

## CHAPTER IV. ORGANIZATION OF GOVERNMENT

### CITY COUNCIL

Section 4.1 Until the first regular city election following the adoption of this Charter Amendment, all legislative or policy forming powers shall be vested in, exercised, and determined by a Council of five (5) members, who shall be designated and known as Council Members, and a Mayor. Effective the first regular city election following the adoption of this Charter Amendment, all legislative or policy forming powers shall be vested in, exercised, and determined by a Council of six (6) members who shall be designated and known as Council Members and a Mayor. In all cases where the word "Council" is used in this Charter, the same shall be synonymous with the term "commission", "common council", "board of aldermen", "governing body", or "legislative body" or any other synonymous term, as the same may be used in any state or Federal law referring to legislative or governing bodies of cities.

(Amendment adopted by electorate 11-3-70; Amendment adopted by electorate 11-5-91)

### ELECTION OF COUNCIL MEMBERS AND MAYOR

Section 4.2 At the first regular city election held after adoption of this Charter Amendment, four (4) Council Members shall be elected from the City at large. The three (3) candidates for the office of Council Member receiving the largest number of votes shall hold office until 8:00 P.M. on the second Monday following the third regular city election held after adoption of this Charter Amendment. The one (1) candidate for the office of Council Member receiving the next highest number of votes shall hold office until 8:00 P.M. on the second Monday following the second regular city election held after adoption of this charter amendment.

At each regular election thereafter, three (3) Council Members shall be elected from the City at large. The three (3) candidates for Council Member receiving the highest number of votes shall hold office for a term of four (4) years from and after 8:00 P.M. on the second Monday following the election.

At each regular city election held hereafter a Mayor shall be elected from the City at large for a term of two (2) years to hold office until 8:00 P.M. on the second Monday following the next regular city election.

(Amendment adopted by electorate 11-3-70; Amendment adopted by electorate 11-5-91)

### ELECTION OF COUNCIL MEMBERS AND MAYOR; TERM LIMITS

Section 4.2A Effective with elected terms of office commencing on or after November 21, 1994, no council member or mayor shall hold the same position for more than eight (8) successive years of elected terms of office.

(Amendment adopted by electorate 11-8-94; Amendment adopted by electorate 11-6-01)

### FILLING VACANCY IN OFFICE OF COUNCIL MEMBER.

Section 4.3 In case of vacancy in the office of council member, the vacancy shall be filled by an appointee named by the remaining members of the City Council by a majority vote thereof. A council member appointed pursuant to this section shall take office immediately upon taking the oath of office and shall hold office for the remainder of the unexpired term in which the vacancy occurred.

(Amendment adopted by electorate 11-6-01; Amendment adopted by electorate 11-2-04)

Cross-reference:

Vacancy in office of Mayor, see § 30.01 of the City Code

#### ELIGIBILITY FOR OFFICE

Section 4.4 To be eligible for election to the office of councilmen or to be eligible for appointment to fill a vacancy in the office of councilmen a person shall be an elector of the city and shall have been a resident of the city or of the territory annexed to the city for a period of one year prior to the last day for filing nominating petitions or prior to the date of appointment to fill a vacancy.

#### ORGANIZATIONAL MEETING

Section 4.5 At 8:00 p.m. of the second Monday following such regular city election, the City Council shall meet for the purpose of organization and shall elect one of its members as mayor pro tem to serve until the next such organizational meeting.

#### MAYOR - MANDATORY DUTIES

Section 4.6 Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice and vote in all proceedings of the Council equal with that of other members of the Council but shall have no veto power. He shall be the presiding officer of the Council.

4.6:1 The Mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the city ordinances and state laws to suppress riot and disorder.

4.6:2 The Mayor shall execute or authenticate by his signature such instruments as the Council, this charter or any statute or laws of the United States or State of Michigan shall require.

4.6:3 Except as may be required by statute, the Mayor shall exercise only such powers as this charter or the Council shall specifically confer upon him.

4.6:4 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.

(Amendment adopted by electorate 11-8-94; Amendment adopted by electorate 11-2-04)

## CITY MANAGER - MAYOR - DUTIES

Section 4.7 The Council may by ordinance create the office of City Manager who shall be the chief administrative officer of the city and shall specify in such ordinance the duties, authorities and responsibilities of such officer. The city manager shall have the following duties, which, until such office is created by ordinance and appointment is made, shall be performed by the Mayor:

4.7:1 He shall see that all ordinances and applicable State laws are enforced and that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise or any contract are faithfully kept and performed.

4.7:2 He shall be responsible for the efficient administration of all departments of the city government.

4.7:3 He shall be responsible for the proper discharge of all duties and obligations of the city.

