

# WESTERVILLE CHARTER

EDITOR'S NOTE: The Westerville Charter was adopted by the voters on May 5, 1964. Dates appearing in parentheses indicate that the section was amended on the date given.

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**PREAMBLE**

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We, the people of the City of Westerville in the Counties of Franklin and Delaware and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self-government under the Constitution and laws of the State of Ohio, do adopt this Charter for our Municipality.

**ARTICLE I**

**THE MUNICIPALITY**

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**SECTION 1. NAME.**

The municipal corporation now existing in the Counties of Franklin and Delaware and State of Ohio and known as the City of Westerville, Ohio, (hereinafter sometimes referred to as "Municipality") shall continue to be a body politic and corporate under the name of the City of Westerville.

**ARTICLE II**

# POWERS OF THE MUNICIPALITY

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## SECTION 1. POWERS.

The Municipality shall have all the powers, general or special, governmental or proprietary, that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and laws of the State of Ohio.

## SECTION 2. MANNER OF EXERCISE.

The powers of this Municipality shall be exercised in the manner prescribed in this Charter, or to the extent not prescribed herein, then in such manner as the Council may determine, and when not prescribed in this Charter or determined by Council, such powers shall be exercised in such manner as may now or hereafter be provided by the laws of the State of Ohio.

## SECTION 3. FORM OF GOVERNMENT.

The form of government established by this Charter shall be the Council-Manager Plan. City Council shall constitute the governing body of the Municipality and shall appoint a City Manager who shall be the chief administrative officer of the Municipality.

(Added November 2, 2010)

# ARTICLE III

## COUNCIL

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### SECTION 1. NUMBER AND TERM.

The legislative powers of the Municipality, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven members elected for terms of four years commencing on the first day of the January next following their election.

(Amended November 6, 1973) (Amended November 3, 2020)

### SECTION 2. QUALIFICATIONS.

All members of the Council shall have been residents of the Municipality for at least two continuous years prior to their election, shall be qualified electors of the Municipality, and shall continue to be qualified electors thereof throughout their respective terms of office. Unless otherwise provided in this Charter or by ordinance enacted hereunder, a member of Council shall not hold any other public office, except that of notary public or member of the State or National Guard or a reserve component of the United States. No member of Council shall otherwise be an employee of the Municipality.

Any member of Council who shall cease to possess or who violates any of the qualifications herein provided shall forfeit the office, but failure to maintain such qualifications shall not render void or ineffective any action of Council in which such member has participated.

Any member of Council, who shall be absent from all Council meetings held during a period of 90 consecutive days, or who is absent for a total of one-fourth of the regular meetings during a calendar year, shall be deemed to have forfeited the office and a vacancy shall exist in the Council which shall be filled by the appointment of another person as provided in Section 7 of this Article for the filling of vacancies, except that a vacancy shall not exist and a member of Council shall not forfeit the office if such absence is due to the member's military service for a period exceeding 60 consecutive days. In the event of a member's absence due to military service, the office may be temporarily filled in the manner provided in Section 7 until the member returns from military service or the term of office expires.

Except as provided in the preceding paragraph, the Council shall be the judge of the election and qualification of its own members.

(Amended November 2, 2010)

### SECTION 3. ORGANIZATION.

At the first meeting of each even numbered year the Council shall meet in the Council chamber for the purpose of organization. The Council shall adopt its own rules, regulations and bylaws except as otherwise provided in this Charter.

(Amended November 6, 1973) (Amended November 3, 2020)

### SECTION 4. CHAIR AND VICE-CHAIR OF COUNCIL; DUTIES.

The Council shall at the time of its organization choose one of its members as Chair and another as Vice-Chair. If a vacancy shall occur in the office of Chair or Vice-Chair, a new Chair or Vice-Chair shall be chosen by the Council, provided that any vacancies then existing in Council shall first be filled in the manner provided in Section 7 of this Article. The Chair, or Vice-Chair in the Chair's absence, shall have all the powers, duties, functions, obligations and rights of any other member of Council including the right to vote, shall preside at all meetings of Council, shall appoint the various committees of Council, and shall coordinate the work of the various committees.

