

CHARTER
OF THE
CITY OF FAIRFIELD, OHIO

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EDITOR'S NOTE: The Fairfield Charter was approved by voters on June 6, 1979. Dates appearing in parentheses following section headings indicate those sections were subsequently amended, added or repealed on the date given.

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CHARTER
OF THE
CITY OF FAIRFIELD, OHIO

PREAMBLE

WE, THE PEOPLE OF THE CITY OF FAIRFIELD, in order to assume responsibility for governing ourselves as fully as possible from the restraint of State authority, return government to the local level, give each individual the opportunity for a voice in the government and establish a plan to ensure the health, welfare and quality of life for us and future generations, do adopt this Charter for the City of Fairfield.

ARTICLE I
NAME; BOUNDARIES; FORM OF GOVERNMENT

§1.01 NAME AND BOUNDARY.

The Municipal corporation existing as the City of Fairfield under the general statutes of the State of Ohio shall continue to be a body politic and corporate under the same name under this Charter. The Municipality shall have the same boundaries that exist on the effective date of this Charter, with power and authority to change its boundaries and annex territory in the manner authorized by the laws of Ohio.

§1.02 FORM OF GOVERNMENT.

The Municipal government provided for by this Charter shall be known as the "Council-Manager Plan". (Amended 6-8-82)

ARTICLE II
CORPORATE POWERS

§2.01 POWERS GRANTED.

The City shall have all the powers that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and laws of Ohio. Title to all property shall be taken in the name of the Municipality.

§2.02 EXERCISE OF POWERS.

All powers shall be exercised in the manner prescribed in this Charter, or if not so prescribed, in the manner provided by ordinance or resolution of Council. When not prescribed in this Charter or by ordinance or resolution, then the powers shall be exercised in the manner provided by the laws of Ohio until Council provides a different manner of exercising the powers.

§2.03 CONSTRUCTION OF POWERS.

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 powers stated in this Article.

§2.04 INTERGOVERNMENTAL COOPERATION.

(A) In carrying out any lawful function or power of the City, the Council may, by a majority vote of its members, authorize the execution of contracts or in any other manner provide for cooperation or joint action, between the City and other governmental units or agencies thereof, whether at the State, federal or local level.

(B) The powers granted by this section shall be liberally construed to authorize intergovernmental cooperation, but shall not authorize the avoidance of the provisions of this Charter concerning taxation or initiative or referendum.

ARTICLE III THE COUNCIL

§3.01 POWERS OF COUNCIL.

All powers of the City shall be vested in the Council except as otherwise provided by this Charter, the Constitution or the laws of Ohio. The Council shall provide for the exercise of the powers of the City as provided in Section 2.02 of this Charter. The Council shall also provide for the performance of duties and obligations imposed on the City by law to the extent such duties and obligations do not conflict with this Charter or ordinances or resolutions adopted by the Council. The establishment of rates for public utilities shall be a power of the Council. The Council shall have authority to retain an independent certified public accountant or firm to audit some or all of the records and accounts of the City. (Amended 6-8-82)

§3.02 COMPOSITION OF COUNCIL; TERM OF OFFICE.

The Council shall consists of seven members. Three members shall be elected from the City at large. Four members shall be elected from wards or districts of the City. Members of Council shall hold office for terms of four years commencing on the first day of January following their election. (Amended 11-5-96)

§3.03 WARDS, DETERMINATION AND REAPPORTIONMENT.

(A) The existing ward boundaries in effect on the effective date of this Charter shall remain in effect until changed as provided in this Charter.

