Water Street 470.60 feet, thence north 35 degrees, 03 minutes, 05 seconds west 11.80 feet, thence south 70 degrees, 06 minutes, 30 seconds west 107.63 feet, thence south 13 degrees, 44 minutes, 05 seconds east 27.70 feet, thence south 62 degrees, 01 minute, 50 seconds west 262.07 feet, thence along the westerly right-of-way of the C & O Railroad, on a curve to the left with a radius of 518.00 feet to the far end of a chord that bears south 33 degrees, 25 minutes, 10 seconds west 153.82 feet to the easterly line of Maple Street, thence north 00 degrees, 33 minutes, 20 seconds west along said easterly line, 159.00 feet to the southerly line of Water Street as relocated, thence north 65 degrees, 36 minutes, 30 seconds east along said southerly line 433.05 feet, thence north 24 degrees, 23 minutes, 30 seconds west 30.00 feet, thence north 24 degrees, 23 minutes, 30 seconds west 30.00 feet, thence south 65 degrees, 36 minutes, 30 seconds west along the northerly line of Water Street as relocated, 480.05 feet, thence continuing along said northerly line, south 74 degrees, 00 minutes, 00 seconds west 134.41 feet, thence north 06 degrees, 47 minutes, 20 seconds west, 49.30 feet to the southerly harbor line of the Black River as established in 1910, thence along said harbor line, north 63 degrees, 22 minutes, 00 seconds east 165.17 feet, thence continuing along said harbor line, north 53 degrees, 02 minutes, 30 seconds east 486.94 feet, thence continuing along said harbor line, north 56 degrees, 06 minutes, 30 seconds east 372.02 feet, thence south 17 degrees, 40 minutes, 10 seconds east 239.20 feet, thence north 89 degrees, 34 minutes, 36 seconds east 106.80 feet to the place of beginning.

14. River Front Park

A-467, A-468, Part of A-466

Block 52 and Block 53, Original Village Plat of South Haven, except Water Street right-of-way per Liber 108, Page 553. Also that portion of Saint Joseph Street extended northerly of Water Street.

Also that portion of the old Coast Guard property described as follows.

Commencing at the north 1/4 part of Section 10, T1S, R17W, thence with bearings referenced to the Corps of Engineers harbor line survey of 1941, south 89 degrees, 34 minutes, 36 seconds west along the north line of the section, 2386.95 feet, thence south 00 degrees, 25 minutes, 24 seconds east at right angles to said section line, 450.64 feet to the place of beginning of this description, said place of beginning being 825.50 feet south 81 degrees, 52 minutes, 10 seconds west of the east terminus of the Black River Channel entrance, thence south 10 degrees, 38 minutes, 30 seconds east, 147.00 feet, thence south 81 degrees, 52 minutes, 10 seconds west, 131.47 feet, thence north 07 degrees, 43 minutes, 50 seconds west, 146.85 feet, thence north 81 degrees, 52 minutes, 10 seconds east 124.00 feet to the place of beginning of this description.

**State law reference(s)**--Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq., MSA 5.2085 et seq.

## CHAPTER 2

### MUNICIPAL POWERS; GENERAL POWERS\*

**\*State law reference(s)**--Permissible that Charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, MCL 117.4j(3), MSA 5.2083(3).

#### **Section 2.1. Powers, privileges and immunities vested in city**

Unless otherwise limited in this charter, the City shall possess and be vested with all the powers, privileges, and immunities, expressed or implied, which cities are permitted by law to exercise or to include in their charters.

## CHAPTER 3

### ELECTIONS; QUALIFICATIONS OF ELECTORS\*

\***State law reference(s)**--Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

#### **Section 3.1. Electors of the city**

The residents of the City having the qualifications of electors in the State of Michigan shall be electors of the City.

**State law reference(s)**--Qualifications for registration as elector, MCL 168.492, MSA 6.1492; mandatory that Charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.

#### **Section 3.2. Election procedure**

The election of all elected City Officers shall be on a nonpartisan basis. The General Election statutes shall apply to and control all procedures relating to registration and City Elections except as otherwise provided in the charter.

**State law reference(s)**--Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

#### **Section 3.3. Wards and precincts**

The City of South Haven shall consist of three (3) wards as they existed on the effective date of this charter unless altered as provided by law. The election precincts of the City shall remain as they existed on the effective date of this charter; however, the Council may by ordinance alter precincts and establish additional precincts as needed.

**State law reference(s)**--Mandatory that Charter provide for one or more wards, MCL 117.3(e), MSA 5.2073(e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

#### **Section 3.4. Election date**

A General City Election shall be held on the first (1st) Tuesday following the first (1st) Monday in November in every odd-numbered year.

**State law reference(s)**--Odd-year election provisions, MCL 168.644a et seq., MSA 6.1644(1) et seq.; Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).

#### **Section 3.5. Elective officers and terms of office**

From each ward of the City there shall be elected two (2) Councilmembers. The term of office of each elected Councilmember shall be four (4) years. From the City at large there shall be elected a Mayor. The term of office for Mayor shall be two years.

At each regular City Election, from the City at-large, there shall be elected one (1) Mayor for a two (2) year term. There shall be elected in each ward of the City a Councilmember for a four (4) year term and such additional Councilmembers as may be required to fill vacancies pursuant to the provisions of Section 5.7. All such terms shall commence at 12:00 noon on the first (1st) day of January following such election.

The members of the Council elected under provisions of this charter shall not be allowed to serve more than two (2) consecutive elected terms, however, an appointed council member who completes another councilmember's term may seek two (2) elected terms in their own right only if they serve less than two (2) years of the previous Council Member's term. In the case of the Mayor, he or she shall not be allowed to serve more than four (4) consecutive elected or appointed terms.

Anyone having served the maximum permitted time as Mayor or Councilmember, may again become eligible for either office after two (2) years following the expiration of the last previous term for which he or she was elected. No more than ten (10) consecutive years can be served on the Council as either elected or appointed terms as Councilmember and/or Mayor.

No former Councilmember or Mayor shall hold any compensated appointive City Office or employment with the City until at least one (1) year following the expiration of the last previous term for which he or she was elected or appointed to the Council or to office. The terms of this provision shall not apply to noncompensated City Boards or Commissions.

### **Section 3.6. Special elections**

Special City Elections shall be held when called by resolution of the Council at least sixty (60) days in advance of such elections, or when required by this charter or state law. Any resolution calling a Special Election shall set forth the purpose of such election. Special City Elections shall not exceed the number permitted by state law.

**State law reference(s)**--Special primaries and elections, MCL 168.631 et seq., MSA 6.1631 et seq.

### **Section 3.7. Notice of elections**

Notice of the time and place of holding any City Election and of the officers to be nominated or elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the Clerk in the same manner and at the same time as provided by state election law for the giving of state election notices by City Clerk[s].

**State law reference(s)**--Notice of election, MCL 168.653a, MSA 6.1653(1).

### **Section 3.8. Voting hours**

The polls of all Elections shall be opened and closed at the time prescribed by state election law for the opening and closing of polls at State Elections.

**State law reference(s)**--Opening and closing of polls, MCL 168.720, MSA 6.1720.

### **Section 3.9. Primary Elections**

A City Primary Election shall be held, if required, on the first (1st) Tuesday following the first (1st) Monday in August of each odd year in which a regular City Election is to be held.

**State law reference(s)**--Odd-year primary election, MCL 168.644b, MSA 6.1644(2).

### **Section 3.10. Nominations**

The method of nomination of all candidates for nonpartisan political City Office at City Primary Elections shall be as provided by state election law.

### **Section 3.11. Form of petitions**

The form of petitions for nonpartisan City office shall be as designated by the Secretary of State for the nomination of nonpartisan officers, and shall be available in the City Clerk's office.

**State law reference(s)**--Nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

### **Section 3.12. Approval of petition**

The Clerk shall accept only nominating petitions which conform with the forms provided and maintained by the Clerk, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective offices by this charter.

### **Section 3.13. Public inspection of petitions**

All nominating petitions filed shall be open to public inspection in the office of the Clerk.

**State law reference(s)**--Mandatory that Charter provide that all records of the municipality shall be public, MCL 117.3(l), MSA 5.2073(l); freedom of information act, MCL 15.231 et seq., MSA 4.1801 et seq.

### **Section 3.14. Election commission**

An Election Commission is hereby created, consisting of the Clerk and two (2) other qualified registered electors, whom the Council shall designate. Such persons shall serve at the pleasure of the Council. The City Clerk shall be the chairperson. The Commission shall have charge of all activities and duties required of it by state laws and this charter relating to the conduct of the elections in the City. Appointed Election Commissioners shall serve without compensation.