(Amended November 2, 2010)

#### **SECTION 5. MAYOR AND VICE-MAYOR; JUDICIAL POWERS.**

At its organizational meeting as provided for in Section 3 of this Article the Council shall elect one of its members as Mayor and may elect one of its members as Vice-Mayor, shall fix the terms of the Mayor and Vice-Mayor which shall not extend beyond the expiration of their respective terms of office or the next succeeding organizational meeting of the Council, whichever is earlier, and shall elect a Mayor and may elect a Vice-Mayor upon the expiration of such terms or a vacancy in such offices. The Mayor shall act as the ceremonial head of the government, shall be recognized as the official head of the Municipality for the purpose of serving civil process, and shall have all the judicial powers granted to a mayor of a municipal corporation by the laws of the State of Ohio. The Mayor shall have the power to vote but shall have no power of veto. The Vice-Mayor shall act as Mayor in the event the Mayor is absent from the Municipality or is unable for any cause to perform the Mayoral duties and said Vice-Mayor while acting as Mayor shall have and exercise the same powers and duties, including judicial, as herein granted to the Mayor. A person holding the position of Chair or Vice-Chair of Council, as provided in Section 4 of this Article, may also be elected as either Mayor or Vice-Mayor, as provided in this Section.

(Amended November 2, 2010)

#### **SECTION 6. REMOVAL.**

The Council may remove any member thereof for gross misconduct, malfeasance in office, conviction of a crime involving moral turpitude, judicial declaration of incompetency, violation of this Charter or persistent failure to abide by the rules of the Council; provided that such removal shall not take place without the affirmative vote of two-thirds of the remaining members elected to Council, nor until the accused member shall have been notified in writing of the charge and given an opportunity to be heard. The accused member shall not vote on the question of removal.

(Amended November 2, 2010)

#### **SECTION 7. VACANCIES.**

A vacancy shall be deemed to occur in the Council upon and as of the time of the presentation of a resignation to the Chair or the Vice-Chair of Council, the death of a Council member, the determination by the Council that a member of Council ceases to possess or has violated any of the qualifications of the office of Council, the removal of a Council member as provided in Section 6 of this Article, or the forfeiture of office as provided in Section 2 of this Article. Any vacancy in the Council shall be filled by a majority vote of the remaining members of the Council for the unexpired term. If the vacancy is not filled within sixty days after it shall have occurred, the power of Council to fill the vacancy shall lapse and the Chair of Council shall fill it by appointment, immediately following the expiration of said sixty days. Any appointee under this section shall qualify under the provisions of this Charter and shall hold office and serve for the unexpired term and until their successor is elected and qualified.

(Amended November 2, 2010)

#### **SECTION 8. COUNCIL MEETINGS.**

The Council shall hold at least one regular meeting in each calendar month during a year provided that it may provide in its rules, regulations or bylaws, or by resolution, one month of each year in which no meeting shall be held.

A majority of the members elected to Council shall constitute a quorum for the transaction of business at any meeting of the Council but a lesser number may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by the rules, regulations and bylaws of the Council. The Clerk of Council shall keep a record of the Council's proceedings in a journal in which the vote on any ordinance, resolution or other measure shall be recorded. All meetings of the Council, except for executive sessions as are permitted by Section 121.22 of the Ohio Revised Code, as now existing and as hereafter amended, shall be open to the public. Each journal and other records of the Council shall, subject to limitations permitted by law, be available for public inspection at all reasonable times.

(Amended 11-6-90.)

#### **SECTION 9. SPECIAL MEETINGS OF COUNCIL.**

Special meetings of the Council may be called as provided by its rules, regulations or bylaws, or by resolution or ordinance of the Council.

In the absence of any such provision, special meetings may be called by a vote of Council taken at any regular or special

meeting thereof or may be called by the Chair, Vice-Chair, City Manager or any three members of the Council. The Clerk of Council, or in the Clerk's absence, incapacity or refusal to act, the City Manager, shall cause notice of each special meeting to be served upon each member of the Council and the City Manager in a manner prescribed by Council not less than twelve hours preceding the time for such special meeting. A copy of such notice shall be distributed in a manner prescribed by Council at least twelve hours prior to such special meeting but failure to so distribute for twelve hours shall not affect the validity of any meeting or any action taken at such meeting. In the event that a special meeting is called by a vote of Council taken at a regular or special meeting from which any member of Council or the City Manager is absent, written notice of such special meeting shall be given each absentee in the manner hereinbefore described. Service of notice of any special meeting shall be deemed conclusively to have been waived by any member of Council or the City Manager who shall be present at such special meeting.

