

# *MARSHALL CITY CHARTER*

## PREAMBLE

To the end that the people of the City of Marshall may enjoy, to the fullest extent, the advantages and benefits of local self-government as authorized by the constitution and laws of the State of Michigan, they hereby establish this charter.

## ARTICLE I GENERAL MUNICIPAL POWERS

### **Section 1.01, Corporate Name**

The municipal corporation now existing and known as the City of Marshall shall be and continue as a municipal corporation under the laws of the State of Michigan.

### **Section 1.02, Boundaries**

The boundaries shall be those presently on file with the office of the Secretary of State of Michigan and in the office of the City Clerk-Treasurer and may be changed in such manner as prescribed by law without amendment to this charter.

### **Section 1.03, General Powers**

The City of Marshall shall be vested with any and all powers, privileges and immunities which home rule cities are or may hereafter be required or permitted to exercise or to provide for in their charters under the Constitution and the laws of the State of Michigan.

### **Section 1.04, Exercise of Powers**

Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, the council may resort to any procedure set forth in any statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the council shall select that procedure which it

deems to be most expeditious and to the best advantage of the city and its citizens. Where no procedure for the exercise of any power of the city is set forth, the council may prescribe by ordinance a reasonable procedure.

### **Section 1.05, Construction**

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

### **Section 1.06, Intergovernmental Relations**

The city may exercise any of its powers or perform any of its functions and may participate in the authorized financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof.

## ARTICLE II, CITY COUNCIL

### **Section 2.01, Corporation**

There shall be a city council of seven members. One shall be nominated and elected by the qualified voters of the city at large. One council member, designated as the mayor, shall be nominated and elected by the qualified voters of the city at large. The remaining council members shall be nominated from each of the five (5) wards, however, their election shall be by the qualified voters of the city at large. The nomination and election of the city council shall be on a nonpartisan basis, and according to the provisions in Article VI.

### **Section 2.02, Qualifications**

- (a) **Eligibility.** Members of the council shall be qualified electors of the City of Marshall. Members of the

# *MARSHALL CITY CHARTER*

council shall be residents of the area from which they are nominated.

- (b) **Oath and Bond of Office.** Every elected officer, before entering upon the duties of office, shall take the oath of office prescribed in Section 1 of ARTICLE II of the Constitution of 1963 of the State of Michigan, and shall file the same with the clerk together with any bond which may be required by this charter or by the council. In the case of failure to comply with the provisions of this section within ten (10) days from the date of election, such officers shall be deemed to have declined the office and such office shall thereupon become vacant unless the council shall, by resolution, extend the time which such officer may qualify as above set forth.

## **Section 2.03, Election and Terms**

At the first election under this charter all seven council members shall be elected; the council members from wards 1, 3, and 5 shall serve for terms of four (4) years and the other council members shall serve for terms of two (2) years. Thereafter, council members shall serve for terms of four (4) years, except the mayor whose term shall be for two (2) years. Regular election of council members to fill the positions of those whose terms expire shall be held in November of even numbered years to coincide with the general election. All terms of office shall begin the first day of January after the election.

## **Section 2.04, Compensation and Expenses**

The salary of the members of the council, with the exception of the mayor, shall be \$300.00 per year. Salary of the mayor shall be \$500.00 per year. These salaries shall constitute the only remuneration which shall be paid to the members of the council and mayor for the discharge of their official duties, except that expenses incurred on behalf of the city shall be paid if authorized by the council.

## **Section 2.05, General Powers and Duties**

All powers of the city shall be vested in the council except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

## **Section 2.06, Judge of Qualifications of Members**

The council shall be the judge of the eligibility of its own members, subject only to review by the courts.

## **Section 2.07, Mayor**

The mayor shall preside at meetings of the council, shall be recognized as head of the city government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties except as otherwise provided in this charter. At the first meeting in January following each regular city election, the council shall elect from among its members a mayor pro-tem who shall act as mayor during the absence or disability of the mayor, and if a vacancy occurs, shall become mayor for the remainder of the unexpired term. In the event of a vacancy occurring in the office of the mayor pro-tem, the council shall appoint one of its elected members to fill such vacancy. In the event of the absence or disability of the mayor and the mayor pro-tem the council shall appoint

## *MARSHALL CITY CHARTER*

one of its elected members to act as mayor during the absence or disability of the mayor and mayor pro-tem.

### **Section 2.08, Prohibitions**

- (a) **Memberships, Other Boards and Commissions.** Except where provided elsewhere in this charter, no more than one council member shall serve on any appointed board or commission and no member of the council shall serve on the Board of Review.
- (b) **Holding Other Offices.** Except where authorized by law, no members of the council shall hold any other city office or employment during the term for which they are elected or appointed to the council, and no former council member shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which that member was elected or appointed to the council.
- (c) **Appointments and Removals.** Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city employees whom the city manager or any of the administrative officers or department heads are empowered to appoint, but the council may express its views and discuss with the manager anything pertaining to appointment and removal of such employees.
- (d) **Interference with Administration.** Except for the purpose of investigations duly authorized by the council under Section 2.14 of this charter or routine inquiries, the council or its members shall deal with the department heads and employees who are subject to the directions and supervision of the city manager, solely through the city manager, and neither the council nor its members shall reprimand or give orders to any such department head or employee, either publicly or privately.
- (e) **Abstentions from Voting.** No member of the council shall abstain from voting upon an issue unless excused prior to the roll call by a majority of the other members of the council present. Conflict of interest shall be the sole reason for a request to abstain from voting.
- (f) **Parks, Cemeteries and Parking Lots.** The City shall not have the power to sell, divide, lease, partition, plat, subdivide, dispose, swap, convey, trade or give away any city park, cemetery, or parking lot or any part thereof unless specifically approved by a majority of the electors voting at any general or special election.
- (g) **Default.** The city council shall not make any contract with or give any official position to any

## *MARSHALL CITY CHARTER*

person who is in default to the city.

### **Section 2.09, Vacancy Procedure**

(a) **Vacancies.** The office of any council member, including the office of mayor, shall become vacant upon the occurrence of one or more of the following events: (1) for any reason specified by law or for any intentional violation of this charter, (2) the council member's death or adjudication of mental incompetency, (3) the council member's resignation tendered to the council and accepted by the council, (4) the council member's termination of residency within that area from which he or she was nominated as specified in Section 2.01, (5) the council member's absence from four (4) consecutive regular meetings of the council or 25% of all regular meetings in any calendar year unless such absence shall in each case be excused by the council, (6) the council member's conviction of a felony.

(b) **Filling of Vacancies.** If a vacancy occurs in the city council, except in the office of mayor, the city council shall, at a regular meeting and within sixty (60) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office. This term shall expire on January first of the year following the next regular election. At this

election such vacancies shall be filled for the balance of the unexpired term, if any. However, if any such vacancy is not filled within sixty (60) days or if three or more vacancies in the positions of mayor and council members exist simultaneously or are held by appointments, the clerk shall, within ten (10) days, call a special election to be held within one hundred twenty (120) days thereafter to fill such vacancies for the unexpired terms. No vacancies shall be filled in any manner if fewer than ninety (90) days remain in said vacant council term of office.