**State law reference(s)**--Board of city election commissioners, MCL 168.25, MSA 6.1025.

### **Section 3.15. Form of ballot**

The form, printing, and numbering of ballots or the preparation of the voting machines used in any City Election shall conform to state election law.

**State law reference(s)**--Arrangement of ballot, MCL 168.706, MSA 6.1706.

### **Section 3.16. Tie vote**

If, at any City primary or election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the election shall be decided by lot as provided by state election law.

**State law reference(s)**--Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

### **Section 3.17. Recount**

A recount of the votes cast at any City Election for any office or any proposition may be obtained in accordance with state election law, available in the City Clerk's Office.

**State law reference(s)**--Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

### **Section 3.18. Recall**

An elected official may be recalled from office by the electors of the City in the manner provided by state law. A vacancy created by such recall shall be filled in the manner prescribed by state election law.

**State law reference(s)**--Permissible that Charter provide for recall of its officers, MCL 117.4i(6), MSA 5.2082(6); recall generally, MCL 168.951 et seq., MSA 6.1951 et seq. See also Mich. Const. 1963, Art. II, § 8.

## CHAPTER 4

### ORGANIZATION OF GOVERNMENT; COUNCIL

#### **Section 4.1. Powers and authority of council**

There shall be a Council consisting of the Mayor and two (2) Councilmembers from each ward of the City. The Council shall constitute the legislative and governing body of the City and shall have power and authority, except as otherwise provided in this charter or by law, to exercise all powers conferred upon or possessed by the City, and shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Council" is used in this charter, the same shall be synonymous with the word "Commission" or any other term used in any state or federal law in referring to legislative or governing bodies.

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

#### **Section 4.2. Qualifications of councilmembers**

Members of the Council shall meet the eligibility requirements contained in Section 5.1, and the Council shall be sole judge of the qualifications of its own members.

**State law reference(s)**--Mandatory that Charter provide for qualifications of officers, MCL 117.3(d), MSA 5.2073(d).

#### **Section 4.3. Compensation of councilmembers**

Members of the Council, including the Mayor, shall receive such compensation as recommended by the Compensation Commission and approved by the Council.

The Compensation Commission shall meet every two (2) years and shall review Council and Mayoral compensation. The Compensation Commission shall consider such compensation as an honorarium and in no case shall such compensation be considered equal to a full-time paid position.

**Editor's note**--The compensation of elected officers is now determined by the local officers' compensation commission pursuant to Code of Ordinances, § 2-131 et seq.

**State law reference(s)**--Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

#### **Section 4.4. Election of mayor pro tem**

The Council shall at its first meeting of the New Year following each regular City Election, elect one (1) of its members to serve as Mayor Pro Tem, for a term expiring at the first Council meeting of the New Year following the next regular City Election. In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Council may designate another of its members to serve as Acting Mayor during such absence or disability.

#### **Section 4.5. Duties of mayor**

- a. Insofar as required by state law, and for all ceremonial purposes, the Mayor shall be the executive head of the city.
- b. The Mayor shall be the presiding officer of the Council, shall have a voice equal with that of other members of the Council and shall vote in all proceedings of the Council.
- c. The Mayor shall be a conservator of the peace, and in emergencies declared by the Council may exercise within the City the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of citizens to aid in the enforcement of the ordinances of the City and to suppress riot and disorder and to respond to natural or manmade disasters, as prescribed by state law.
- d. The Mayor shall execute or authenticate by signature such instruments as the Council, this charter or any law of the State of Michigan or law of the United States shall require.
- e. Except as may be required by state law, the Mayor shall exercise only such powers as this charter or the Council shall specifically confer upon the Mayor.
- f. In the absence or disability of the Mayor, the Mayor Pro Tem shall perform the duties of Mayor. In the absence or disability of both, the designated Acting Mayor shall perform such duties.

#### **Section 4.6. Administrative service**

The Administrative offices of the City shall be the City Manager, Clerk, Treasurer, Assessor, and such additional administrative offices as may be created by ordinance. The Council may by ordinance create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City, but the Council may not diminish the duties or responsibilities of the office of City Manager. The City Manager shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council, and shall have compensation fixed by the Council.

All administrative officers of the City, except the City Manager shall be appointed by the City Manager for an indefinite period subject to confirmation by the Council. Such officers shall be responsible to the City Manager and shall have their compensation fixed by the City Manager in accordance with budget appropriations and subject to approval by the Council. Such officers may be discharged by the City Manager.

Except as may be otherwise required by state law or this charter, the Council shall establish by ordinance such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department, and the duties, authorities, and responsibilities of the officers of each department. The City Manager may prescribe such duties and responsibilities of the officers of those departments responsible to the City Manager which are not inconsistent with this charter or with any ordinance or resolution.

All personnel employed by the City who are not elected officers of the City or administrative officers or deputies by, or under the authority of, this charter shall be deemed to be employees of the City.

**State law reference(s)**--Mandatory that Charter provide for election or appointment of certain officers, MCL 117.3(a), MSA 5.2073(a).

**Section 4.7. City Manager; appointment and qualifications**

The Council shall appoint a City Manager within one hundred twenty (120) days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council. The City Manager shall be selected solely on the basis of executive and administrative qualifications with special reference to training and experience. At the time of appointment, the City Manager need not be a resident of the City or State, but during tenure of office shall reside within the City.

The City Manager shall be the chief administrative officer of the City Government, whose functions and duties shall be:

- a. To be responsible to the Council for the efficient administration of all departments of the City Government;
- b. To see that all laws and ordinances are faithfully enforced;
- c. To direct, supervise, and administer all departments, offices, and agencies of the City. To establish personnel policies and procedures acceptable to the Council;
- d. To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;
- e. To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- f. To prepare and submit an annual budget to the Council for approval and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial condition and needs of the City;
- g. To recommend to the Council for adoption such measures as may be deemed necessary or expedient; and to attend council meetings with the right to take part in discussions but not to vote;
- h. To exercise and perform all administrative functions of the City that are not imposed by this charter or ordinance upon some other official;
- i. To be responsible for the maintenance of a system of accounts of the City which shall conform to any uniform system required by law and by the Council and to generally accepted principles and procedure of governmental accounting;
- j. To perform such other duties as may be prescribed by this charter or as may be required by ordinance or by direction of the Council.

**State law reference(s)**--Mandatory that Charter provide for the qualifications and duties of its officers, MCL 117.3(d), MSA 5.2073(d).

#### **Section 4.8. Acting City Manager**

The Council may appoint or designate an Acting City Manager during the period of vacancy or disability in the office. Such Acting Manager shall, while in such office, have all the responsibilities, duties, functions, and authority of the City Manager.

#### **Section 4.9. Relationship of council to administrative service**

Neither the Council nor any of its members or committees shall dictate the employment of any person by the City Manager, except as herein provided, or in any way interfere with the City Manager or other City officers to prevent them from exercising their judgment in the employment of employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give an order to any of the subordinates of the City Manager except as herein provided.

#### **Section 4.10. Clerk; functions and duties**

- a. The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language.
- b. The Clerk shall be custodian of the City Seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. The Clerk shall also be custodian of all papers, documents, bonds pertaining to other officers and employees of the City other than the Clerk, and records pertaining to the City, the custody of which is not otherwise provided.
- c. The Clerk shall certify by signature all ordinances and resolutions enacted or passed by the Council.
- d. The Clerk shall provide and maintain in the Clerk's office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.
- e. The Clerk shall also serve as chairperson of the Election Commission as provided in Section 3.14.
- f. The Clerk shall have power to administer oaths of office.
- g. The Clerk shall perform such other duties as may be prescribed by this charter, by the Council, or by the City Manager.

**State law reference(s)**--Mandatory that Charter provide for keeping in the English language a written or printed journal of every session of the legislative body, MCL 117.3(m), MSA 5.2073(m).

#### **Section 4.11. Treasurer; functions and duties**

- a. The Treasurer shall have the custody of all moneys of the City, and bond pertaining solely to the Clerk and all evidences of indebtedness belonging to the City or held in trust by the City.

- b. The Treasurer shall collect all moneys of the City unless otherwise specified by charter or ordinance. The Treasurer shall receive from other officers and employees of the City all moneys belonging to and receivable by the City that may be collected by such officers and employees including fines, license fees, taxes, assessments, and all other charges and costs. All money shall be turned over to the Treasurer after collection or receipt, and the Treasurer shall in all cases give a receipt therefore.
- c. The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the City Manager.
- d. The Treasurer shall disburse all City funds in accordance with the provisions of state law, this charter, and procedures to be established by the Council.
- e. The Treasurer shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district, and City Taxes as are conferred by state law upon township treasurers in connection with state, county, township, and school district taxes upon real and personal property.
- f. The Treasurer shall perform such other duties as may be prescribed by this charter, by the Council, or by the City Manager.