(B) No later than the 15th day of January, 1981 and every five years thereafter, or at any other time in order to provide substantially equal population in each ward, the Council shall, by motion, appoint a Ward Boundary Review Commission consisting of either three or five electors of the City. No more than two-thirds of the Commission's membership shall be registered to vote in the primary of the same political party. The Commission shall study the need to reapportion the City's four wards and shall report its findings and recommendations no later than twelve months after their appointment. The report shall be filed with the Clerk of Council, and shall be in the form of a proposed ordinance or resolution, approved as to form by the Director of Law. The Council shall have sixty days after the report is filed with the Clerk of Council to approve or reject the report submitted by the Commission by the passage of the ordinance or resolution proposed by the Commission or the passage of an appropriate ordinance or resolution rejecting the report. If the Council shall reject the report of the Commission, the Council shall reapportion the City's four wards by the passage of an ordinance or resolution within one hundred eighty days after the date of the filing of the Commission's report with the Clerk of Council. If the Council rejects the report of the Commission but fails to reapportion the wards within one hundred eighty days after the filing of the Commission's report with the Clerk of Council, the ordinance or resolution constituting the report of the Commission shall become effective as fully as if it had been passed by the Council. Any ordinance or resolution reapportioning wards or adjusting ward boundaries shall become effective immediately, but shall be subject to the initiative and referendum powers of the people, as provided for in this Charter. Any reapportionment or adjustment of ward boundaries under this section shall provide for substantially equal population in each ward.

(C) All wards shall be bounded, as far as practical, by county lines, streets, alleys, avenues, public grounds, canals, watercourses, Municipal boundary lines, center lines of platted streets or railroads, or lot lines of platted subdivisions. Redivision of the City into wards by the Council or the Commission shall not terminate or otherwise affect the unexpired terms of ward Council members; however, at succeeding elections, ward Council members shall be elected from the wards as reapportioned or re-established under this section.

§3.04 COUNCIL PRESIDENT.

The Mayor shall be the President of the Council and shall preside at all meetings of the Council, but shall have no vote on any matter before the Council except in the case of a tie vote among the members of the Council. The Mayor shall appoint the members of the Committees created by the Council. As president of the Council, the Mayor shall have such other powers and duties, if any, as provided by rules adopted by the Council.

§3.05 VICE-MAYOR.

At the first meeting of the Council in January of each even numbered year, the Mayor shall appoint a member of the Council to serve as Vice-Mayor and President Pro-tempore of the Council to serve at the pleasure of the Mayor. During the temporary absence or disability of the Mayor, the Vice-Mayor shall exercise all the powers, duties and functions of the Mayor, provided that the Vice-Mayor shall retain his or her membership on the Council and shall be entitled to vote on all matters coming before the Council, but the Vice-Mayor shall not be entitled to vote to break a tie vote where he or she has previously voted on the issue. (Amended 11-3-98)

§3.06 CLERK OF COUNCIL.

The Council shall appoint, by a majority of its members, a person to serve as the Clerk of Council. The Clerk of Council shall serve at the pleasure of the Council and may be removed without cause by a majority vote of the members of Council. The Clerk of Council shall have those powers, duties and functions as are provided in this Charter, by the Rules of Council, or by ordinance or resolution. Included in the duties of the Clerk of Council shall be the maintenance of a record of proceedings of the Council and a record of all ordinances and resolutions adopted by the Council. The Clerk of Council shall give notice of regular and special meetings of the Council to its members and to the public as may be provided by this Charter, the Rules of Council or by ordinance or resolution. The Clerk of Council shall be subject to the supervision and control of the officers of the Council, and shall hold no other paid employment with the City.

§3.07 COUNCIL MEETINGS.

(A) The Council shall determine, by a majority vote of its members, the frequency, dates and times of regular meetings in order to properly conduct its business. At the beginning of each term, the Council shall determine and publicly announce the times, dates and places of meetings to be held other than at the Municipal building for the sole purpose of obtaining citizen comments and input into the affairs of the City.

(B) Special meetings of the Council may be called, for any purpose by the Mayor or any two members of the Council upon at least twelve hours written notice to the Mayor and each member of the Council, which notice may be served personally or left at the usual place of residence. Members of the Council and the Mayor who attend special meetings of the Council or who are present at another regular or special meeting where a special meeting is announced by the presiding officer need not receive notice of the special meeting. Any member of Council may waive notice of a special meeting of the Council, either prior or subsequent to the meeting. The Council may consider and act on only those matters that are announced at another regular or special meeting of the Council or specifically set forth in the notice or waiver of the special meeting; provided such other matters that are related to the matters so announced or set forth in the notice or waiver of the special meeting may also be considered and acted upon.

§3.08 COUNCIL RULES; ORGANIZATIONAL MEETINGS.