### **Section 2.10, Appointment of City Officials.**

The clerk-treasurer, assessor, and city attorney shall hold office by virtue of appointment by the mayor and subject to confirmation of two-thirds (2/3) of the council, which body shall also set their compensation. These appointees may be removed for cause by a two-thirds (2/3) vote of the council. All such appointments shall be made at the first regular meeting of the Council in May following each regular city election, and the persons so appointed shall hold office for terms of two (2) years from the first day of June following their appointment.

### **Section 2.11, Appointment of City Manager.**

The city manager shall be appointed by a two-thirds (2/3) vote of the entire council for an indefinite term. The appointment shall be primarily on the basis of executive and administrative qualifications. The council shall fix the city

## *MARSHALL CITY CHARTER*

manager's compensation. The city manager, once appointed, shall become a resident of the city.

### **Section 2.12, Removal of City Manager**

- (a) The council, at a regular meeting, shall adopt, by affirmative vote of two-thirds (2/3) of all its members, a preliminary resolution which must state the reasons for removal and may suspend the manger from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.
- (b) Within five (5) days after a copy of resolution is delivered to the manager, the city manager may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than thirty (30) days after the request is filed. The manager may filed with the council a written reply not later than ten (10) days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of two-thirds (2/3) of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if the manager has not requested a public hearing, or at any time after the public hearing

if the manager has requested one.

- (d) The manger shall continue to receive the same salary until the effective date of a final resolution of removal. The manger serves at the pleasure of the council, and the reason or reasons for removal need not necessarily be for cause, but may be for any reason or reasons which the council at its sole discretion deems to be sufficient.

### **Section 2.13, Appointment of Boards and Commissions.**

The city council:

- (a) shall establish such boards and commissions as required by law;
- (b) may establish such other boards and commissions as they deem necessary;
- (c) by majority vote, shall appoint and remove members of such boards and commissions as established here and elsewhere in this charter;
- (d) shall, in December of each year, publish a listing of all board or commission positions which are scheduled to expire the following year and the term of office for each. Such notice shall also state how applicants may apply for such vacancies. The notice shall be published in a newspaper of general circulation within the city. Said

# MARSHALL CITY CHARTER

notice shall also be posted in city hall.

## Section 2.14, Investigations

The council, by official action, may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and punishable by a fine of not more than \$100, or by imprisonment for not more than thirty days, or both.

## Section 2.15, Procedure

(a) **Meetings.** The council shall meet regularly at least twice in every month at such time and places as the council may prescribe by resolution. Special meetings shall be called by the clerk upon written request by the mayor or four (4) members of the council. All meetings shall be open to the public, except as provided by State law, and notice of all meetings shall be made in accordance with State law.

(b) **Rules and Journal.** The council shall determine its own rules and order of business and shall keep a journal in the English language of its proceedings. This journal shall be a public record. After this record is approved by the council, the mayor and clerk-treasurer shall certify it by their signatures.

(c) **Voting.** Four (4) members of the council shall be a quorum for the transaction of business at all meetings of the council, but, in the absence of a quorum, any member may adjourn any regular or special meeting to a later date. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by roll call vote and entered upon the record. The council may, by vote of not less than three (3) of its members, compel the attendance of its members and other officers of the city at its regular and special meetings and may enforce orderly conduct therein; and any member of the council or other officer of the city who refuses to attend such meetings or conduct himself in an orderly manner shall be deemed guilty of misconduct in office.

(d) **Publication.** The proceedings of the city council shall be published in a local newspaper of general circulation in the city following each meetings of the city council. The publication of a synopsis of these proceedings, prepared by the city clerk-treasurer, shall show the substance of each separate action of the city council.

## Section 2.16, Legislative Power

All legislative or policy-forming powers of the city shall be vested in, exercised, and determined by the city council. The city council shall adopt such

# *MARSHALL CITY CHARTER*

resolutions, ordinances, and technical codes according to the legislative process as outlined in ARTICLE IV of this charter.

## **Section 2.17, Surety Bonds**

The council may require any officer or employee to give a bond, to be approved by the council, conditioned upon the faithful and proper performance of the duties of office or employment in such sum as the council shall determine. All such officers and employees receiving, disbursing or responsible for the city funds shall be bonded. Resignation or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer, employee, or any surety from any liability incurred by either of them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No bond shall be issued for a term exceeding two (2) years.

## **Section 2.18, Public Peace, Health and Safety**

The city council shall provide for the public peace and health and for the safety of persons and property within the city.

## **Section 2.19, Budget**

The city council shall adopt, on an annual basis, a budget as provided for in ARTICLE IX of this charter.

## **Section 2.20, Sale of Real Property**

The city council shall sell real property by resolution, subject to the provisions of Section 2.08(f). However, if the value of the property exceeds \$4.00 per capita according to the last official U.S.

census, two public readings must be made at two regularly scheduled meetings of the city council. Final adoption of the resolution may be made at the meetings wherein the second public reading of the resolution has been made.

## **Section 2.21, Acquisition of Real Property**

The city council shall have the power to acquire property for the city by any legal means either within or without the limits of the city which may be required for, or incidental to, the present or future exercise of the purpose, powers and duties of the city government established by the charter.

## **Section 2.22, Licenses**

The council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require an exact payment of such reasonable sums for any licenses as it may deem proper.

## **Section 2.23, Streets and Alleys**

Except as limited by State law, or the provisions of this charter, the council shall have the power to establish, vacate and use, and to control and regulate the use of streets, alleys, bridges, and public places of the city (whether such public places be located within or without the limits of the city and the space above and beneath them).

## **Section 2.24, Parks and Recreational Facilities**

The council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of all parks and recreational facilities, together with any improvements thereon, owned or hereafter acquired by the city either within or without its corporate limits.

# MARSHALL CITY CHARTER

## Section 2.25, City Cemeteries

The council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries either within or without its corporate limits. All charges for services rendered by the cemetery shall, except in cases of charity burials, be reasonably commensurate with the cost thereof to the end that they be sufficient to cover the cost of such services. The council shall be trustee of the perpetual care fund and shall have full power to invest and reinvest such funds subject to all terms, conditions, limitations and restrictions imposed by State law upon life insurance companies in making and disposing of their investments. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city. Any bodies buried within the city in violation of any rule or ordinance made in respect to such burials shall be taken up and reburied in such manner as shall conform to the ordinances of the city or be buried elsewhere.

## Section 2.26, City Airport

The council shall have power to enact all ordinances and to provide necessary regulations for the establishment, maintenance, operation and protection of the city's airport and airport facilities.

## Section 2.27, Annual Compensation

The city council shall set the salaries of all administrative officials, department heads and salaried personnel by June 1 of every year, except as provided by State law. Such salaries shall be included in the annual budget to be adopted by June 1.