#### **Section 4.12. Assessor; functions and duties**

The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by state law. The Assessor shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance, and by state law. The Assessor shall perform such duties as may be prescribed in this charter, by the Council, or by the City Manager.

#### **Section 4.13. Legal counsel and representation**

The City Council may, as it deems necessary, appoint or retain one (1) or more attorneys or law firms to provide legal representation and counsel to the City. The Council may designate any attorney or law firm to have responsibilities for particular legal matters and shall designate an attorney or law firm to prosecute ordinance violations. Such Legal Counsel shall advise any officer or department head of the City as to the officer's or department head's official duties or as to matters concerning the City as a whole, but such Legal Counsel shall serve at the will of and be responsible solely to the Council.

#### **Section 4.14. Deputy administrative officers**

- a. The Clerk, Treasurer, and Assessor may appoint their own deputies subject to the written confirmation of the City Manager and may terminate the status of their deputies at their pleasure, upon written notice to the City Manager. Such deputies shall possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superior or by the Council.
- b. It is expressly understood that any person designated to be Deputy Assessor shall possess all the qualifications requisite for the position as provided by state law.

- c. The City Manager is required to designate a City officer or employee to serve as Deputy City Manager during the temporary absence of the Manager. This designation shall be done by written notice to the heads of the various City departments. The Deputy City Manager will serve in that office at the will of the City Manager.

#### **Section 4.15. Boards and Commissions**

The Council shall maintain a City Planning Commission in accordance with and having the powers and duties granted by the provisions of state law relating to such commissions.

The Council shall maintain a Zoning Ordinance in accordance with the provisions of state law relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the City Planning Commission.

The Council shall create by ordinance additional boards or commissions as deemed necessary or as required by law.

The members of all Boards and Commissions shall be limited to serving two (2) consecutive terms, and if they serve more than one-half of any term, it shall be considered a full term.

Anyone having served the maximum permitted time as a Board or Commission Member may again become eligible after two (2) years following the expiration of the last term.

## CHAPTER 5

### OFFICERS AND PERSONNEL OF THE CITY; ELIGIBILITY FOR OFFICE AND EMPLOYMENT IN CITY

#### **Section 5.1. Residency required to hold elective office**

No person shall hold any elective office of the City unless they have been a resident of the City for at least one (1) year immediately prior to the last day for filing original petitions for such office or prior to the time of their appointment to fill a vacancy. No person shall hold any elective office unless they are a qualified and registered elector of the City on such last day for filing or at such time of appointment and throughout their tenure of office.

The members of the Council elected under provisions of this charter shall serve as provided under Section 3.5.

Each member of any City Board or Commission created by, or pursuant to this charter, shall have been a resident of the City for at least one (1) year immediately prior to the day of their appointment and shall be a qualified and registered elector of the City on such day and throughout the tenure of office.

All administrative officers of the City shall be United States citizens.

The Council may by ordinance require residence in the City of South Haven as a condition of employment of full-time appointive officers.

**State law reference(s)**--Mandatory that Charter provide for qualifications of officers, MCL 117.3(d), MSA 5.2073(d).

#### **Section 5.2. Vacancies in elective office and removal from office**

Any elective City office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

- a. For any reason specified by state law or by this charter as creating a vacancy in office;
- b. If no person is elected to, or qualified for, the office at the election at which such office is to be filled;
- c. If the officer shall be found guilty by a competent court of the State of Michigan of any act constituting misconduct in office under the provisions of this charter;
- d. If the officer shall be absent continuously from the City for more than sixty (60) consecutive days in any one (1) year without the permission of the Council;
- e. In case of any members of the Council, if such officer shall miss four (4) consecutive regular meetings of the Council or twenty-five (25) per cent of such meeting in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefore entered in the proceedings of the Council at the time of each absence;

- f. If the officer is removed from office by the Council in accordance with the provisions of Section 5.4;
- g. Ceasing to be a resident of the City if a City officer, or of the ward from which elected if a Councilperson.

**State law reference(s)**--Filling vacancy in elective or appointive office, MCL 201.37, MSA 6.717.

### **Section 5.3. Vacancies in boards and commissions**

The office of any member of any board or commission created by, or pursuant to this charter, shall be declared vacant by the Council:

- a. For any reason specified by state law or by this charter as creating a vacancy in office.
- b. If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter.
- c. If such officer shall miss four (4) consecutive regular meetings of such boards or commissions, or twenty-five (25) percent of such meetings in any fiscal year of the City, unless such absences shall be excused by such board or commission and the reason therefore entered in the proceeding of such board or commission at the time of each absence.
- d. If the officer is removed from office by the Council in accordance with the provisions of Section 5.4.
- e. Ceasing to be a resident of the city.

### **Section 5.4. Removals from office**

In addition to the provisions of state law involving the removal of elective officers or of members of boards or commissions, the Council shall remove such officer for any act declared by this charter to constitute misconduct in office. Removals by the Council shall be made only after the officer has been given notice of the charges, notice of the date of a hearing and afforded an opportunity, in person or by representative, to present a response or defense. Failure of the officer to appear at the hearing and present a response or defense shall constitute grounds for removal. A majority vote of the elected members of the Council, exclusive of any member whose removal is being considered, is required for any such removal.

### **Section 5.5. Resignations**

Resignations of elective officers and of members of boards and commissions shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignation of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

### **Section 5.6. Filling vacancies in appointive offices**

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

Members of all boards and commissions shall be limited to two consecutive terms, and if they serve more than one-half of any term, it shall be considered a full term.

**State law reference(s)**--Filling vacancy in elective or appointive office, MCL 201.37, MSA 6.717.

### **Section 5.7. Filling vacancies in elective offices**

- a. Any vacancy which occurs in the office of Councilperson or Mayor more than sixty (60) days before the next regular city election shall be filled by appointment within forty-five (45) days by a majority vote of the members of the Council. Said appointee shall hold office until twelve o'clock noon on January 1st following such election, at which election such vacancy shall be filled as provided in Section 3.5 for the balance of the unexpired original term.
- b. If any vacancy in the offices which the Council is authorized to fill is not so filled within sixty (60) days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of Councilperson, such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office, no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in Sections 3.10 and 3.13 inclusive; the names of all qualified candidates who file sufficient valid nominating petitions thirty (30) days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this Section 5.7, shall govern.
- c. The provisions of Section 5.7 shall not apply to the filling of vacancies resulting from recall.

**State law reference(s)**--Filling vacancy in elective or appointive office, MCL 201.37, MSA 6.717.

### **Section 5.8. Change in term of office or compensation**

Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards and commissions appointed to definite terms shall not be shortened. The terms of elective officers of the City shall not be extended beyond the period for which any such officer was elected except that an elective officer shall, after the term has expired, continue to hold office until a successor is elected and has been qualified. The Council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered.

**State law reference(s)**--Mandatory that Charter provide that terms of elected officials not be extended or shortened, MCL 117.5(d), MSA 5.2084(d).

### **Section 5.9. Oath of office and bond**

Every Councilmember and Mayor, elected or appointed, before entering upon the duties of their office, shall take the oath of office prescribed by the Constitution of the State and shall file the same with the Clerk, together with any bond required by state law, this charter, or by the

Council. In case of failure to comply with the provisions of this section within ten (10) days from the date fixed for taking office, such officer shall be deemed to have declined the office, and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

**State law reference(s)**--Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

### **Section 5.10. Surety bonds**

Except as otherwise provided in this charter, all officers of the City whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the City an official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that they will faithfully perform the duties of their office, and will on demand deliver over to their successor in office, or other proper officer or an agent of the City, all books, papers, moneys, effects and property belonging thereto, or appertaining to their office, which may be in their custody as an officer or employee, and such bonds may be further conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that they will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by them as such officer or employee. The requirements of this paragraph may be met by the purchase of one (1) or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The Clerk shall be custodian of all the bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk.

### **Section 5.11. Delivery of office**

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, they shall within five (5) days, or sooner on demand, deliver to their successor in office or to their superior all the books, papers, moneys and effects in their custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under state law.

### **Section 5.12. Pecuniary interest prohibited**

- a. Unless otherwise permitted in the charter or by state law, the City shall not contract for the purchase or sale of goods with an individual or entity in which an elective official, the City Manager or their spouses have a pecuniary interest, either directly or indirectly.
- b. This section shall not apply to a contract if the members of the Council in office at the time, who have no such interest, unanimously determine that the best interest of the City will be served by entering into the contract.
- c. Any elective official or the City Manager who knowingly permits the city to enter into any contract in which that elective official, City Manager or their spouses, has a pecuniary interest without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances

specified in subparagraph (b) of this Section, the unanimous determination (by vote or written instrument) of all members of the Council that in a particular case an elective official or the City Manager will not have a pecuniary interest in any contract or purchase to be entered into by the City shall be final and conclusive in the absence of fraud or misrepresentation.