(Amended November 2, 2010) (Amended November 3, 2020)

#### **SECTION 10. CLERK OF COUNCIL.**

The Clerk of Council shall be appointed by the Council and shall serve at its pleasure. The Clerk of Council shall keep in accurate and complete journal of the proceedings of Council and perform such other duties as the Council may require. The Clerk of Council may be a person having employment or appointment with the Municipality. The Council may employ such other employees as it deems necessary for the proper discharge of its duties.

#### **SECTION 11. SALARIES, COMPENSATIONS AND BONDS.**

The Council shall have the power to fix the salaries of its members and of all other officers and employees of the Municipality whether elected or appointed and to establish such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees. The salary of a member of Council shall not be increased during the term of office, nor shall such salary be decreased during such term except with the consent of the member of Council involved.

(Amended November 2, 2010)

#### **SECTION 12. GENERAL ORDINANCES.**

The Council may by ordinance make provision for:

- (a) The procedures for making public improvements and levying assessments, including the procedure for combining two or more public improvements and the levying of assessments therefor in one proceeding if the Council finds that it would be economical and practical to undertake such improvements jointly; provided that such ordinance may permit the Council to take its procedures to levy assessments either under the general law or in accordance with the procedure provided in such ordinance;
- (b) The making, advertising and awarding of contracts including establishing requirements for receipt of competitive bids, schedules for payments on contracts, security and other provisions for bids and for the faithful performance of contracts;
- (c) The procedure for safekeeping of all moneys of the Municipality including the deposit of such moneys in a financial institution or financial institutions and the selection of such financial institutions therefor, and the investment of moneys of the Municipality;
- (d) The requirement of a second signature on behalf of the Municipality on contracts, agreements, conveyances, evidence of indebtedness, warrants, and drafts of the Municipality, and other instruments to which the Municipality is a party.
- (e) Such other general regulations as the Council may deem necessary.

#### **SECTION 13. LEGISLATIVE PROCEDURE.**

- (a) All legislative action shall be by ordinance, resolution or motion.
- (b) Each proposed ordinance or resolution shall be introduced in written or printed form and shall contain only one subject which shall be expressed in its title, provided, however, that general appropriation ordinances may contain the various subjects, accounts and amounts for which moneys are appropriated.
- (c) The vote on the question of passage of each ordinance, resolution and motion shall be taken by yeas and nays and entered on the Journal and no ordinance, resolution or motion shall be passed without concurrence of a majority of all members elected to Council, except as provided in Section 8 of this Article.
- (d) No ordinance or resolution of a general or permanent nature or granting a franchise or creating a right or involving the expenditure of money or the levying of a tax or authorizing the purchase, lease, sale or transfer of property shall be passed unless the title thereof has been read at Council meetings on three different days and with respect to any such ordinance or resolution there shall be no authority to dispense with this rule except by a two-thirds affirmative vote of all members elected to Council taken separately by yeas and nays on each ordinance and resolution and entered on the Journal; provided that the requirement of this paragraph (d) shall not be applicable to any ordinance or resolution determining to submit any question to the electorate or determining to proceed with any election.

(e) No ordinance or resolution or any section thereof, shall be revived or amended unless the new ordinance or resolution contains the entire ordinance, resolution or section as revived or amended, and the ordinance, resolution or section so amended shall be repealed. This requirement shall not prevent the amendment of an ordinance or resolution by the addition of a new section or sections, and in such case the full text of the former ordinance or resolution need not be set forth.

(f) As soon as an ordinance or resolution has been passed, it shall be recorded by the Clerk of Council in a book established and maintained for that purpose.

(g) Council may by ordinance adopt standard ordinances and codes prepared by any public or private department, board, subdivision or agency on such subjects as fire prevention, building construction, fire hazards, fire, plumbing, electrical construction, refrigeration machinery, piping, boiler construction or the maintenance and operation thereof, heating and ventilating, air conditioning and such other matters as the Council may determine to be appropriate for adoption by reference. The ordinance adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance. In such cases, publication of the standard ordinance or code shall not be required, but the Clerk of Council shall make copies of such available for reference by interested persons. If the standard ordinance or code after its adoption by reference by the Council is amended, the Council may adopt the amendment or change by incorporation by reference in an ordinance under the same procedure as is established herein for the adoption of the original standard ordinance or code without the necessity of setting forth in full in the ordinance the provisions either of the amendment or change or of the original ordinance or the standard ordinance or code. (Amended November 3, 2020)

(h) All ordinances and resolutions passed by the Council shall be published in a manner prescribed by Council. As used in this Section "published" shall mean to post copies thereof, or a summary of such adopted legislation in a manner reasonably accessible by and available to the public, as determined by the Council for a period of not less than ten days and to take such other actions as provided by Council. Failure to publish as required by this Section shall not invalidate any ordinance or resolution and, in such event, the Clerk of Council may authorize the legislation to be published at a later date.