## ARTICLE III CITY ADMINISTRATION

## Section 3.01, Definitions and Qualification

(a) **Administrative Officials.** The administrative officials of the city shall be the city manager, city clerk-treasurer, city assessor and city attorney. The council may create additional administrative offices combine, or separate administrative offices in any manner not inconsistent with law or this charter and shall prescribe the duties thereof in order to insure the proper operation of the city government.

(b) **Oath and Bond of Office.**

Every appointed officer, before entering upon the duties of office, shall take the oath of office prescribed by Section 1 of ARTICLE II of the Constitution of 1963 of the State of Michigan, and shall file the same with the clerk together with any bond which may be required by 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 of appointment, such officers 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.

## Section 3.02, City Manager

The city manager shall be the chief administrative officer of the city and shall be responsible to the city council for the administration of all affairs placed in the

# MARSHALL CITY CHARTER

charge of the city manager by or under this charter.

## Section 3.03, Acting City Manager

(a) **Appointment.** When the city manager is absent from the city, or disabled, a qualified city administrative official shall be designated by the city manager, to exercise the powers and perform the duties of the city manager during this absence or disability. The city manager shall file with city clerk-treasurer a list, by name and title, of three qualified city administrative officials to exercise such powers and perform such duties. The city administrative officials shall be listed in the order by which each shall be designated to temporarily assume the city manager's duties. During this absence of disability, the council may revoke such designation at any time and appoint another city administrative official or department head to serve until the city manager shall return or the city manager's disability shall cease.

(b) **Vacancy – City Manager.** Upon the occurrence of a vacancy in the office of city manager, or upon the city manager's suspension pursuant to Section 2.12, the council, while it is attempting to fill the office, may appoint an acting city manager. The acting city manager shall serve at the will of the council and may be immediately removed by a

majority vote of the entire council without the necessity of compliance with Section 2.12. A city manager must be appointed within six (6) months.

## Section 3.04, Power and Duties of the City Manager

The city manager shall:

- (a) appoint and, when the city manager deems it necessary for the good of the city, suspend or remove any city employees or department heads provided for by, or under, this charter except otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any department head who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.
- (b) direct and supervise all administrative officials and department heads except as otherwise provided by this charter or by law.
- (c) attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) see that all laws, provisions of this charter and acts of the council subject to enforcement by the city manager or by officers subject to the city manager's direction and

## *MARSHALL CITY CHARTER*

supervision are faithfully executed.

- (e) prepare and submit the annual budget and capital program to the council.
- (f) submit to the council and make available to the public, a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
- (g) make such other reports as the council may require concerning the operation of all city administrative offices and departments subject to the city manager's direction and supervision.
- (h) keep the council fully advised as to the financial condition and future needs of the city and make recommendations to the council concerning the affairs of the city.
- (i) perform such other duties as are specified in this charter or may be required by the council.

### **Section 3.05, Duties of the City Clerk-Treasurer**

The clerk-treasurer shall:

- (a) be clerk of the council and shall attend all meetings of the council and keep a permanent journal of its proceedings.
- (b) have power to administer all oaths required by law, this

charter or the ordinances of the city.

- (c) be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, attest the same, and shall also be custodian of all papers, documents, and records pertaining to the City of Marshall, the custody of which is not otherwise provided for by this charter and shall attest the same whenever required to do so.
- (d) give the proper officials of the city ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements.
- (e) examine and audit all accounts and claims against the city.
- (f) be the general accountant of the city and shall keep the books of account of the assets, receipts and expenditures of the city except as otherwise provided by state law or by this charter; the system of accounts of the city shall conform to such uniform system as may be required by law.
- (g) have the custody of all moneys of the city, and all evidences of value belonging to the city, or held in trust by the city.
- (h) receive all moneys belonging to and receivable by the city, including license fees, taxes, assessments, and all other charges, belonging to and

# MARSHALL CITY CHARTER

payable to the city and shall in all cases give a receipt therefore.

- (i) keep and deposit all moneys or funds in such manner and only in such places as the council may determine, and report the same to the city manager, and to the council.
- (j) have such powers, duties and prerogatives in regard to the collection and custody of State, County, School District and City taxes and moneys as are conferred by law to enforce the collection of State, County, Township, School District, and City taxes upon real and personal property.
- (k) perform such other duties as may be prescribed in the capacity of clerk-treasurer of the city, by law or this charter.

## Section 3.06, Deputy Clerk-Treasurer

The clerk-treasurer may appoint a deputy subject to the written confirmation by the city manager. The clerk-treasurer may terminate the status of the deputy upon written notice to the city manager. The deputy clerk-treasurer shall have the authority to assume the duties of the clerk-treasurer in the clerk-treasurer's absence.

## Section 3.07, City Assessor

The assessor shall:

- (a) possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the State.

- (b) make and prepare all regular and special assessment roles in the manner prescribed by this charter and the general laws of the State.
- (c) serve as clerk for the Planning Commission and report to the council.
- (d) have full rights of discussion on the Planning Commission.
- (e) perform such other duties as may be prescribed by law or this charter.

## Section 3.08, City Attorney

The city attorney shall:

- (a) act as legal advisor to and attorney and counsel for the council and all of the departments and agencies of the City of Marshall.
- (b) give legal opinions concerning the affairs of the City of Marshall only to the city council, city manager, city clerk-treasurer, and city assessor; all such opinions shall be in writing and a copy shall be filed with the city clerk-treasurer.
- (c) perform such other duties as may be prescribed by this charter or by the council.
- (d) upon the recommendation of the city attorney, the city council may retain special legal counsel to handle any matter to which the city is a party or in which the city has

# MARSHALL CITY CHARTER

an interest or for the purpose of assisting or co-counseling the city attorney.

## ARTICLE IV LEGISLATION

### Section 4.01, Ordinances & Resolutions

- (a) All legislation of the city shall be by ordinance or by resolution;
- (b) A resolution is the official action of the council in the form of a motion adopted by a majority vote of the council members present.
- (c) The power of the council to act by resolution is limited to matters required or permitted by law, or this charter, and to matters pertaining to the internal concerns of the city.
- (d) The council shall act by ordinance when establishing a rule or regulation which provides for a penalty, when amending or repealing an ordinance previously adopted, or when required by law or this charter.

### Section 4.02, Ordinance Procedure

- (a) Every proposed ordinance shall be introduced in writing; no ordinance shall contain more than one subject, and the ordinance title must clearly express that subject. The enacting clause shall be "The City of Marshall ordains...";
- (b) Following introduction of any ordinance, the city clerk-

treasurer shall publish a summary of the proposed ordinance in a local newspaper of general circulation in the city, together with a notice setting out the time and place for a public hearing on the proposed ordinance; the public hearing may not be held sooner than five (5) days after the publication; copies of the ordinance shall be distributed without charge at the office of the city clerk-treasurer;

- (c) After the public hearing, the council may consider enacting the proposed ordinance; the enactment of an ordinance shall require a majority vote of the entire council;
- (d) Except as otherwise provided by law and this charter, each ordinance, including emergency ordinances, shall be published in full in a local newspaper of general circulation in the city at least one (1) time within ten (10) days after its adoption by the council; the publication of an ordinance in full as part of the published proceedings of the council shall not constitute publication of such ordinance as required herein;
- (e) Except as otherwise provided by law and this charter, every ordinance shall become effective upon publication or at any later date specified therein;
- (f) An ordinance which repeal or amends any existing ordinance or part of the city code shall identify, by title and number,

## *MARSHALL CITY CHARTER*

the ordinance sections, or subsections to be repealed or amended, and shall clearly indicate the matter to be omitted and the new matter to be added.