- d. No elective official shall stand as surety on any bond to the City or give any bail for any other person which may be required by the charter or any ordinance of the city. Any elective official of the City who violates the provisions of this subparagraph shall be guilty of misconduct in office.

**State law reference(s)**--Conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

### **Section 5.13. Compensation of employees and officers**

The compensation of all employees and officers of the City whose compensation is not provided for herein, shall be fixed by the appointing officer or body within the limits of budget appropriation and in accordance with any pay plan adopted by the Council or provided by state law.

**Editor's note**--The compensation of elected officers is now determined by the local officers' compensation commission pursuant to Code of Ordinances, § 2-131 et seq.

**State law reference(s)**--Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

### **Section 5.14. Employee welfare benefits**

The Council shall have the power to make available to the administrative officers and employees of the City, a retirement or pension system, and such other benefits that may be agreed upon through collective bargaining or other such agreements.

### **Section 5.15. Antinepotism**

Except and unless the members of the Council in office at the time shall unanimously determine that the best interests of the City will be served by the employment of individuals hereinafter mentioned, the following relatives and his/her spouses (a) of any elective official or of his/her spouse, or (b) of the City Manager or of his/her spouse, are disqualified from holding any appointive City office or City employment during the term for which said elective official was elected or during the tenure of office of the City Manager, respectively: spouse, child, parent, brother, sister, and their spouses. 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 city at the time of the election of said elective official.

### **Section 5.16. Merit system; civil service**

The Council may provide for a merit or civil service system for the City employees.

## CHAPTER 6

### THE COUNCIL; PROCEDURES AND MISCELLANEOUS POWERS AND DUTIES

#### **Section 6.1. Regular meetings**

The Council shall provide by resolution for the time and place of its regular meetings each month.

#### **Section 6.2. Special meetings**

Special meetings shall be called by the Clerk on the written request of the Mayor, the City Manager, or any two (2) members of the Council on at least eighteen (18) hours' written notice to each member of the Council, served personally or left at his/her usual place of residence.

**State law reference(s)**--Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

#### **Section 6.3. Business at special meetings**

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all members of the Council present consent thereto and all the members absent file their written consent.

#### **Section 6.4. Meeting to be public**

All regular and special meetings of the Council unless otherwise authorized by state law shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe. All business which the Council may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of Michigan of 1976 (MCL 15.261 et seq., MSA 4.1800(11) et seq.), as amended.

#### **Section 6.5. Quorum; adjournment of meetings**

A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, but in the absence of a quorum a lesser number may reschedule any meeting to a later time or date, and in the absence of all members the Clerk may reschedule any meeting within a time frame not to exceed a period of one week.

#### **Section 6.6. Compulsory attendance and conduct at meetings**

Any three (3) or more members of the Council may by vote either request or compel the attendance of its members and other officers of the City at any meeting of the Council. Any member of the Council or other officer who when notified of such request for their attendance fails to attend such meeting for reasons other than confining illness or absence from Van Buren or Allegan Counties shall be deemed guilty of misconduct in office unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to act in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

Any police officer designated by the presiding officer of the meeting shall serve as the Sergeant-at-Arms of the Council in the enforcement of the provisions of this section.

### **Section 6.7. Organization and rules of the Council**

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

- a. A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the Clerk of the meeting.
- b. A vote upon all ordinances and resolutions shall be taken by "yes" and "no" vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- c. No member of the Council shall vote on any question in which they have a financial interest, other than the common public interest, or on any question concerning their own conduct, but on all other questions each member who is present shall vote when their name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.
- d. The proceedings of the Council shall be published in a local newspaper within fifteen (15) days following each meeting.

**State law reference(s)**--Mandatory that Charter provide for keeping in the English language a written or printed journal of every session of the legislative body, MCL 117.3(m), MSA 5.2073(m).

### **Section 6.8. Investigations**

The Council or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters in which the municipality has an interest.

### **Section 6.9. Providing for public health and safety**

The Council shall see that reasonable provision is made for the public peace and health and for the safety of persons and property in accordance with state law.

## CHAPTER 7

### LEGISLATION\*

**\*State law reference(s)**--Mandatory that Charter provide for body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

#### **Section 7.1. Prior city legislation**

All valid bylaws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this charter and which are in force and effect at the time of the effective date of this charter shall continue in full force and effect until repealed or amended.

Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulation which are inconsistent with this charter are hereby repealed.

#### **Section 7.2. Ordinances and resolutions**

All official action of the Council shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be so done by this charter or by state or federal law or pertaining to the internal affairs or concerns of the City government. All other acts of the Council and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number and a code section number when the codification of ordinances is completed.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of South Haven Ordains:".

**State law reference(s)**--Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.

#### **Section 7.3. Enactment, amendment, repeal of effective date of ordinances**

Subject to state law and to the exceptions which follow:

- a. Ordinances may be enacted by the affirmative vote of not less than four (4) members of the Council;
- b. No ordinance shall be amended or repealed except by an ordinance adopted as aforesaid;
- c. No ordinance shall be enacted at the meeting at which it is introduced nor until after publication of the proceedings or summary thereof of such meeting (which proceedings or summary shall include a statement of its title and purpose);
- d. The effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than ten (10) days after enactment and not before publication thereof.

It is provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health or safety may be enacted at the meeting at which it is introduced or before publication of the

proceedings of the meeting at which it is introduced, or may be given earlier effect than ten (10) days after its enactment, or all three, (3) by five (5) affirmative votes if six (6) or seven (7) members of the Council are present at the meeting at which it is enacted or by four (4) affirmative votes if four (4) or five (5) members of the Council are present at the meeting at which it is enacted.

In case an ordinance is given effect earlier than ten (10) days after enactment, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three (3) public places in the City, other provisions of this charter notwithstanding. The Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance a certificate under his/her hand stating the time and place of such publication by posting, which certificate shall be prima facie evidence of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation. Such ordinance shall also be published in accordance with Section 7.4 but not as a requirement for the effectiveness thereof.

No ordinance granting any public utilities franchise shall be enacted except in accordance with the provisions of Section 14.2.

No ordinance shall be amended by reference to its title only, but the revised sections of the ordinance, as amended, shall be re-enacted and published in full. An ordinance or section thereof may be repealed, however, by reference to its title and ordinance or code number only.

#### **Section 7.4. Publication and recording of ordinances**

Each ordinance shall be published within ten (10) days after its enactment. The full text thereof shall be published in a newspaper as defined in Section 15.4 either separately or as part of the published Council proceedings.

All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book", and it shall be the duty of the Mayor and Clerk to authenticate such records by his/her official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate or suspend its operations.

**State law reference(s)**--Mandatory that Charter provide for the publication of ordinances before they become operative, MCL 117.3(k), MSA 5.2073(k).

#### **Section 7.5. Penalties for violations of ordinances**

Any ordinance may provide for the punishment of those who violate its provisions. All such punishments provided in any ordinance shall be limited to the extent permitted by state law.

**State law reference(s)**--Limitation on penalties, MCL 117.4i(k), MSA 5.2082(k).

#### **Section 7.6. Special requirements for certain commission actions**

- a. Action to vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof, shall be subject to the provisions of state law and shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing pursuant to notice, and shall publish notices of such hearing at least two (2) weeks prior.

- b. The following actions shall require the affirmative vote of four (4) members of the Council to become effective:
1. Vacating, discontinuing or abolishing any highway, street, lane, alley or other public place or part thereof;
  2. Purchasing or leasing of any real estate or interest therein for City use;
  3. Authorizing the condemning of private property for public use;
  4. Creating or abolishing any office;
  5. Appropriating any money;
  6. Imposing any tax or assessment;
  7. Reconsidering or rescinding any vote of the Council;
  8. Selling or leasing of any City-owned real estate or interest therein which action shall be by public bid only.

#### **Section 7.7. Technical codes**

The Council may adopt in whole or in part any provision of state law or any detailed technical regulations as a City ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting it. The adoption of such codes shall comply with all applicable statutory procedures and requirements. In addition to any statutory requirement for adoption of codes:

1. The ordinance adopting such code shall cite such code and be published in the manner provided for the publication of other ordinances;
2. Copies of the code so adopted shall be available to the public for inspection and in book or booklet form for purchase at a reasonable charge.

**State law reference(s)**--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

#### **Section 7.8. Severability of ordinances**

If any portion of an ordinance or its application shall be found to be invalid by a court, all remaining portions or applications of the ordinance shall remain valid and in effect unless otherwise expressly prohibited. To this end, ordinances are declared to be severable.