(Amended November 2, 2010) (Amended November 3, 2020)

#### **SECTION 14. EFFECTIVE DATES OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution providing for the appropriation of money, an annual tax levy, improvements petitioned for by the owners of the majority of the front footage or of the area of the property benefitted and to be specially assessed therefor, submission of any question to the electorate or the determination to proceed with an election and any emergency ordinance or resolution shall take effect, unless a later time be specified therein, upon its passage. No other ordinance or resolution shall go into effect until thirty days following its passage by the Council.

#### **SECTION 15. EMERGENCY ORDINANCES AND RESOLUTIONS.**

Each emergency ordinance or resolution shall determine that it is necessary for the immediate preservation of the public peace, health or safety and shall contain a statement of the necessity for such emergency. Each emergency ordinance or resolution shall require the affirmative vote of at least two-thirds of the members elected to Council for its enactment; provided that if it fails to receive the requisite two-thirds affirmative vote, but receives the necessary majority for passage as a non-emergency ordinance or resolution, it shall be considered passed as such and shall become effective as provided in Section 14 of this Article. No action of the Council granting any franchise shall ever be passed as an emergency.

#### **SECTION 16. RELATION OF COUNCIL TO CITY MANAGER.**

The Council and its members shall deal solely through the City Manager with respect to any part of the administration of the affairs of the Municipality which are within the scope of the powers, duties and responsibilities of the City Manager.

### **ARTICLE IV**

#### **CITY MANAGER**

#### **ASSISTANT CITY MANAGER**

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#### **SECTION 1. APPOINTMENT, REMOVAL AND QUALIFICATIONS.**

The City Manager shall be appointed by the Council, the affirmative vote of two-thirds of the members elected to Council being necessary for appointment. The tenure of appointment shall be indefinite but shall continue only at the pleasure of Council, the affirmative vote of two-thirds of the members elected to Council being necessary for removal.

The City Manager shall be chosen solely on the basis of professional qualifications and knowledge of the duties, standards and accepted practices of the office. The City Manager need not be a resident of the Municipality at the time of

appointment, but shall within a reasonable time after such appointment establish and maintain residence in the Municipality unless otherwise provided by Council.

(Amended November 2, 2010)

## **SECTION 2. POWERS AND DUTIES.**

The City Manager shall be the chief administrative and law enforcement officer of the Municipality and shall be responsible to the Council for the proper administration of the affairs of the Municipality within the scope of the office's powers, duties and responsibilities. The City Manager shall manage all departments and divisions of the Municipal government and shall have the power and be required to:

- (a) Appoint all officers and employees of the Municipality except those whose appointment is otherwise expressly provided for in this Charter, but subject to approval of Council when required by this Charter;
- (b) Remove, suspend or otherwise discipline any officer or employee of the Municipality not appointed by Council, subject to compliance with the ordinances passed pursuant to Article VI (Merit System) of this Charter;
- (c) Institute proceedings for the removal, suspension or other discipline of officers and employees where ordinances passed pursuant to Article VI (Merit System) of this Charter are applicable;
- (d) Attend all Council meetings with the right to participate in discussions and bring matters to the attention of Council, but without the right to vote;
- (e) Recommend legislation for passage by Council or recommend the repeal of existing legislation;
- (f) Prepare and submit to Council such reports as are requested by it and such other reports as deemed advisable;
- (g) Each year prepare and submit to the Council the proposed annual budget for the next succeeding fiscal year and a five-year forecast of the revenues and expenditures of the Municipality; submit at the end of each fiscal year a report on the finances of the Municipality for that year; and advise Council of the financial condition of the City and its future needs;
- (h) Execute on behalf of the Municipality all contracts, agreements, conveyances, evidences of indebtedness and other instruments to which the Municipality is a party;
- (i) Determine that all terms and conditions imposed in favor of the Municipality or its inhabitants in any franchise, contract or agreement to which the Municipality is a party are faithfully kept and performed;
- (j) Affix to all official documents and instruments of the Municipality the City Manager's seal which shall be the seal of the Municipality, but the absence of the seal shall not affect the validity of any such document or instrument;
- (k) Act as purchasing agent for the Municipality;
- (l) Perform such duties as are conferred or required by this Charter, by any ordinance or resolution of the Council, or by the laws of the State of Ohio.