### **Section 4.03, Emergency Ordinances**

- (a) To meet a public emergency affecting life, health, or property, one or more emergency ordinances may be enacted; however, an emergency ordinance may not levy taxes, grant, renew, or extend a franchise, or regulate the rate charged by any public utility for its service;
- (b) An emergency ordinance shall be introduced in the form and manner required for ordinances generally except that it shall contain after the enacting clause declaration that an emergency exists, and describing the emergency in clear, specific terms;
- (c) An emergency ordinance may be enacted on the date of introduction and given immediate effect by a two-thirds (2/3) vote of the council present at the time of enactment;
- (d) Every emergency ordinance is automatically repealed on the sixty first (61<sup>st</sup>) day after its enactment or at an earlier date if specified therein unless reenacted pursuant to Section 4.02.

### **Section 4.04, Penalties**

An ordinance may provide a penalty for the violation of its provisions. The penalty shall not exceed a fine of \$500.00 or imprisonment for ninety (90) days or both.

### **Section 4.05, Record of Ordinances**

All ordinances shall be recorded in an index book title "City Ordinances", and a record of each ordinance shall be authenticated by the signature of the mayor and clerk-treasurer. Such record and authentication shall be done within thirty (30) days after the final passage of any ordinance. If any ordinance, other than an emergency ordinance, is not so authenticated and recorded within thirty (30) days after final passage the ordinance shall not take effect until seven (7) days after notice that the ordinance has been properly authenticated and recorded and has been published in a local newspaper of general circulation in the city.

### **Section 4.06, Codification**

- (a) within three (3) years of the effective date of this charter and at least every ten (10) years thereafter, the council shall provide for the preparation of a general codification of all city ordinances and resolutions having the effect of law;
- (b) the general codification shall be enacted by ordinance and be known as the Marshall City Code; copies of the code shall be furnished to city officials placed in the city library and the office of the city clerk-treasurer for free public reference, and made available for purchase by the public at a reasonable price to be fixed by the council; except as required

# MARSHALL CITY CHARTER

by law, the enactment of this ordinance need not comply with the requirements of Section 4.02;

- (c) after publication of the first Marshall City Code, new ordinances and resolutions shall be printed annually in a form for integration with the code currently in effect.

## Section 4.07, Technical Code

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) the requirements of Section 4.02 for distribution and filing of copies of the ordinance shall be construed to include copies of the Code of Technical Regulations as well as of the adopting ordinance, and
- (b) a copy of each adopted Code of Technical Regulations as well as of the adopting ordinance shall be authenticated, and
- (c) where any such Code of Technical Regulations is so adopted, it may be published without publishing any such Code of Technical Regulations in full.

Copies of any adopted Code of Technical Regulations shall be made available by the city clerk-treasurer for inspection and for purchase at a reasonable price. This provision shall be made part of the publication of the ordinance.

## ARTICLE V INITIATIVE AND REFERENDUM

### Section 5.01, Procedure

**(a) Initiative.** The qualified electors of the city shall have power to propose ordinances to the council. If the council fails to adopt the proposed ordinance or adopts the proposed ordinance but changes its substance, the proposed ordinance shall be submitted to the electors for adoption or rejection at a city election, provided that such power shall not extend to the annual operating budget or capital program or any ordinance relating to appropriation of money or levy of taxes.

**(b) Referendum.** The qualified electors of the city shall have power to require the council to reconsider any adopted ordinance. If the council fails to repeal an ordinance so reconsidered, the ordinance shall be submitted to the electors for approval or rejection at a city election, provided that such power shall not extend to the annual operating budget or capital programs, any emergency ordinance, or any ordinance relating to the appropriation of money or levy of taxes.

### Section 5.02, Initiative

Any five (5) qualified electors of the city may commence initiative or referendum proceedings by filing an affidavit with the city clerk-treasurer stating they will constitute the petitioners' committee and will be responsible for circulating the

## *MARSHALL CITY CHARTER*

petition and filing it in proper form. The affidavit shall state their names and addresses, shall specify the addresses to which all notices to the committee are to be sent, and shall set forth in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered.

### **Section 5.03, Petitions**

- (a) Initiative and referendum petitions must be signed by at least ten (10) percent of the qualified electors of the city.
- (b) All papers of a petition shall be uniform in size and style and shall be executed in ink or indelible pencil followed by the address of the person signing and the date signed. Throughout their circulation, the petitions shall contain or have attached the full text of the ordinance proposed or sought to be reconsidered.
- (c) Each paper of a petition shall have attached, when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

- (d) Referendum petitions must be filed with the city clerk within thirty (30) days after the council adopts the ordinance sought to be reconsidered. Initiative petitions must be filed with the city clerk within one hundred eight (180) days after filing of the affidavit of the petitioner's committee.

### **Section 5.04, Certification**

- (a) Within twenty (20) days after the petition is filed, the city clerk-treasurer shall complete a certification as to its sufficiency, specifying if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioner's committee by certified mail. A petition certified insufficient for lack of the required number of signatures may be amended once if the petitioner's committee files a notice of intention to amend the petition with the city clerk-treasurer within two (2) days after receiving the copy of the city clerk-treasurer's certificate, excluding weekends and holidays. The amended petition shall comply with the requirements of subsections (b) and (c) of Section 5.03. Within five (5) days after it is filed, excluding weekends and holidays, the city clerk-treasurer shall complete a certificate as to the sufficiency of the petition, as amended, and promptly send a copy of the certificate to the petitioner's committee by

## *MARSHALL CITY CHARTER*

certified mail. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioner's committee does not elect to amend or request council review under subsection (b) of this Section within the time required, the city clerk-treasurer shall promptly present the certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

- (b) If a petition has been certified insufficient and the petitioner's committee does not file a notice of intention to amend it or if an amended petition has been certified insufficient, the committee, within five (5) days after receiving the copy of such certificate, excluding weekends and holidays, may file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.
- (c) A final determination as to the sufficiency of the petition shall be subject to review by a court of competent jurisdiction. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

### **Section 5.05, Ordinance Suspension**

When a referendum petition is timely filed with the city clerk-treasurer, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) there is a final determination of insufficiency of the petition, or
- (b) thirty (30) days have elapsed after an affirmative vote by the electors on the ordinance.