#### **Section 7.9. Codification of ordinances**

Immediately after the effective date of this charter, the Council shall within six (6) months direct and complete the codification of all ordinances of the City. The Council shall also provide for the codification of subsequent ordinances and amendments annually so that the published code will be maintained in current form.

The Council shall provide for copies of this code to be made available for public inspection and for public distribution at a reasonable charge and publish notice of availability of the codification. Such printing and making available of the codification and notice thereof shall constitute publication of any such codification, other provisions of this charter for publication notwithstanding.

The copies of the ordinances and of the codification thereof, and of provisions adopted by reference in accordance with Section 7.7 may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and other legally established tribunals as to the matter contained therein.

**State law reference(s)**--Authority to codify, MCL 117.5b, MSA 5.2084(2).

### **Section 7.10. Initiative and referendum**

To the extent permitted by state law, an ordinance may be initiated by petition, or a referendum on an enacted ordinance may be initiated by petition.

**State law reference(s)**--Permissible that Charter provide for initiative and referendum, MCL 117.4i(g), MSA 5.2082(g).

### **Section 7.11. Initiatory and referendary petitions**

An initiatory or a referendary petition shall:

- a. Be signed by not less than ten (10) percent of the registered electors of the City, as of the date of the last regular City Election, and all signatures shall be obtained within twenty-one (21) days before the date of filing the petition with the Clerk. Each signer of a petition shall sign his or her name and address, along with the date of signature;
- b. Be addressed to the Council and may be the aggregate of two (2) or more petition papers identical as to contents and simultaneously filed by one person;
- c. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall initiate more than one (1) ordinance. A referendary petition shall identify the ordinance or part of it, or code sections it proposes to repeal;
- d. Have attached a sworn affidavit by the circulator of the petition, stating the number of signers and that each signature is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant;
- e. Be filed with the Clerk who shall, within fifteen (15) days, canvass the signatures. If the petition does not contain a sufficient number of signatures, the Clerk shall notify the person filing such petition and fifteen (15) days from such notification shall be allowed for the filing of supplemental signatures.

When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

### **Section 7.12. Council procedure on initiatory and referendary petitions**

Upon the presentation to the Council of an initiatory or referendary petition by the Clerk, the Council shall, within thirty (30) days, unless otherwise provided by state law, either:

- a. Adopt the ordinance as submitted by an initiatory petition;
- b. Repeal the ordinance, or part thereof, referred to by a referendary petition; or
- c. Determine to submit the proposal provided for in the petition to the electors.

**Section 7.13. Submission of initiatory and referendary ordinances to electors**

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose, or in the discretion of the Council at a special election called for that purpose. In the case of an initiatory petition, if no election is scheduled in the City for any other purpose within one hundred fifty (150) days from the time the petition is presented to the Council, and the Council does not enact the ordinance, then the Council shall call a special election within sixty (60) days from the date of the presentation of the initiative. The result of all elections held under the provisions of this section shall be determined by a majority vote of the electors voting unless otherwise required by state law.

**Section 7.14. Ordinance suspended; miscellaneous provisions on initiatory and referendary petitions**

- a. The presentation to the Council by the Clerk of a valid and sufficient referendary petition containing a number of signatures equal to at least twenty-five (25) percent of the registered electors of the City, as of the date of the last regular City Election, which signatures have been obtained within sixty (60) days before the date of filing the petition with the Clerk shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.
- b. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of one (1) year after the date of the election, and an ordinance repealed by the electorate may not be reenacted for a period of one (1) year after the date of the election; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with this charter or if submitted to the electorate by the Council on its own motion.
- c. If two (2) or more ordinances adopted at the same election shall have conflicting provisions, the ordinance receiving the highest number of affirmative votes shall govern.

## CHAPTER 8

### GENERAL FINANCE; BUDGET, AUDIT

#### **Section 8.1. Fiscal year**

The fiscal year of the City shall begin on the first (1st) day of July of each year and end on the thirtieth (30th) day of June of the following year.

#### **Section 8.2. Budget procedures**

The City Manager shall prepare and submit to the Council on or before the first (1st) regular Council meeting in May of each year a recommended budget covering the next fiscal year which must comply with state law requirements and, at a minimum, include the following:

- a. Detailed estimates with the supporting explanations of all proposed expenditures for each department, office, and agency of the City, including those for the Retirement System, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to April first (1st) and estimated expenditures for the balance of the current fiscal year;
- b. Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirement, the debt authorized and unissued, and the condition of sinking funds, if any;
- c. Detailed estimates of all anticipated revenues of the City from sources other than taxes with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to April first (1st) and estimated revenues for the balance of the current fiscal year;
- d. A statement of the estimated balance or deficit for the end of the current fiscal year;
- e. An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- f. Such other supporting information as the Council may request.

**State law reference(s)**--Uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

#### **Section 8.3. Schedule of capital outlay**

Simultaneously with the recommended budget, the City Manager shall submit to the Council a schedule showing all recommended capital outlay expenditures for the following five (5) fiscal years. The City Manager shall prepare this schedule after consultation with the City Planning Commission. This schedule shall list separately each proposed acquisition of capital improvements or facility and each proposed capital expenditure program with estimates of cost as accurate as may be made without detailed plans and specifications. The City Manager shall

upon consultation with the appropriate department heads prepare a five (5) year schedule for capital equipment acquisition and replacement. It shall also include proposed capital expenditures by any organization financed in whole or in part by City property taxes. This schedule shall be for the guidance of the Council in adoption of the regular annual budget and the Council may delete items or make such revisions as it deems appropriate and may arrange items in the order of priority for acquisition or construction. After making any desired corrections or additions, the Council shall adopt the capital outlay program at the same meeting as it adopts the regular annual budget, but such adoption shall be only for the purpose of setting up a guide for future capital expenditures and in no way shall obligate the City to carry out the programs listed nor to include any of the items in future budgets nor to appropriate funds for any of the items or programs.

#### **Section 8.4. Budget of file**

The complete proposed budget shall be on file for public inspection in the office of the City Clerk during office hours for a period of not less than one (1) week prior to adoption.

#### **Section 8.5. Adoption of budget**

Following a public hearing held in accordance with state law, and not before May fifteenth (15th) nor later than the first (1st) regular Council meeting in June in each year, the Council shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the City and shall provide for a levy of the amount necessary to be raised by taxes allowed by state law for municipal purposes subject to limitations contained in Section 9.1.

**State law reference(s)**--Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).

#### **Section 8.6. Budget control**

Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation no money shall be drawn from the treasury of the City except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditures of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund or agency to another, except as prohibited by state law.

As provided for and in the manner permitted by state law, the Council may make additional appropriations during the fiscal year for unanticipated expenditures required of the City. Additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, or shall not exceed any actual or anticipated budget surplus.

In those cases where there is no logical or proper account against which an expenditure can be charged, then an appropriate, logical or proper account will be established. The necessary appropriation will be drawn from the contingency fund and credited to the newly established, logical and proper account, from which said latter account the expenditure will be made.

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

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund.

### **Section 8.7. Depository**

The Council shall designate depositories for City funds in compliance with state law, and shall provide for the regular deposit of all City moneys. The City Council and Treasurer may also invest surplus funds in accordance with state law.

**State law reference(s)**--Designation of depositories, MCL 129.12, MSA 3.752; deposits of public moneys, MCL 211.436, MSA 7.86.

### **Section 8.8. Independent audit and annual report**

An independent audit shall be made of all City accounts at least annually, and more frequently if deemed necessary by the Council. Such audit shall be made by Certified Public Accountants experienced in municipal accounting. The accountants shall be selected by the Council.

The City Manager shall prepare an annual report of the affairs of the City including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the Clerk.

## CHAPTER 9

### TAXATION\*

\***State law reference(s)**--General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

#### **Section 9.1. Power to tax and tax limit**

The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Except as otherwise provided in this Section, and exclusive of any levies authorized by state law to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed 1.50 percent of the state equalized value of all real and personal property subject to taxation in the City. In addition, the electors of the City, by majority of the electors voting thereon at any general or special election, may authorize for periods of up to five years the levy of an annual ad valorem tax not to exceed 0.07 percent of the state equalized value of all real and personal property subject to taxation in the City to fund activities to enforce laws which prohibit or control the manufacture, sale, delivery and use of "controlled substances" as defined by applicable state laws, rules and regulations. In further addition, the City shall be authorized to levy an annual ad valorem tax of 0.16282 percent (1.6282 mills) of the state equalized value of all real and personal property subject to taxation in the City in the years 2008 through 2027, inclusive, for the purpose of acquiring, constructing, paving, repaving, repairing, widening and improving rights-of-way within the City, including streets, sidewalks, traffic signals, curbs, gutters and proper drainage facilities therefore, which tax levy may be reauthorized at any time by a majority of the electors voting thereon at any general or special election for periods of up to twenty years.