(Amended November 2, 2010)

## **SECTION 3. ASSISTANT CITY MANAGER.**

The Assistant City Manager shall be appointed by the City Manager subject to confirmation by an affirmative vote of two-thirds of the members elected to City Council. The Assistant City Manager shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council.

The Assistant City Manager shall be chosen solely on the basis of professional qualifications and knowledge of the duties, standards and accepted practices of office. The Assistant City Manager need not be a resident of the Municipality at the time of appointment, but shall within a reasonable time after such appointment establish and maintain residence in the Municipality unless otherwise provided by Council. The Assistant City Manager shall perform such duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

(Added 11-6-90.) (Amended November 2, 2010)

## **SECTION 4. VACANCY, ABSENCE OR INCAPACITY.**

In the event the position of City Manager is vacant or the City Manager is absent, inaccessible or for any reason is unable to perform the duties of the office, the Assistant City Manager shall become the acting City Manager and while so acting shall have and exercise all of the powers, duties and responsibilities of the City Manager. In the event that the City Manager and the Assistant City Manager are both absent, inaccessible or for any reason unable to perform the duties of City Manager, the Director of Finance shall become the acting City Manager and while so acting shall have and exercise all of the powers, duties and responsibilities of the City Manager. In the event that the City Manager, Assistant City Manager, and Finance Director are all absent, inaccessible or for any reason unable to perform the duties of City Manager, the Council, by ordinance, shall designate a person who shall be the acting City Manager and shall provide that such person shall have and exercise all of the powers, duties and responsibilities of the City Manager.

(Amended 11-6-90.) (Amended November 2, 2010)

## **ARTICLE V**

### **ADMINISTRATIVE DEPARTMENTS**

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#### **SECTION 1. GENERAL PROVISIONS.**

There is hereby established a Department of Law, a Department of Finance, a Department of Public Safety, a Department of Public Service, a Department of Public Utilities and a Department of Parks and Recreation. The Department of Public Safety may include but need not be limited to a Division of Police and a Division of Fire which are hereby established; provided that the Division of Police and Division of Fire may be combined by ordinance of Council as the Division of Police and Fire. Each department shall be administered by a Director thereof and the Council shall by ordinance provide for the organization thereof. The Council may by ordinance create additional departments or divisions of departments, abolish existing departments or divisions of departments and combine departments and divisions as it may deem necessary; provided that the Department of Public Safety may not be abolished and that the Departments of Finance and Law may not be abolished or combined. Council may authorize the City Manager to be the head of any one or more departments, except the Department of Law unless admitted to the practice of law in the State of Ohio, and may authorize one person to be the head of two or more such departments.

(Amended November 2, 2010)

#### **SECTION 2. DIRECTOR OF LAW.**

The Director of Law shall be admitted to the practice of law in the State of Ohio and shall be appointed and may be removed by the majority affirmative vote of the members elected to Council. The Director of Law shall serve the City Manager, the Council, the administrative departments, and officers, boards and commissions of the Municipality as legal counsel in connection with Municipal affairs and, subject to the direction of the Council, shall represent the Municipality in all proceedings in court or before any administrative board or body; and shall perform such other duties, consistent with the office, as may be required by this Charter or by ordinance or resolution of the Council.

Council may from time to time provide for such assistants and special counsel to the Director of Law as it shall deem necessary and neither the Director of Law, nor any assistant or special counsel shall be required to reside in the Municipality.

(Amended November 2, 2010)

#### **SECTION 3. DIRECTOR OF FINANCE.**

The Director of Finance shall be the fiscal officer of the Municipality and shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council; shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Finance shall keep the financial records of the Municipality, exhibiting accurate statements of all moneys received and expended, of all property owned by the Municipality, and of all taxes and assessments; shall advise the City Manager and the Council concerning the financial condition of the Municipality and shall examine all payrolls, bills and other claims against the Municipality and shall issue no warrants unless finding that the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefor; shall collect all money due and payable to the Municipality and shall be the custodian of all public money of the Municipality and shall disburse the same as may be required by law or ordinance; shall examine and audit the accounts of all other officers, employees, departments, boards and commissions, and shall assist the City Manager in the preparation and submission of appropriation measures, estimates, budgets and other financial matters; shall perform all other duties now or hereafter imposed on City Auditors and Treasurers under the laws of the State of Ohio and shall perform such other duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of Council, or as directed by the City Manager.