### **Section 5.06, Council Action**

- (a) When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within forty-five (45) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance of the electors of the city.
- (b) The vote of the city on a proposed or referred ordinance shall be held not sooner than thirty (30) days and not later than one (1) year from the date of the final council determination. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election. Otherwise, the vote shall be held at the same time as the next regular election, except

# MARSHALL CITY CHARTER

that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

## Section 5.07, Final Determination

- (a) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of conflict.
- (b) If a majority of the qualified electors voting on a referred ordinance vote against it, the ordinance shall be considered repealed upon certification of the election.

## Section 5.08, Restrictions

The council shall have no authority to adopt an amendment to or repeal an initiative ordinance that has been approved by a majority vote of the qualified electors until twenty four (24) months after its approval.

## ARTICLE VI, ELECTIONS

### Section 6.01, Requirements

- (a) A non-partisan regular city election shall be held on the first Tuesday after the first

Monday in November of even numbered years to coincide with the regularly scheduled state and national general election.

- (b) All citizens qualified by the Constitution and the laws of the state to vote in the city and who have satisfied the requirements for registration as set by the Constitution and laws of the state shall be qualified electors of the city within the meaning of this charter. The city clerk-treasurer may register electors at places outside of the city clerk-treasurer's offices so as to facilitate the registration of all qualified electors of the city.
- (c) Except as otherwise provided by this charter, the Constitution and laws of the state shall apply to the conduct of elections held under this charter and the registration of electors in the city.

### Section 6.02, Election Commission

An election commission is hereby created, consisting of the clerk, city assessor and city attorney. The clerk shall be chairman. The election commission shall have charge of all activities and duties required of election commissions in cities by State law and this charter, relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the commission. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

# *MARSHALL CITY CHARTER*

## **Section 6.03, Nomination Procedure**

- (a) Candidates for election to the city council shall be nominated by petition. Any qualified elector of the city may be nominated for election by a petition signed by qualified electors of the city not fewer in number than fifty (50) nor more in number than one hundred (100). The form, size, and contents of all nominating petitions shall be as provided by the laws of the state. The city clerk-treasurer shall provide nominating petitions for all elected offices. The fifty (50) to one hundred (100) signatures for mayor and council member at large may be signed by registered voters in the city at large. The fifty (50) to one hundred (100) signatures for a council member who will be nominated from one ward must be signed by registered voters from the ward in which the candidate resides.
- (b) All separate papers comprising the nominating petition shall be assembled and filed with the city clerk-treasurer as one instrument no later than ten (10) days prior to the August primary election, except that no nominating petition may be filed sooner than thirty (30) days before the last day set for filing petitions. The city clerk-treasurer shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted for filing by the city clerk-treasurer

unless accompanied by a signed acceptance of the nomination.

- (c) Within five (5) days after the filing of the nominating petition excluding weekends and holidays, the city clerk-treasurer shall notify, in writing and by certified mail, the candidate and the person who filed the petition whether it satisfies the requirements prescribed by the Article. If the petition is found insufficient, the city clerk-treasurer shall return it immediately to the person who filed it with the statement certifying wherein it is insufficient. Within the regular time limit for filing petitions, the original petition may be amended and filed again as a new petition, or another petition may be filed for the same candidate. The city clerk-treasurer shall keep on file all petitions found insufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

## **Section 6.04, Notice of Election**

Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon shall be given by the clerk-treasurer.

## **Section 6.05, Challenger**

A regularly nominated candidate shall be entitled, upon written application to the city clerk-treasurer at least ten (10) days before the election, to appoint individuals to represent the candidate as challengers at each polling place where voters may cast their ballots for that candidate, but at no

# MARSHALL CITY CHARTER

time shall more than one (1) challenger per candidate be at each polling place. A person so appointed shall have all the rights and privileges prescribed for challengers under the general election laws of the state. The challengers may exercise their rights throughout the voting and until the ballots have been counted.

## **Section 6.06, Special Elections**

Special elections shall be held when called by resolution of the council, setting forth the purpose of the election. Special elections shall be scheduled pursuant to state law.

## **Section 6.07, Wards**

There shall be five (5) city council wards in the city. Apportionment of the wards shall be made in accordance with and in the manner specified in Section 27a of the Home Rule Cities Act (MCLA 117.27a).

## **ARTICLE VII, LIBRARY**

The Marshall Public Library shall be continued and maintained as a public library and reading room pursuant to the governing state statutes. The manner of selection of the board of directors and officers thereof, the duties of the board of directors and officers, the control of moneys collected to the credit of the library fund, the acquisition and disposal of real and personal property, the construction and leasing of buildings and property, the appointment and removal of a librarian, library assistants and staff, the fixing of salaries and all other matters pertaining to the operation of the public library and reading room shall be as provided by state law.

## **ARTICLE VIII, TAXATION**

## **Section 8.01, Power to Tax – Tax Limit**

The city shall have the power to assess taxes and to levy and collect rents, tolls, excises, and specific taxes. Exclusive of any levies authorized by law to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed two percent of the assessed value of all real and personal property in the city. In the event that the level of assessment is changed by law from the present level of 50% of true cash value, the tax rate limitation shall be adjusted inversely so that the effective rate of taxation will remain the same.

## **Section 8.02, Subject 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 tax laws of the state. Except as otherwise provided by this charter, city taxes shall be levied, collected, and returned in the manner provided by state law.

## **Section 8.03, Exemptions**

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

## **Section 8.04, Tax Day**

Subject to the exceptions provided by law, the taxable status of persons and property shall be the same as for state, county, and school purposes under the general law.

## **Section 8.05, Preparation of the Assessment Roll**

- (a) On or before the first Monday in March in each year the assessor shall prepare and certify an assessment roll of all property in the city. Such roll shall be prepared as required by the general property tax act.

# *MARSHALL CITY CHARTER*

- (b) At least ten (10) days prior to the first session of the Board of Review, the assessor shall give, by first class mail, a notice of any change from the previous year in the assessment value of any property or of the addition of any property to the roll of the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

## **Section 8.06, Board of Review**

The Board of Review shall be composed of three qualified electors of the city who shall meet the eligibility requirements for elective officers contained in Section 2.02(a) and who, during their term of office, shall not be city officers or employees or be nominees or candidates for elective city office. Further, the filing by a member of the Board of Review of the member's nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the Board of Review. The mayor, subject to approval by the city council, shall appoint the members of the Board of Review to two (2) year terms beginning at noon on January first of even numbered years. The council shall fix the compensation of the members of the Board. The Board of Review shall annually, at its first session, select its own chairman for the ensuing year, and the assessor shall be clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote. A majority of the members of the Board shall constitute a quorum.

## **Section 8.07, 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 conferred by law upon and required in 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 that day shall be considered by the Board in making its decisions. Except as otherwise provided by law, no person, other than the Board of Review, shall make or authorize any change upon or addition or corrections to, the assessment roll. It shall be the duty of the assessor to keep a permanent record of all proceedings of the Board and to enter therein all resolutions and decisions of the Board.