Section amended by an Election held on August 7, 2007 and again by an Election held on January 15, 2008.

**State law reference(s)**--Mandatory that Charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g).

#### **Section 9.2. Subjects of taxation**

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this charter, City taxes shall be levied, collected and returned in the manner provided by state law.

**State law reference(s)**--Mandatory that Charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general law, MCL 117.3(f), MSA 5.2073(f); property subject to taxation, MCL 211.1 et seq., MSA 7.1 et seq.

#### **Section 9.3. Exemptions**

No exemptions from taxation shall be allowed except as expressly required or permitted by state law.

**State law reference(s)**--Property exempt from taxation, MCL 211.7 et seq., MSA 7.7 et seq.

#### **Section 9.4. Tax day**

Subject to the exceptions provided or permitted by state law, the taxable status of persons and property shall be determined as of December 31st, which shall be deemed the tax day.

**State law reference(s)**--Designation of tax day, MCL 211.2, MSA 7.2; time, place and method of assessment, MCL 211.10 et seq., MSA 7.10 et seq.

### **Section 9.5. Preparation of the assessment roll**

On or before the first (1st) Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with state law and this charter. Values shall be determined according to recognized methods of systematic assessment. The method of determining all such values shall be as nearly uniform as possible.

As required and provided by state law, the Assessor shall give by first class mail a notice of any increase over the previous year in the assessment value of any real estate or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure of the owner to receive such notice although notice was given in the proper manner shall not invalidate any assessment roll or assessment thereon.

**State law reference(s)**--Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

### **Section 9.6. Board of review**

The City Council shall appoint three (3) or six (6) or nine (9) residents annually, who shall constitute a Board of Review for the City. If six (6) or nine (9) members are appointed, the membership of the Board of Review shall be divided into Board of Review committees consisting of three (3) members each for the purpose of hearing and deciding issues relating to the assessment roll. Two (2) of the three (3) members of the Board of Review committee shall constitute a quorum. All meetings of the members of the Board of Review and committees shall be held during the same hours of the same days at the same location.

The Board of Review and committees shall annually select one (1) of their members as chairperson for the ensuing year and the City Assessor and his/her appointed representatives shall act as clerks of each committee and shall be entitled to be heard at their sessions but shall have no vote.

The Board and committees shall be entitled to remuneration as determined by the Council.

**State law reference(s)**--Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

### **Section 9.7. Meetings of the board of review**

The Board of Review shall convene at least twice in March of each year on such dates, and at such time of day, and place as the Council shall designate by ordinance and in compliance with state law. The Board shall remain in session for at least eight (8) hours to consider and correct the assessment roll. Whenever the assessed value of any property is increased or any property is added to the roll or, the Board resolves to consider adding a property or increasing an

assessment, the Assessor shall notify the owners of record by first class mail no later than the second day following the end of the Board's first session. The notice shall state the date, time, place, and purpose of the second session of the Board. The failure of the owner to receive the notice, although given in the proper manner, shall not invalidate any assessment.

The Board shall hold at least one (1) of its required sessions beginning at 3:00 p.m., but in no case shall a session last less than six (6) hours.

The final session of the Board of Review as provided by ordinance shall convene no less than ten (10) days after the first session and shall continue until all interested persons have been heard, but in no case for less than six (6) hours. At the final session, the Board may not increase any assessment or add any property to the roll, except those cases which the Board resolved at its previous session(s) to consider.

**State law reference(s)**--Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073(i).

### **Section 9.8. Notice of meetings**

Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least ten (10) days prior to each session of the Board.

**State law reference(s)**--Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

### **Section 9.9. Duties and functions of board of review**

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by state law conferred upon and required of Boards of Review in townships, except as otherwise provided in this charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by state law, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to, the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

### **Section 9.10. Endorsement of roll**

After the Board of Review has completed its review of the assessment roll, and not later than the first (1st) Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

**State law reference(s)**--Completion of review of assessments prior to first Monday in April required, MCL 211.30a, MSA 7.30(1).

### **Section 9.11. Clerk to certify tax levies**

Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. The Clerk shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

### **Section 9.12. City tax roll**

After the Board of Review has completed its review of the assessment roll, the Assessor shall:

- a. Prepare a copy of the assessment roll to be known as the "City Tax Roll", and upon receiving the certification of the several amounts to be raised, as provided in Section 9.11.
- b. Spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property.
- c. Spread the amounts of the general ad valorem City Tax, County Tax and School Tax according to and in proportion to the several valuations set forth in said assessment roll.
- d. Avoid fractions in computation on any tax roll. Such fractions may be added to the amount of the several taxes to be raised not more than the amount prescribed by state law. Any excess created thereby on any tax roll shall belong to the City.

**State law reference(s)**--Avoidance of fractions, MCL 211.39, MSA 7.80.

### **Section 9.13. Tax roll certified for collections**

After spreading the taxes the Assessor shall certify the tax roll, and the Mayor shall sign the warrant directing and requiring the Treasurer to collect, prior to March first (1st) of the following year, from the persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to the Treasurer for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. The roll shall be delivered to the Treasurer for collection within five (5) working days following the first (1st) regular Council meeting in June.

**State law reference(s)**--Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.

### **Section 9.14. Tax lien on property**

On July first (1st), the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by state law and shall continue until such taxes, interest, and charges are paid.

### **Section 9.15. Taxes due and notification of taxes due**

City taxes shall be due on July first (1st) of each year. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes but shall:

- a. Publish, between June fifteenth (15th) and July first (1st), notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same.
- b. Mail a bill to each person named in said roll, but in cases of multiple ownership of property, only one (1) bill need be mailed.

Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this charter in case of late payment or nonpayment of the same.

#### **Section 9.16. Collection fees and interest**

All taxes, both summer and winter, shall be subject to the collection fees, administration fees, costs, interest and other charges as provided for by state law. Such collection charges shall belong to the City and shall constitute a lien against the property to which the taxes apply to the extent permitted by state law. All summer taxes may be paid on or before September nineteenth (19th) without interest. After September nineteenth (19th) interest shall accrue at the same rate as on winter taxes after February fourteenth (14th). Any interest and other fees paid on summer taxes shall increase in the same manner and after similar periods of time as permitted under state law for winter taxes.

#### **Section 9.17. Failure or refusal to pay personal property tax**

If any person, firm, or corporation shall neglect or refuse to pay any Personal Property Tax assessed to them, the Treasurer:

- a. Shall collect the same by seizing the personal property of such person, firm, or corporation to an amount sufficient to pay such tax, fees, and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt except that which is specifically exempt by state law.
- b. May sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with state law provisions. May if otherwise unable to collect a tax on personal property, sue in accordance with state law, the person, firm or corporation to whom it is assessed.

**State law reference(s)**--Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

#### **Section 9.18. Delinquent tax roll to county treasurer**

All City taxes on real property remaining uncollected on the first (1st) day of March following the date when said roll was received, shall be returned to the County Treasurers in the manner and with like effect as provided by state law for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurers are collected, in accordance with state law, and

shall be and remain a lien upon the property against which they are assessed until paid. If by change in state law or otherwise, the Treasurers of the Counties of Van Buren and Allegan are no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by state law for the collection of delinquent township, school, and county taxes.

**State law reference(s)**--Return of delinquent taxes, MCL 211.55 et seq., MSA 7.99 et seq.

**Section 9.19. State, county, and school taxes**

For the purpose of assessing and collecting taxes for state, county, and school purposes, the City shall be considered the same as a township, and all provisions of state law relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as township treasurers under state law.

**State law reference(s)**--Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i).

## CHAPTER 10

### BORROWING POWER

#### **Section 10.1. Grant of authority to borrow**

Subject to the applicable provisions of state law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness.

**State law reference(s)**--Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

#### **Section 10.2. Limits of borrowing powers**

The net bonded indebtedness of the City incurred for all purposes shall not at any time exceed the limit provided by law. No bond shall be sold to obtain funds for any purpose or purposes other than that for which they were specifically authorized.

**State law reference(s)**--Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(1), MSA 5.2074(1).

#### **Section 10.3. Vote of electors required**

Unless approved by a majority of the electors voting thereon at any general or special election, the Council shall not have power to authorize any issue of bonds except special assessment bonds, bonds for the City portion of local improvements, refunding bonds, bonds for relief from fire, flood or calamity, for payment of judgments, revenue bonds and other bonds excluded by state law from the requirement for such vote. Only qualified City Electors shall be entitled to vote on the approval of a Bond Issue.

The issuance of any bonds not otherwise requiring the approval of the electors shall be subject to applicable requirements of state law with reference to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

**State law reference(s)**--Restrictions on municipal borrowing power, bonds requiring electors' approval, MCL 117.5(e), MSA 5.2084(e); notice of intent to issue certain bonds, referendum, MCL 117.5(g), MSA 5.2084(g).