(Amended November 2, 2010)

#### **SECTION 4. DIRECTOR OF PUBLIC SAFETY.**

The Director of Public Safety shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council; shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Public Safety shall be the head of the Division of Police and the Division of Fire, or the Division of Police and Fire if such a combined division is established as provided in Section 1 of this Article, and such other divisions as shall be established and placed within the jurisdiction of the Department of Public Safety by Council by ordinance; shall make all necessary rules and regulations for the government of the Department of Public Safety and the several divisions thereof, subject to the approval of the City Manager, and shall be charged with the duty of enforcing all police, health, safety and sanitary regulations that may be prescribed by ordinance or rules of the Municipality or the laws of the State of Ohio. The

Director of Public Safety shall perform such other duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of Council, or as directed by the City Manager.

(Amended November 2, 2010)

#### **SECTION 5. DIRECTOR OF PUBLIC SERVICE.**

The Director of Public Service shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council; shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Public Service shall have charge of the administration, operation, construction, maintenance and repair of all public works, improvements and buildings, other than Municipally owned utilities or the recreational facilities and parks of the Municipality, and shall perform such other duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

(Amended November 2, 2010)

#### **SECTION 6. DIRECTOR OF PUBLIC UTILITIES.**

The Director of Public Utilities shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council; shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Public Utilities shall have charge of the administration, operation, construction, maintenance and repair of all public utilities belonging to the Municipality, and shall perform such other duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager. Rates to be charged for the products or services of any such public utility shall be fixed by ordinance of Council.

(Amended November 2, 2010)

#### **SECTION 7. DIRECTOR OF PARKS AND RECREATION.**

The Director of Parks and Recreation shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council; shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Parks and Recreation shall operate, supervise and maintain or cause to be maintained all recreational facilities and parks of the Municipality; shall perform such other duties, consistent with the office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

(Amended November 2, 2010)

## **ARTICLE VI**

### **MERIT SYSTEM**

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#### **SECTION 1. MERIT SYSTEM.**

All appointments and promotions of employees in the service of the Municipality shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examination. The Council by ordinance shall provide that the City Manager or an appointee is to be the personnel director of the Municipality and by ordinance shall establish a classified and unclassified service for employees of the Municipality and a Code of Personnel Practices and Procedures to implement the mandate of this section; provided that appointments to and removal from offices, boards, and commissions created by this Charter shall be made in accordance with the specific applicable provision of this Charter and shall not be subject to this Article.

(Amended November 2, 2010)

#### **SECTION 2. PERSONNEL REVIEW BOARD.**

There is hereby created a Personnel Review Board which shall consist of three qualified electors of the Municipality to be appointed by a majority vote of Council for a term of three years.

(Amended November 2, 2010) (Amended November 3, 2020)

#### **SECTION 3. ORGANIZATION OF PERSONNEL REVIEW BOARD.**

The Board shall designate one of its members as Chair and the Council by ordinance may authorize the appointment by said Board of a Clerk who may be a person having other employment with the Municipality.

(Amended November 2, 2010)

#### **SECTION 4. POWERS.**

The Personnel Review Board shall have the power to hear such appeals from administrative determinations made pursuant to said Code of Personnel Practices and Procedures, as may be authorized by said Code, and may have such other powers and duties as may from time to time be given to it by ordinance of Council. The Board shall keep a record of its proceedings which shall be open to public inspection and shall conduct its proceedings in accordance with the ordinances of Council enacted pursuant to this Charter and the rules and regulations of the Board adopted by it pursuant to authority granted by ordinance of Council.

### **ARTICLE VII**

#### **PLANNING COMMISSION**

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##### **SECTION 1. MEMBERSHIP AND ORGANIZATION.**

There is created and established hereby a Planning Commission which shall consist of seven members as hereinafter provided. Six members of the Planning Commission shall be qualified electors of the Municipality and shall be appointed for terms of four years each by a majority vote of the members elected to Council and shall not hold any other Municipal office, appointment, or employment. One member of the Planning Commission shall be a member of the Council selected by it for a term of two years at the Council meeting for organizational purposes. The City Manager or designee shall attend all meetings of the Planning Commission and shall provide such assistance as is requested by the Planning Commission.