## **Section 8.08, Meetings of the Board of Review**

The Board of Review shall convene in session on the second Monday in March of each year at such time of day and place as shall be designated by the assessor and shall remain in session for at least six hours for the purpose of considering and correcting the roll. The Board shall continue in session from day to day until all interested persons have had an opportunity to be heard but in no case for less than six (6) hours each day for three (3) successive days. At least one meeting shall begin at 3:00 p.m. In each case in which the assessed value of any property is increased over or decreased from the amount shown on the assessment roll as prepared by the assessor or any property is added to such roll by the Board, the assessor

## *MARSHALL CITY CHARTER*

shall give notice thereof to the owner as shown by such roll, by first class mail, mailed not later than the second day following the end of the session of the Board. No assessments may be changed or property added to the assessment roll on the Board's own motion without granting an opportunity to the property owner to file objections and be heard. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessments thereon.

### **Section 8.09, 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 one week prior to each session of the Board.

### **Section 8.10, Endorsement of Roll**

After the Board of Review has completed its review of the assessment roll, and not later than the first 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.

### **Section 8.11, Certification of Tax Levy**

Within three (3) days after the council has adopted the budget for the ensuing year, the clerk-treasurer shall certify to the assessor the total amount which the council determines shall be raised by general ad valorem tax. The clerk-treasurer 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 the said roll against any property or any person in accordance with the provisions of this charter or any ordinance of the city.

### **Section 8.12, City Tax Roll**

After the Board of Review has completed its review of the assessment roll, the assessor shall 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 8.11, the assessor shall spread upon the tax roll the several amounts determined by the council to be charged, assessed or reassessed against person or property. The assessor shall also spread thereon the amounts of the general ad valorem city tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the city.

### **Section 8.13, Collection Certification**

After spreading the taxes, the assessor shall certify the tax roll, and the mayor shall annex the mayor's warrant thereto directing and requiring the clerk-treasurer to collect prior to March first of the following year, from the several persons named in said roll, the several sums mentioned therein opposite their respective names as a tax or assessment and granting to the clerk-treasurer for the purpose of collecting the taxes, assessments and changes on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes.

### **Section 8.14, Tax Lien on Property**

On August first 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

## *MARSHALL CITY CHARTER*

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 such liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

### **Section 8.15, Taxes Due: Notification Thereof**

- (a) City taxes shall be due on August first of each year. The clerk-treasurer shall not be required to call upon all persons named in the city tax roll, nor to make personal demand for the payment of taxes, but the clerk-treasurer shall (1) mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one tax bill need be mailed, and (2) publish, at least one week prior to September fifteenth, a notice stating the times and places where taxes may be paid without additional charge.
- (b) Failure on the part of the clerk-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 8.16, Collection Charges on Late Payment of Taxes**

All taxes paid on or before the fifteenth day of September shall be collected

by the clerk-treasurer without additional charge. On the sixteenth of September the clerk-treasurer shall add to all taxes paid thereafter a collection charge of three percent (3%) of the amount of said taxes and on the first day of October and of each succeeding month the clerk-treasurer shall add an additional  $\frac{3}{4}$  of one percent (1%) of said taxes for each month or fraction thereof that said taxes remain unpaid. Such collection charges shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added.

### **Section 8.17, 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 him or them, the clerk-treasurer 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. The clerk-treasurer may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The clerk-treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

### **Section 8.18, Delinquent Tax Roll to County Treasurer**

All city taxes on real property remaining uncollected by the clerk-treasurer on the first day of March following the date when said roll was received by the clerk-treasurer shall be returned to the county treasurer in the manner and with like effect as provided by statute for returns to the

# MARSHALL CITY CHARTER

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

## **Section 8.19, State, County and School Taxes**

For the purpose of assessing and collecting taxes for the state, county and school purposes, the city shall be considered the same as a township, and all provisions of law relative to the collection of and accounting for such taxes shall apply. For those purposes the clerk-treasurer shall perform the same duties and have the same powers as are granted and imposed upon township treasurer by law.

## **ARTICLE IX GENERAL CITY FINANCE**

### **Section 9.10, Fiscal Year**

The fiscal year of the city shall begin on the first day of July and end on the thirtieth day of June of the following year. Such year shall constitute the budget year of the city government.

### **Section 9.02, Budget Procedure**

On or before the first Monday in March the administrative officials,

department heads, boards and commissions of the city, shall submit to the city manager an itemized estimate of their expenditures for the next fiscal year. The city manager or the city manager's designee, shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the council at its first meeting in April. This proposal shall include the following: (1) the previous year's budget figures and actual expenditures; (2) the itemized estimates submitted to the city manager; (3) an account of all revenues received in the current and preceding year and an estimate of all revenues for the next fiscal year; (4) and the city manager's recommendations.

### **Section 9.03, Budget Document**

The budget document shall present a complete financial plan for the ensuing year. It shall include at least the following information:

- (a) detailed estimates of all proposed expenditures for each department and office of the city showing the expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, as compared with appropriations for the current year;
- (b) statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) detailed estimates of all anticipated income of the city from sources other than taxes and borrowing, with a

## *MARSHALL CITY CHARTER*

comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;

- (d) a statement of the estimated balance or deficit, as the case may be, 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 income from other sources, will be necessary to meet the proposed expenditures and commitments of the city government during the ensuing year.
- (f) such other supporting schedules as the council may deem necessary.

### **Section 9.04, Public Inspection**

A copy of the budget proposal shall be on file and available to the public in the office of the clerk-treasurer during office hours for a period of not less than one (1) week prior to the adoption of the budget by the council.

### **Section 9.05, Adoption of Budget; Tax Limit**

Not later than the first meeting of the council in June, the council shall, by resolution, adopt all budgets for the next year and shall, in such resolution, make an appropriation of the money needed for municipal purposes during the ensuing fiscal year of the city and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal

purposes subject to the limitations in Section 8.01 of the charter.

### **Section 9.06, Transfer of Appropriations**

After the budget has been adopted, no money shall be drawn from the treasury of the city nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation. The council may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund, or agency to another, except that no moneys raised for the construction, improvement, and maintenance of streets or for the principal and interest on the funded debt of the city shall be used for any purpose except that for which they were raised. The balance in any appropriation, except moneys raised for the construction, improvement, and maintenance of streets or for the principal and interest on the funded debt of the city which has not been encumbered at the end of the fiscal year shall revert to the general fund and be re-appropriated during the next fiscal year.

### **Section 9.07, Budget Control**

At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the clerk-treasurer, acting under the direction of the city manager, shall submit to the council data showing the relation between the estimated and actual income and expenses to date; and, if it shall appear that the income is less than anticipated, the council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

### **Section 9.08, Municipal Borrowing Power**

Within the limits of, and subject to the applicable provisions of state law and this charter, the council, by proper ordinances or

# MARSHALL CITY CHARTER

resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the city and the issuance of bonds of the city or other evidences of indebtedness therefore, and may pledge the full faith, credit, and resources of the city for the payment of the obligation created thereby. The city shall also have power to issue special assessment, mortgage, revenue, or other types of bonds, beyond the debt limits fixed by law for the issuance of bonds or other evidences of indebtedness which are a general obligation of the city, in the manner and for the purpose permitted by this charter, the Constitution, and general laws of the State of Michigan. All collections on special assessment rolls shall be set apart in a special fund for the payment of the principal and interest of any bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose until such principal and interest shall have been paid or an amount accumulated in said fund which shall be sufficient to pay such principal and interest as the same shall fall due. No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized.