#### **Section 10.4. Preparation of record of bonds**

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the reason it was issued, and it shall be unlawful for any officer of the City to use the proceeds for any other purpose. Any officer violating this provision shall be deemed guilty of misconduct in office. The Council, however, may authorize the use of unexpended and unencumbered funds for the retirement of bonds of such issue.

All bonds and other evidence of indebtedness issued by the City shall be signed by authorized officers, in the form and manner provided for and permitted by state law.

A complete and detailed record of all bonds and other evidence of indebtedness issued by the City shall be kept by the Treasurer.

Upon the payment of any bond or other evidence of indebtedness the same shall be cancelled.

**Section 10.5. Unissued bonds**

No unissued bonds of the City shall be sold or issued to secure funds for any purpose other than that for which they were specifically authorized. If any such bonds are not sold within five (5) years after authorization, such bonds, shall be null and void, and cancelled.

**Section 10.6. Deferred payment contracts**

The City may enter into installment contracts for the purchase of lands, property, or equipment for any public purpose as permitted by state law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

# CHAPTER 11

## SPECIAL ASSESSMENT\*

**\*State law reference(s)** Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077; power re special assessments, MCL 117.4a, 117.4b, 117.4(d), 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

### **Section 11.1 Initiating resolution**

The Council shall have the power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property specially benefitted and shall so declare by resolution. That resolution shall minimally include the estimated cost of the improvement, what portion of the cost shall be paid by special assessments, what part, if any, shall be a general obligation of the City, the number of installments in which assessments may be paid, and a designation of the districts or land and premises upon which special assessments shall be levied.

### **Section 11.2. Special assessment procedure**

The Council shall prescribe by general ordinance and reference to state law complete special assessment procedures concerning plans and specifications, estimates of costs, notice of hearing, the making of the assessment roll, correction of errors, and any other matters concerning the making of improvements by the special assessment method.

### **Section 11.3. Delinquent special assessments**

Special assessments and all interest and charges on them, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien for real property taxes until paid. From the date of confirmation, the same collection fees, penalties, and interest shall be paid on delinquent special assessments and upon delinquent installments of special assessments as may be provided by this charter or by state law as required to be paid on delinquent City taxes. In case any assessment or any part of any assessment, remains unpaid on the first (1st) day of March following the date when the same became delinquent, the same shall be reported unpaid by the Treasurer in the same manner as delinquent real property taxes or the Treasurer may add such delinquent assessments, together with all accrued interest, on the next annual City Tax Roll in a column headed "Special Assessments" with a penalty of four percent (4%) added to the total amount. Delinquent special assessments shall be collected in the same manner as City Real Property Taxes.

**State law reference(s)**--Specific authority to institute an action in assumpsit to recover unpaid assessments, MCL 211.501, MSA 7.721.

### **Section 11.4. Contested assessments**

No action shall be instituted or maintained to contest the amount or prevent the collection of any special assessment unless the action is commenced within thirty (30) days after confirmation of the special assessment roll.

**Editor's note**--This type of section was held invalid as in conflict with the general property tax law (MCL 211.53, MSA 7.97) and the statute of limitations for personal actions (MCL 600.5813, MSA 27A.5813). See *Wells v. City of Southfield*, 14 Mich. App. 393, and *Smuezynski v. City of Warren*, 14 Mich. App. 464.

## CHAPTER 12

### PURCHASES, CONTRACTS, LEASES\*

**\*State law reference(s)**--City contract powers for public peace, health, safety services, MCL 117.3(j), MSA 5.2073(j); contracts for public utility property, MCL 117.4f, MSA 5.2079; restriction on making contracts with persons in default to city, MCL 117.5(f), MSA 5.2084(f).

#### **Section 12.1. Purchase and sale of property**

The City Manager shall be responsible for the purchase and sale of all City Property as authorized by the City Council.

The City Council shall establish by ordinance the procedures for the purchase or sale of personal property and services for the City. The ordinance shall provide a dollar limit within which purchases or sale of all materials, supplies and public improvements may be made without the necessity of securing competitive bids and the dollar limit within which the purchases may be made without the necessity of prior Council approval.

The City may not sell any park, cemetery or any part thereof, as legally described upon adoption of this charter, unless approved by three-fifths (3/5) of the electors voting thereon at any general or special election. Any future property designated by the Council by ordinance to be a park or cemetery shall be subject to the same restrictions.

The purchase and sale of all City Property shall be subject to the provisions of Section 5.12.

**State law reference(s)**--Electors' approval required to sell park, cemetery, MCL 117.5(e), MSA 5.2084(e).

#### **Section 12.2. Contracts**

All contracts and leases to which the City is a party when this charter becomes effective shall remain in full force and effect.

The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of state law and of this charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made upon the authority of section 12.1.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

#### **Section 12.3. Restriction on powers to lease property**

Any agreement or contract for the renting or leasing of public property for a period longer than five (5) years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council but any petition for such referendum must be filed within thirty

(30) days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for renting or leasing of public property may be made only upon approval of the Council but approval of any transfer shall not be subject to referendum.

Rentals and leases and renewals shall be for a fair consideration as determined by the Council and in accordance with Section 7.6.

**Section 12.4. Restriction of sale or lease of city real estate**

The City may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four (4) or more members of the Council.

## CHAPTER 13

### MUNICIPAL UTILITIES\*

\***State law reference(s)**--Mandates relative to public utilities, Mich. Const. 1963, Art. VII, §§ 24, 25; permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

#### **Section 13.1. General powers respecting utilities**

The City shall possess and hereby reserve to itself all the powers granted to Cities by state law and Constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, garbage disposal, and recycling facilities, or any of them to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by state law and Constitution.

#### **Section 13.2. Management of municipal utilities; [board of public utilities]**

All municipally owned or operated utilities shall be administered as a regular department of the City government under the management and supervision of the City Manager.

There shall be a board known as the "Board of Public Utilities" to advise the Council in respect to all matters concerning municipally owned utilities.

The Board of Public Utilities shall consist of five (5) members who shall be appointed by the Council for a term of five (5) years. Members serving at the time of the adoption of this charter shall serve the balance of the terms for which they were originally appointed. All members shall be subject to the term limitations of the provisions of Section 4.15 of this charter.

#### **Section 13.3. Management of municipal utilities; [council to fix rates and charges]**

The Council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the City and others with such public utility services as the City may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the City.

#### **Section 13.4. Utility rates, charges, and collections**

The City Council shall provide by ordinance for the collection of all public utility rates and charges of the City and for such purpose shall have all the power granted to Cities by state law. To the extent permitted by law, the City shall have as security for the collection of all utility rates, fees, and charges, a lien upon the real property supplied by such utility, which lien shall become effective immediately upon supplying such utility service and shall be enforced in the same manner as liens for real property taxes or in any other manner permitted by law. To the extent permitted by law, utility services may be discontinued in case of delinquency in paying such rates, fees, or charges. The City may collect such rates, fees, and charges in any other manner

permitted by law or ordinance, including, without limitation, suits in law or equity against the owner of the property served.

**State law reference(s)**--Collection of municipal water and sewer service rates and charges, creation of lien, MCL 123.161 et seq., MSA 5.2531(1) et seq.

### **Section 13.5. Disposal of utility plants and property**

Unless approved by three-fifths (3/5) of the electors voting thereon at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege, or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect against the City. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any City-owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easement for other needed property or easements.

### **Section 13.6. Utility finances**

The rates and charges for any municipal public utility for the furnishing of water, light, heat, power, gas or any other service shall be so fixed as to at least meet all the costs of such utility. Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with the generally accepted utility accounting practice. Charges for all service furnished to, or rendered by other City Departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which reports shall be available for inspection at the office of the Clerk.

### **Section 13.7. Board of public utilities fund control**

Subject to the provisions of this charter, and the general accounting procedures of the City which shall be consistent with and meet any requirements of law, the Board shall have and exercise control over all of its funds, as authorized by the Council. Such funds and revenues shall be in bank accounts separate from other City funds. Such funds shall be used to defray the cost of operating, maintaining, improving, and extending the City's utilities, including an allowance for depreciation and obsolescence except as provided in Section 13.8. All checks drawn for the payment of money, under authority of the Board shall be signed by the City Clerk and the City Treasurer.

### **Section 13.8. Payments to the city**

The Board of Public Utilities shall pay to the General Fund of the City annually a sum of money that shall at least equal the amount the utilities would otherwise pay in general property tax. The Council shall determine the final sum based on the recommendation from the City Manager, the Assessor and the Board of Public Utilities.