(Amended November 4, 1980), (Amended November 2, 2010)

##### **SECTION 2. POWERS AND DUTIES.**

The powers and duties of the Planning Commission shall be established by the Council by ordinance.

(Amended November 2, 2010)

### **ARTICLE VIII**

#### **FISCAL MATTERS, TAXATION, AND DEBT**

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##### **SECTION 1. GENERAL.**

The laws of the State of Ohio relating generally to budgets, appropriations, debts, bonds, and other fiscal matters of the Municipality shall be applicable to the Municipality, except as modified by or necessarily inconsistent with the provisions of this Charter or ordinances of Council enacted pursuant thereto and except when provision therefor is made in the Constitution of the State of Ohio.

##### **SECTION 2. FISCAL MATTERS.**

The City Manager shall, each year, prepare and submit to Council an annual budget and a five-year forecast of the revenues and expenditures of the Municipality. The fiscal year of the City shall begin on the first day of January, and Council shall, on or before December 31, adopt an annual budget and an appropriation ordinance for the ensuing fiscal year.

(Added November 2, 2010)

##### **SECTION 3. LIMITATION ON TAX RATE FOR CURRENT EXPENSES.**

The aggregate amount of taxes that may be levied by the Council without a vote of the people on property assessed and listed for taxation according to value for current operating expenses of the Municipality and for the necessary levies for relief and pension funds of the Municipality shall not exceed in any one year three and one-quarter mills for each one dollar of assessed valuation. The Council shall levy annually outside of the three and one-quarter mill limitation herein above provided, but subject to the ten- mill limitation imposed by the Constitution and laws of the State of Ohio, such taxes as may be necessary to pay the interest on and the principal of all notes and bonds of the Municipality heretofore or hereafter issued. The limitation of this Charter upon the power of Council to levy taxes shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of the State of Ohio, nor shall the authority of Council to submit additional levies to a vote of the people under the authority of the Constitution or laws of the State of Ohio be deemed impaired or abridged by reason of any

provision of this Charter.

#### **SECTION 4. LIMITATION OF DEBT.**

The Municipality shall not incur debt in excess of the limitations imposed by the Constitution and the laws of the State of Ohio.

## **ARTICLE IX**

### **ELECTIONS**

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#### **SECTION 1. TIME OF ELECTIONS.**

Regular Municipal elections shall be held on the first Tuesday after the first Monday of November in each odd numbered year. All candidates for Council shall be nominated by petition and all petitions, ballots, and ballot labels shall be without party mark or designation. The names of all candidates shall be rotated, insofar as possible, in the manner provided by the election laws of the State of Ohio. Except as otherwise provided in this Charter, all elections shall be held and conducted and the results thereof ascertained and certified as provided by the laws of the State of Ohio.

(Amended November 2, 2010)

#### **SECTION 2. NOMINATION FOR COUNCIL.**

Nomination for members of Council shall be made only by petition, signed by qualified electors of the Municipality not less in number than 50. Such petition shall be accompanied by a declaration of candidacy and shall be filed with the election authorities not later than 90 days before the date of the regular Municipal election. No primary election shall be held for Council candidates.

(Amended November 6, 1973)

## **ARTICLE X**

### **INITIATIVE, REFERENDUM AND RECALL**

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#### **SECTION 1. INITIATIVE AND REFERENDUM.**

Ordinances and resolutions may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by Council shall be subject to referendum to the extent and in the manner now or hereafter provided by the Constitution or the laws of the State of Ohio. Initiative and referendum petitions shall be filed with the Director of Finance.

#### **SECTION 2. RECALL.**

The electors shall have the power to remove from office by a recall election any member of Council of the Municipality in the manner herein provided. If any member shall have served six (6) months, a petition demanding removal may be filed with the Director of Finance, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefor and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than two hundred (200) words of the grounds for the removal. Such petition shall be signed by at least that number of electors which equals twenty-five per cent (25%) in number of the electors voting at the last preceding regular Municipal election. A petition is not valid after ninety (90) days from the date of the first signature. The petition shall comply with the general laws of the State, unless otherwise provided by this Charter. Within thirty (30) days after the day on which such petition shall have been filed, or refiled in response to a determination of insufficiency, the Director of Finance shall determine whether or not it meets the requirements hereof. If the Director of Finance shall find the petition insufficient, the Director of Finance shall promptly certify the particulars in which the petition is defective, deliver a copy of such certificate to the person who filed the petition, and make a record of such delivery. Such person shall be allowed a period of ten (10) days after the day on which such delivery was made in which to make the petition sufficient. If the Director of Finance shall find the petition sufficient, the Director of Finance shall promptly so certify to Council, shall deliver a copy of such certificate to the member whose removal is sought, and shall make a record of such delivery. If such member shall not resign within five (5) days after the day on which such delivery shall have been made, an election shall be held at the next primary or general election occurring more than ninety days from the date of the finding of sufficiency of the petition. At such recall election, this question shall be placed upon the ballot: "Shall (naming the member) be allowed to continue as a member of Council?", with the provision on the ballot for voting affirmatively or negatively, and in the event a majority of the vote is negative such member shall be considered as