## **Section 9.09, Depository**

The council shall designate the depository or depositories for city funds, and provide for the regular deposit of all city monies. The council shall provide for such security for city deposits as is authorized or permitted by the general laws of the state, except that personal surety bonds shall not be deemed proper security.

## **Security 9.10, Independent Audit**

An independent audit shall be made of all accounts of the city government at least annually and more frequently if deemed necessary by the council. Such

audit shall be made by accountants experienced in municipal accounting and qualified pursuant to state law. The complete audit shall be made public in such manner as the council may determine.

## **ARTICLE X PUBLIC IMPROVEMENTS**

### **Section 10.01, Public Work**

The council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. Where competitive bids are secured, the city, or any city department qualified to do the work, may enter a bid on an equal footing with other bidders. The council shall also have power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or the State of Michigan, or which is wholly or in part, financed by them or either of them.

### **Section 10.02, Purchasing and Contractual Procedure**

Before making any purchase or contract for supplies, materials, equipment or contractual services involving more than two-thirds ( $2/3$ ) of one percent (1%) of the total local tax revenue of the immediately preceding fiscal year, opportunity shall be given for competitive bids, under such rules and regulations as the council may, by ordinance, prescribe. The council shall initiate the announcement of competitive bids by public notice allowing sufficient time for the bidder to research and submit a responsible bid. All such proposed

# MARSHALL CITY CHARTER

expenditures shall be made by written contract. Such contract when in the best interest of the city shall be awarded to the lowest responsible bidder provided, however, that the council shall have the power to reject all bids and advertise again. The council shall provide, by ordinance, for the ordinary purchasing procedure to be followed in purchasing city supplies.

## Section 10.03, General Power Relative to Special Assessments

The council shall have the power to determine the necessity of and to make any local or public improvement and to determine that the whole or any part of the expense shall be defrayed by special assessment upon the property especially benefited.

## ARTICLE XI PUBLIC UTILITIES

### Section 11.01, Public Utility Franchises

All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city:

- (a) To repeal the same for misuse, or non-use, or for failure to comply with the provisions thereof;
- (b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard 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 thereof;

(e) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public;

(f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city, by the city, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefore; provided that in the absence of agreement, upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore;

(g) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city as shall arise from its use thereof and to protect and save the city harmless from all damages arising from said use.

### Section 11.02, General Powers

The city shall possess and hereby reserves to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without

## *MARSHALL CITY CHARTER*

its corporate limits, public utilities, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, and sewage treatment, and garbage disposal facilities, or any of them, to the city and its inhabitants and also to sell and deliver water, light, heat, power, gas, and other public utilities and services, without its corporate limits to an amount not to exceed the limitations set by the state constitution.

### **Section 11.03, Right of Entry**

The city or any of its agents or employees shall have the right, in the event it becomes necessary in the erection or maintenance of public utilities, to enter upon the lands of premises of any individual or corporation or in or over any building or buildings. As a result of such entry the City shall not be liable to any criminal action, but shall be liable for all damages caused by its agents or employees to real estate or buildings. No suit shall be brought upon any claim or claims until the same shall have been presented in detail to and disallowed by the city council.

### **Section 11.04, Sale of Public Utility Services**

The rates for public utility services, within the city, shall be set by the city council and shall be at uniform and reasonable prices. The city shall have the power to sell, lease, and dispose of public utility services outside the corporate limits of the city. The rates for such services shall be set by the city council at a rate not lower than regular city rates.

### **Section 11.05, Utility Receipts**

All moneys received by the city from the sale of public utility services shall be kept separate and distinct from all other funds of the city. The moneys received shall be used for the payment of obligations of the

respective utility system for the adequate maintenance and operation of such system and the setting aside of sufficient and adequate reserve for contingencies. Any moneys from time to time remaining in said funds may be transferred to any of the other funds of the City of Marshall to be used for the purpose for which such funds are intended upon a majority vote of the city council.

### **Section 11.06, Collections, Delinquencies and Penalties**

The city council shall provide, by ordinance, for the collection of all public utility charges made by the city and for such purpose shall have all the power granted to cities according to State law. When any person or persons or any firm or corporation shall fail or refuse to pay to the city any sums due on utility bills, utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the city for the collection for the same in any court of competent jurisdiction.

## **ARTICLE XII, MISCELLANEOUS**

### **Section 12.01, Unofficial Representation**

No official of the city shall have the power to make any representation or recital of fact in any franchise, contract, document, or agreement, contrary to any city ordinance, or official action of the city, or contrary to any state law. Any such action shall not be binding on the city.

### **Section 12.02, City Records**

All records of the city shall be public, except those exempted by state law, and shall be available for inspection by the public at all reasonable times, and shall be kept in city offices, except when required to be elsewhere for official reasons or for safekeeping.

# MARSHALL CITY CHARTER

## **Section 12.03, Prior City Ordinances and Regulations**

All ordinances, resolutions, rules, and regulations of the City of Marshall which are consistent with the provisions of this charter, in force and effect at the time of the adoption of this charter, shall continue in full force until repealed or amended by action of the proper authorities.

## **Section 12.04, Headings**

The article and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

## **Section 12.05, Separability**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

## **Section 12.06, Amendments**

This charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail to those provisions.

## **Section 12.07, Retirement System**

The city shall provide, by ordinance, for the establishment and maintenance of retirement plan coverage for city employees.

## **Section 12.08, Performance Audit**

At least once every four (4) years, or more often as may be deemed necessary, the city council shall provide for a performance

audit of one (1) or more city departments or phase of city government (including the city's utility department). The purpose of this provision is to strengthen management capabilities through increased efficiency, planning and maximum utilization of city resources, systems, programs and personnel.

## **ARTICLE XIII, TRANSITION**

### **Section 13.01, Purpose of Transition**

The purpose of this article is to assist the transition from the existing charter to this charter and it shall constitute a part of this charter only to the extent and for the time required to accomplish this end.

### **Section 13.02, Charter Election**

This charter shall be submitted to a vote of the qualified electors of the City of Marshall for adoption at a special election to be held on May 23, 1978. This election shall be conducted by the officers charged with the conduct and supervision of the elections under the existing charter, and shall follow the election procedure established by law.

### **Section 13.03, Form of Ballot**

The form of ballot on submission this charter shall be as follows:  
(Proper Instructions)

Shall the proposed charter of the City of Marshall drafted by the Charter Commission which was elected on August 3, 1976, be adopted?