The Council shall add the determined sum to the City's Budget as anticipated income, file a true copy of the determination with the City Clerk, and send a true copy to the Board of Public Utilities.

All moneys due the City General Fund from the Board of Public Utilities shall be paid during the fiscal year in which the sum is due.

## CHAPTER 14

### PUBLIC UTILITY FRANCHISES\*

\***State law reference(s)**--Franchises limited to 30 years, Mich. Const. 1963, Art. VII, § 30; submittal to electors required if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).

#### **Section 14.1. Franchises remain in effect**

All franchises to which the City is a party when this charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

#### **Section 14.2. Granting of public utility franchises**

Public Utility Franchises and all renewals, extensions, and amendments shall be granted only by ordinance. No exclusive franchise shall be granted and no franchise shall be granted for longer than thirty (30) years.

No franchise which is not revocable at the will of the City Council shall be granted without its first having been approved by three-fifths (3/5) of the electors voting at the election. No special election for such purpose shall be held unless the expense of holding that election is first paid by the proposed grantee of the franchise.

#### **Section 14.3. Conditions of public utility franchises**

All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinances or not, shall, to the extent permitted by law, be subject to the following rights of the City, but the City Council may, to the extent permitted by law, impose additional requirements on any franchisee:

- a. To repeal the same for misuse, nonuse or failure to comply with the franchise provisions;
- b. To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- c. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- d. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period;
- e. To use, control, and regulate the use of its streets, alleys, bridges, and other public places and the space above and beneath them;
- f. To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

#### **Section 14.4. Regulation rates**

To the extent permitted by law all public utility franchises shall make provision for fixing rates, fares, and charges and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, good will, or prospective profits.

#### **Section 14.5. Use of public places by utilities**

To the extent permitted by law, every public utility (including any cable television service), regardless of whether it has a franchise, shall pay all costs of improvement, maintenance, or repair of streets, alleys, bridges, rights-of-way, and other public places which may arise from their use by said utility. In addition, each public utility making use of streets, alleys, bridges, rights-of-way, and other public places shall hold the City harmless from, and indemnify it for, any injuries or damages resulting from their use by the utility. Public utilities shall permit the joint use of their property and appurtenances located in streets, alleys, bridges, rights-of-way, and other public places by other utilities and by the City or other governmental entities to the extent reasonably practicable and upon payment of a reasonable fee.

#### **Section 14.6. Franchises excluded**

Except for purposes of Section 14.5, the term "Public Utility" as used in this Chapter 14, shall not include cable television, unless and until Cable Television is recognized as a public utility under State and/or Federal Law.

## CHAPTER 15

### MISCELLANEOUS

#### **Section 15.1. Vested rights continued**

After the effective date of this charter, the City shall be vested with all the property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to the City of South Haven.

No right or liability, either in favor of or against the City, existing at the time this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the City shall continue to be the debts and liabilities of the City and all fines and penalties, which have been imposed at the time of such change shall be collected.

#### **Section 15.2. Records to be public**

All City records shall be public and available for inspection in City Offices at all reasonable times (except when required to be in another location for official reasons or for safekeeping) according to the Michigan Freedom of Information and Open Meetings Acts.

**State law reference(s)**--Mandatory that Charter provide that all records of the municipality shall be public, MCL 117.3(l), MSA 5.2073(l); freedom of information act, MCL 15.231 et seq., MSA 4.1801 et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

#### **Section 15.3. Interpretations**

Except as otherwise specifically provided or indicated by the context:

1. All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made.
2. The singular number shall include the plural, the plural number shall include the singular.
3. The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.
4. The words "printed" and "printing" shall include reproductions by any current generally accepted method.
5. Except in reference to signatures the words "written" and "in writing" shall include printing and typewriting.
6. The word "officer" shall include the Mayor, members of the Council, the City Manager, Clerk, Treasurer, Assessor, and members of elective and appointive City Boards and Commissions created by or pursuant to this charter.

7. The word “state law” shall denote the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the word “state law” is to be applied.
8. All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.
9. The words “law” or “general laws of the State” shall denote the Michigan Constitution, the Public Acts of the State of Michigan, and all applicable rules or regulations promulgated pursuant to them, as well as applicable common laws, which are in effect at the time the provision of the charter containing the words “law” or “general Laws of the State” is to be applied.
10. All references to section numbers shall refer to section numbers of this charter.

#### **Section 15.4. Definition of publication, mailing of notices**

The requirement contained in this charter for the publishing or publication of notices or ordinances shall be met by publishing in a newspaper printed in the English language for the dissemination of news of a general character which newspaper shall have a general circulation at regular intervals in the city. The affidavit of the printer or publisher of such newspaper or designee, annexed to a printed copy of such notice, ordinance, or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for the mailing shall be prima facie evidence of the mailing.

#### **Section 15.5. Trust**

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy-pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy-pres doctrine shall apply.

#### **Section 15.6. Quorum**

Except as provided for otherwise in this charter or by state law, a quorum of any board or commission created by or pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but no fewer than two (2) members.

#### **Section 15.7. Sundays and holidays**

Whenever the date fixed by this charter or by ordinance for the implementing or completion of any act falls on Sunday or a legal holiday, such act shall be implemented or completed on the next succeeding day which is not a Sunday or a legal holiday.

#### **Section 15.8. Penalties for misconduct in office**

Any officer of the City found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine or imprisonment or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 5.2. Any such punishment shall be limited to the extent permitted by state law.

#### **Section 15.9. Chapter and section headings**

The chapter, section, and subsection headings used in this charter are for convenience only and shall not be considered as part of the charter.

#### **Section 15.10. Amendments**

This charter may be amended at any time in the manner provided by state law. Should two (2) or more amendments adopted at the same election have conflicting provisions, the one (1) receiving the largest affirmative vote shall prevail.

#### **Section 15.11. No estoppel**

No Estoppel may be created against the city.

#### **Section 15.12. Processes against city**

All processes against the City shall run against the City in the corporate name thereof and may be served by leaving a true copy with the Mayor or Clerk.

#### **Section 15.13. Severability of charter provisions**

If any provision, section, article, or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this charter is declared to be severable

# CHAPTER 16

## SCHEDULE

### **Section 16.1. Election to adopt this revised charter**

This Revised Charter shall be submitted to a vote of the qualified electors of the City of South Haven at a general election to be held on Tuesday, November 5, 1991. This election shall be conducted as provided by state law.

### **Section 16.2. Form of voting**

The form of ballot for the submission of this Revised Charter shall be as follows:

Instructions: A cross (X) in the square \_\_\_\_\_ before the word "YES" is in favor of the proposed revised charter, and a cross (X) in the square \_\_\_\_\_ before the word "NO" is against the proposed revised charter.

Shall the proposed revised charter for the City of South Haven drafted by the Charter Commission elected on August 7, 1990, be adopted.

\_\_\_\_\_ YES

\_\_\_\_\_ NO

### **Section 16.3. The effective date of this revised charter**

For all purposes not otherwise provided for herein this revised charter shall take effect on January 1, 1992.

### **Section 16.4. Continuation of elective and appointive officers and employees**

After the effective date of this Revised Charter, all elective officers, appointive officers and employees, as provided for in the statutes under which the City of South Haven operated prior to the effective date of this Revised Charter, shall continue in that City office or employment.

### **Section 16.5. Resolution of adoption**

At a meeting of the Charter Commission of the City of South Haven held in the Council Chamber of the City of South Haven, the usual meeting place of the Charter Commission, on May 28, 1991, the following members of the Charter Commission were present: Mary Buchert, Michael Byford, Marialyce Canonie, Wilbur Lynam, Daniel Mezak Sr., David Putman, Louis Rodenhouse, Edwin Twitchell, and Christopher Verdonk.

At such meeting the following resolution was offered, seconded and adopted by the Charter Commission:

Resolved. That the Charter Commission of the City of South Haven does hereby adopt the foregoing instrument as the proposed Charter of the City of South Haven and the Clerk of this

Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

The vote on the adoption of said resolution was as follows:

Ayes: 9

Nays: 0

Elizabeth J. Wagner  
Clerk of the Charter Commission of the City of South Haven

Countersigned by the following Commissioners:

Daniel Mezak  
Louis Rodenhouse  
Mary Buchert  
Michael Byford  
Marialyce Canonie  
Wilbur Lynam  
David Putman  
Edwin Twitchell  
Christopher Verdonk

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

I hereby certify that this is a true copy of the signatures appended hereto:

Elizabeth J. Wagner  
Clerk of the Charter Commission

I hereby certify that the above Commissioners were those duly elected to the South Haven Charter Commission on August 7, 1990.

Elizabeth J. Wagner

**Clerk of the Charter Commission**

I do hereby approve the above and foregoing revised charter of the City of South Haven.

John M. Engler  
Governor of the State of Michigan