4.7:4 He shall prepare in accordance with law and this charter a budget for submission to the City Council and see to the administration thereof after its adoption.

4.7:5 He shall recommend to the Council for adoption of such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote.

4.7:6 He shall exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official.

4.7:7 He shall perform such other duties as may be prescribed by this charter or as may be required of him by ordinance or by direction of the Council.

Cross-reference:

City Manager, see § 30.02 of the City Code

## CITY MANAGER - PERMISSIVE POWERS

Section 4.8 In event the office of City Manager is created the City Council may provide that any administrative officer or department of the city except that of City Attorney may be placed under the administrative direction of such Manager and in such event the Manager shall have the power to appoint and remove such administrative officers of the city as are placed under his administrative control subject to the approval of the City Council.

Cross-reference:

City Manager, see § 30.02 of the City Code

## ADMINISTRATIVE OFFICERS

Section 4.9 The administrative officers of the city shall be the City Clerk, City Treasurer, City Assessor, and such additional administrative officers as may be created by ordinance.

The City Council may by ordinance combine any administrative offices. The same person may be appointed to hold more than one administrative office at the same time. Until such time as the administrative officers are placed under the direction and control of the City Manager, all administrative officers of the city shall be appointed by a majority of the City Council for an indefinite term and shall serve at the pleasure of the Council.

#### ADMINISTRATIVE OFFICERS - RESIDENCE

Section 4.10 All administrative officers of the City shall become residents of the City within sixty (60) days and remain residents of the City during their service as officers of the City unless such requirement is waived by a majority vote of the City Council.

#### ADMINISTRATIVE OFFICERS - DEPUTIES

Section 4.11 All administrative officers of the city shall, when required by the City Council, appoint and remove a deputy subject to the approval of the City Council and such deputy shall have the power to exercise all the duties, powers and functions of the administrative officer of which he is a deputy. The deputy shall act in case of the absence or disability of the administrative officer of which he is a deputy.

#### ADMINISTRATIVE OFFICERS - DUTIES

Section 4.12 All administrative officers of the City shall perform such duties as are provided for such officers by state law, this charter, the city ordinances and the administrative directives of the Council.

#### CITY CLERK - DUTIES

Section 4.13 The City Clerk shall be the chief accountant of the City and shall maintain a system of accounts which shall conform to such uniform system as may be required by state law.

#### CITY TREASURER - DUTIES

Section 4.14 The City Treasurer shall have such powers and duties and prerogatives with regard to the collection and custody of state, county, school district, and city taxes and moneys as are conferred by law upon township treasurers in connection with state, county, township, and school district taxes upon real and personal property.

#### CITY ASSESSOR - DUTIES

Section 4.15 The City Assessor shall have all powers vested in, and shall be charged with all the duties imposed upon, assessing officers by general laws of the state. He shall prepare all regular and

special assessment rolls in the manner prescribed by this charter, by ordinance and by the general laws of the state.

#### COUNCIL MEMBERS - MAYOR - COMPENSATION

Section 4.16 The compensation of members of the Council excluding the Mayor shall be \$750.00 per year. The Mayor shall receive \$1,000.00 per year. Such compensation shall be paid quarterly and except as otherwise provided in this charter, shall constitute the only compensation which shall be paid to the Mayor or Councilmen for the discharge of any services for and on behalf of the City during their tenure of office. The City Council may not change the compensation provided in this section. The Mayor and Councilmen may upon order of the Council be reimbursed for necessary expenses incurred on behalf of the city.

(Amendment adopted by electorate 11-6-01)

#### APPOINTMENT, EMPLOYMENT OF RELATIVES - RESTRICTION

Section 4.17 Unless the City Council shall, by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouses of any of them. 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 any elective official.

#### BOARD OF SUPERVISORS

Editor's Note: Sections 4.18 through 4.20 inclusive have been superseded by Public Act 261 of 1966, being M.C.L.A. §§ 46.401 et seq.

#### OFFICERS - EMPLOYEES COMPENSATION

Section 4.21 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 appropriations and in accordance with any pay plan adopted by the City Council.

Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the city by appointive officers and employees of the city.

#### PLANNING COMMISSION

Section 4.22 The City Council shall by ordinance create a planning commission consisting of a number of members to be determined by ordinance to serve for terms of office and have such duties as prescribed by ordinance.

(Amendment adopted by electorate 11-3-70; Amendment adopted by electorate 11-5-91; Amendment adopted by electorate 11-4-08)

Cross-reference:

Planning Commission, see §§ 32.01 et seq. of the City Code

#### ZONING ORDINANCE

Section 4.23 The City Council shall enact a zoning ordinance and until the enactment of such zoning ordinance, the zoning ordinance of the Township of Spring Lake shall remain applicable upon the adoption of this charter.