Yes                      No

### **Section 13.04, Effective Date of Charter**

For the purpose of electing the first mayor and council members under this charter, and for the purpose of apportionment of wards under this charter,

## *MARSHALL CITY CHARTER*

only Sections 2.01, 2.02(a), 2.03 and ARTICLE VI shall become effective upon certification that this charter has been duly adopted. The City Commission shall prepare and file an apportionment plan of the five (5) wards in the manner specified by Section 6.07 hereof no later than six (6) weeks following certification that this charter has been duly adopted. The charter shall become fully effective on January 2, 1979, at 12:00 noon.

### **Section 13.05, Pending Matters**

All rights, claims, actions, orders, contracts, and legal or administrative proceedings of the city shall continue except as modified pursuant to the provisions of this charter, and in each case shall be maintained, carried on, or dealt with by the city department, office or agency appropriate under this charter.

### **Section 13.06, Continuance of Boards and Commissions**

All boards and commissions of the city in existence at the time this charter takes effect, to the extent they are not inconsistent with the provisions of this charter, shall continue to function until abolished or modified by the council in accordance with the provisions of this charter. All boards and commissions which are inconsistent with the provisions of this charter shall be modified or reorganized within ninety (90) days of the effective date of this charter.

### **Section 13.07, Collection of Unpaid Taxes and Assessments**

All taxes and assessments levied or assessed and all charges thereon and all fines and penalties imposed, which are changed under this charter, and which are uncollected at the time this charter becomes effective, shall be collected as if such change had not been made. If a different remedy is provided by this charter, or by any

ordinance or resolution, the remedy shall be deemed cumulative to the remedies under the existing charter.

### **Section 13.08, Correction of Inconsistencies**

All ordinances, resolutions, rules and regulations of the City of Marshall which are inconsistent with the provisions of this charter shall be repealed or amended by action of the city council within one (1) year of the effective date of the implementation of this charter.

### **Section 13.09, Transition Procedure**

If this charter is adopted at the election thereon, the terms of office of the mayor, and each city commissioner, holding office by virtue of election or appointment under the former charter of the city shall terminate on January 2, 1979, at 12:00 noon. The clerk-treasurer, assessor, city attorney, police chief and fire chief, holding office under the former charter, shall continue to serve until the expiration of their terms on June 1, 1979. The persons serving as members of the Board of Public Service under the former charter shall continue as members of the Board of Public Utilities under the new charter until their successors are appointed pursuant to the following sentence. Notwithstanding the provisions of Section 11.03(a) hereof, the council shall, as soon as practicable after the effective date of this charter, appoint five (5) members of the Board of Public Utilities, one (1) of whose terms shall run until July 1, 1980, one (1) whose term shall run until July 1981, one (1) whose terms shall run until July 1, 1982, one (1) of whose term shall run until July 1, 1983, and one (1) of whose term shall run until July 1, 1984. The members of the Board of Review under the former charter shall continue in office until their successors are appointed pursuant to Section 8.06 hereof. All other officers and employees of

*MARSHALL CITY CHARTER*

the city shall continue in their respective offices and employment held at the time this charter becomes effective until their services are lawfully terminated, and shall become subject to the provisions of this charter.

**Section 13.10, Procedure for Amendment**

Upon adoption of the amendments to this charter at the November, 1988 general election, the Board of Public Utilities as provided for in the Charter adopted May 23, 1978 and effective January 2, 1979 is abolished and the functions and authority of such Board of Public Utilities incorporated into the city administration by amendments to such City Charter.

It shall be the responsibility of the City Manager to implement the incorporation and transition of the Department of Public Utilities into a city administrative department under such City Manager's authority. The City Manager shall as soon as practicable after the election and passage of the charter amendment implement the amendments with such transition to be accomplished as of January 1, 1989 upon which date the terms of service of the members of the Board of Public Utilities currently serving shall be abolished.

**RESOLUTION OF ADOPTION**

At a meeting of the Charter Commission of the City of Marshall held March 22, 1978, the following resolution was offered by Commissioner Heric and seconded by Commissioner Yost.

RESOLVED, That the Charter Commission of the City of Marshall does hereby adopt the foregoing proposed city charter 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: Commissioners Carroll, Drake, Heric, Josephson, Marsh, Oades, Whitesell, Yost.

NAYS: Commissioners None

ABSENT: Commissioners Bailey

Signed:

Clerk of the Charter Commission of the City of Marshall

Stephen D. Heric

John E. Carroll

William H. Josephson

John E. Marsh

Ruth Oades

Ronald A. Yost

Thomas W. Whitesell

Gladys V. Bailey

Louise A. Drake

*MARSHALL CITY CHARTER*

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.

**STATE OF MICHIGAN, County of Calhoun, ss:**

Richard Watkins, City Clerk-Treasurer and clerk of the charter commission of the City of Marshall, being duly sworn, says that at an election duly called and held in the City of Marshall, on August 3, 1976, the following named persons were duly elected as a commission to revise the charter of the City of Marshall, namely: John E. Carroll, David B. Davis, Stephen D. Heric, Norman Holt, William H. Josephson, John E. Marsh, Ruth Oades, Thomas W. Whitesell, and Ronald A. Yost, that Norman Holt and David B. Davis resigned their offices as charter commissioners and were replaced by the Charter Commission with Louise A. Drake and Gladys V. Bailey, that the members of said charter commission met and organized as required by law on the 17<sup>th</sup> day of August 1976, that Stephen D. Heric was, at that meeting, elected chairman of the charter commission, and by the foregoing resolution, which resolution and the charter to which it is attached is in each case a true and correct copy thereof, and that the said charter commission directed that said charter be presented to the electors of the City of Marshall in accordance with the requirements of the laws of the State of Michigan which provide therefore.

Date: March 23, 1978

Richard Watkins, City Clerk-Treasurer and Clerk of the Charter Commission of the City of Marshall.

Subscribed and sworn to before me this 23<sup>rd</sup> day of March, 1978.

Notary Public, Calhoun County, Michigan.  
My term expires

December 6, 1979

I do hereby certify that the above and foregoing is a true copy of the proposed charter of the City of Marshall which has this day been approved by the Charter Commission of the City of Marshall.

Dated: March 23, 1978

Richard Watkins, Clerk of the Charter Commission of the City of Marshall

I do hereby approve the above and foregoing charter of the City of Marshall.

Date: May 15, 1978

William G. Milliken  
Governor of the State of Michigan

I, Richard Watkins, City Clerk of the City of Marshall, Calhoun County, Michigan, hereby certify that the foregoing is a true copy of the revised charter of the City of Marshall, duly adopted at an election held on May 23, 1978 and amended at an election held November 8, 1988, in the said City Of Marshall.

*MARSHALL CITY CHARTER*

I further certify that the vote upon the amendment to the said revised charter was as follows:

Yes – 1336

No – 1226

I further certify that the vote was canvassed and approved on the 15<sup>th</sup> day of November 1988.

Richard Watkins  
City Clerk of the City of  
Marshall, Michigan