removed, such office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The member removed at such recall election shall not be eligible for appointment to the vacancy created thereby. If the member is not removed at such recall election, no further recall petitions shall be filed against the member for a period of one (1) year following such election.

(Amended November 2, 2010) (Amended November 3, 2020)

## **ARTICLE XI**

### **GENERAL**

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#### **SECTION 1. ORGANIZATION OF BOARDS AND COMMISSIONS.**

Boards and commissions created in accordance with this Charter shall elect their officers from the appointed members and shall determine their own rules of procedure, except as otherwise provided in this Charter or by ordinances enacted pursuant thereto.

The meetings of all boards and commissions of the City, except for executive sessions as are permitted by Section 121.22 of the Ohio Revised Code, as now existing or as hereafter amended, shall be open to the public. Each board and commission shall, subject to limitations permitted by law, make minutes of its proceedings available to the public.

(Amended 11-6-90)

#### **SECTION 2. FRANCHISES.**

The Council, in addition to all other rights and powers granted to it under the general law, may by ordinance grant permission to any person, firm or corporation to construct and operate a public utility on, across, under or above any public street or ground within this Municipality. It may prescribe in the ordinance the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, and any other terms conducive to the public interest. Such grant may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. Such grant, amendment or renewal shall be for such period of time as the Council may determine, but it shall not be perpetual or exclusive.

No consent of the owner of property abutting on any public street or ground shall be necessary to the effectiveness of any such grant, amendment or renewal. All such grants, amendments or renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for adequacy of service and maintenance and the operation of such utilities with reference to such streets and public grounds, including the right to require such reconstruction, relocation or discontinuance of appliances, plant or equipment used in such street or public grounds as shall, in the opinion of the Council, be necessary in the public interest.

#### **SECTION 3. CONFLICT OF INTEREST AND ETHICS.**

Unless otherwise provided in this Charter or by ordinance of the Council, the laws of the State of Ohio pertaining to conflicts of interest and ethics shall apply to all employees, members of boards and commissions and to all persons elected or appointed to an office of the Municipality.

(Amended November 2, 2010)

#### **SECTION 4. EFFECT OF PARTIAL INVALIDITY.**

A determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

#### **SECTION 5. AMENDMENTS TO CHARTER.**

The Charter may be amended as provided by Article XVIII, Section 9, of the Constitution of Ohio, by the submission of the proposed amendment or amendments to the electors of the Municipality.

#### **SECTION 6. VACANCY IN BOARD OR COMMISSION.**

A vacancy occurring during the term of any member of the Personnel Review Board or the Planning Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

#### **SECTION 7. REMOVAL; BOARD OR COMMISSION.**

The Council may at any time remove any member of the Personnel Review Board or the Planning Commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency; provided,

however, that such removal shall not be effective without the concurrence of two-thirds of all members elected to Council, nor until such member shall have been notified in writing of the charge at least 10 days in advance of any hearing upon such charge by the Council, at which hearing the accused person shall be given an opportunity to be assisted by counsel and to be heard, present evidence, and examine any witness appearing in support of such charge.

(Amended November 2, 2010)

#### **SECTION 8. CHARTER REVIEW.**

In January, 1970 and in January each ten years thereafter, the Council shall appoint five qualified electors of the Municipality holding no other office, appointment or employment in the government of the Municipality as members of a Charter Review Commission. Such Commission shall review the Charter of the Municipality, and within six calendar months after such appointment, recommend to Council such alterations, revisions, and amendments, if any, to this Charter, as in its judgment are desirable. The Council shall submit to the electors any such proposed alterations, revisions, or amendments to this Charter in accordance in each instance with the provisions of the Constitution of Ohio. The members appointed to the Charter Review Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.