#### CONSTABLES

Section 4.24 The City Council shall appoint one or more constables. Such constables shall have like powers and authority in matters civil or criminal and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all process issued for breaches of ordinances of the city. The bond of the constables shall be that required of constables in townships, which bond shall be paid by the city. The constables shall be entitled to retain as their full compensation, the statutory fees for constables as provided by law except that the City Council may by ordinance provide for compensation of constables in lieu of such statutory fees and in such event such statutory fees collected by them shall be deposited with the City Treasurer. Editor's note:

Constables are no longer used in the city. Spring Lake-Ferrysburg Police Department was created pursuant to Public Act 25 of 1951 as amended, being M.C.L.A. § 124.1, and Public Act 8 of 1967, as amended, being M.C.L.A. § 124.531.

Cross-reference:

Police Department, see §§ 31.01 et seq. of the City Code

#### OTHER BOARDS AND COMMISSIONS

Section 4.25 The City Council may create by ordinance any board or commission. An ordinance creating a board or commission shall include a description of the purposes and duties of the board or commission, the number and qualifications of members to be appointed, the procedure for appointment of members, and the length of terms for members appointed. A board or commission created by the City Council shall be only advisory to the City Council unless additional powers are provided by the laws of the State of Michigan.

(Amendment adopted by electorate 11-5-91; Amendment adopted by electorate 11-6-01)

#### ELECTIVE OFFICE VACANCY

Section 4.26 Any elective city office shall be declared vacant by the City Council before the expiration of the term of such office:

4.26:1 For any reason specified by statute or by this charter as creating a vacancy in office.

4.26:2 If no person is elected to, or qualified for, the office at the election at which such office is to be filled.

4.26:3 If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this charter.

4.26:4 In the case of any member of the City Council, if such officer shall miss four consecutive regular meetings of the City Council or twenty five per cent (25%) of such meetings in any fiscal year of the city, unless such absence be excused by the City Council and the reason therefor entered in its proceedings at the time of each absence.

4.26:5 If the officer is removed from office by the City Council in accordance with provisions of Section 4.28.

#### BOARD OR COMMISSION VACANCY

Section 4.27 The office of any member of any board or commission created by, or pursuant to, this charter shall be declared vacant by the City Council before the expiration of the term of such office:

4.27:1 For any reason specified by statute or by this charter as creating a vacancy in office.

4.27:2 If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this charter.

4.27:3 If such officer shall miss four consecutive regular meetings of such board or commission or twenty five per cent (25%) of such meetings in any fiscal year of the city, unless such absence shall be excused by such board or commission and the reason therefor entered in the proceedings at the time of each absence.

4.27:4 If the officer is removed from office by the City Council in accordance with the provisions of Section 4.28.

#### REMOVAL FROM OFFICE

Section 4.28 Removals by the City Council of elective officers or of members of boards or commissions shall be made for either of the following reasons:

4.28:1 For any reason specified by statute for removal of city officers by the Governor.

4.28:2 For any act declared by this charter to constitute misconduct in office.

Such removals by the City Council shall be made only after a hearing of which such officer has been given notice by the City Clerk at least ten (10) days in advance, either personally or by delivering the same at his known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the City Council in office at the time, exclusive of any members whose removal is under consideration, shall be required for any such removal.

#### RESIGNATIONS

Section 4.29 Resignations of elective officers shall be made in writing and filed with the City Clerk and shall be acted upon by the City Council at its next regular meeting following receipt thereof by the City Clerk. Resignations of officers appointed by the City Council shall be made in writing to the City Council. All resignations shall be immediately acted upon.

#### FILLING VACANCIES IN APPOINTIVE OFFICES.

Section 4.30 Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

#### OATH OF OFFICE

Section 4.31 Every officer, elective or appointive, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the City Clerk, together with any bond required by statute, this charter or by the City Council. In case of failure to comply with the provisions of this section within ten (10) days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the City Council shall by resolution extend the time in which such officer may qualify.

#### OFFICERS' BONDS

Section 4.32 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 City 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 City Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his 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 his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the City 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 he will, on demand, pay over or



account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one 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 premium thereon shall be paid by the city. The City Clerk shall be custodian of all the bonds of all officers and employees, except that the City Treasurer shall be custodian of any bonds pertaining solely to the City Clerk. No bond shall be renewed but a new bond for each fiscal year shall be required.

#### DUTIES ON LEAVING OFFICE OR EMPLOYMENT

Section 4.33 Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five (5) days, or sooner on demand, deliver to his successor in office or to his superior all the books, papers, moneys and effects in his 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 statute. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed ninety (90) days, or both, in the discretion of the court.