The Council shall be a continuing body, but shall meet in the Council Chamber at its first meeting in January of each even numbered year for the purpose of organization. Council shall adopt, by majority vote of its members, its own Rules which shall not conflict with this Charter and which shall remain in effect until amended, changed or repealed by a majority vote of the members of Council. The Rules shall go into immediate effect unless a later date is specified, and shall not be subject to initiative or referendum. The Rules of Council shall provide: for the number and composition of committees of Council, if any, subject to the Mayor's right to appoint members of Council to its committees, and such other matters as Council shall determine to be necessary for the proper functioning and government of Council. (Amended 11-3-98.)

§3.09 COMPENSATION.

(A) Compensation, salaries, wages, fringe benefits and other terms and conditions of employment of employees and appointed officials of the City shall be established pursuant to ordinances or resolutions adopted by the Council.

(B) The compensation of elected officials of the City shall be established by the Council, by ordinance or resolution, for their ensuing term of office at least thirty days prior to the date fixed under this Charter for candidates to file for such elected office. Such ordinance or resolution shall be deemed to be established under this division if it shall have been passed by the Council, even though it has not yet become effective. The compensation of an elected official shall not be changed during his or her term of office. In the event Council shall fail to establish compensation as required in this section, the compensation in effect for the prior term of office shall remain in effect until changed in accordance with this section. (Amended 11-3-98.)

§3.10 COUNCIL VACANCIES.

Vacancies in the membership of the Council shall be filled for the unexpired term by a majority vote of the remaining members of the Council within sixty days after the vacancy occurs. If the Council shall fail to fill the vacancy within the sixty day period, the power of the Council to fill the vacancy shall lapse and the Mayor shall fill the vacancy by an appointment for the unexpired term.

§3.11 CITIZEN COMMENTS.

The Council shall afford any person desiring to speak an opportunity to speak at any meeting of the Council. The Council shall, by its rules, regulate the frequency, time, place upon the agenda, and rules of conduct of such persons to assure an orderly and efficient consideration of its business. Any person speaking at a meeting of the Council may file written comments pertaining to his or her statement with the Clerk of Council within three days after the meeting at which the statement was made, and such written statement shall be distributed by the Clerk to the members of the Council and shall be retained in an appropriate record or file of the Council for the same period of time as minutes of the Council are retained.

§3.12 COUNCIL INVESTIGATION.

The Council, or a committee thereof when authorized by the Council, may inquire into and investigate the conduct of any officer, department or unit of the City or any City contract, expenditure by the City or any other matter affecting the City. In the exercise of its power granted by this section, the Council shall have the power to compel the attendance and testimony of witnesses and the production of books, papers, and other evidence on its own motion or through the process of any appropriate court or officer thereof; and the Council may adopt ordinances or resolutions imposing penalties for failure or refusal of persons to comply with its lawful orders under this section.

ARTICLE IV LEGISLATIVE PROCEDURE

§4.01 FORM OF ACTION BY COUNCIL.

(A) Unless another form of action or a greater or lesser majority is required or allowed under other sections of this Charter, the Council shall take action on the following matters by way of a motion adopted by a majority vote of the members of the Council:

- (1) To conduct the business of Council;
- (2) In procedural matters;
- (3) For elections conducted among Council members;
- (4) To appoint or remove officers, acting officers and employees of the City, where action by the Council is required under this Charter;
- (5) To approve, confirm or concur in appointments, removals, or disciplinary action taken by the City Manager or other officers of the City, where action of the Council is required under this Charter;
- (6) To adopt, amend, revise or repeal Rules of the Council;
- (7) To authorize any action necessary to the conduct or inquiries or investigations into the affairs or business of the City;
- (8) To direct or request that action be taken or that information be provided by any officer, employee, agent or independent contractor of the City;
- (9) To direct the response to a Citizen Petition under Section 4.14 of this Charter; or
- (10) As otherwise provided for under this Charter.

Where another part of this Charter requires that action be taken in a different manner or by a greater or lesser vote of the Council than provided under this Division (A), such action shall be taken in the manner or by the majority vote of the Council as required or allowed by such other part of this Charter. Any action specified in this Division (A) to be taken by motion may also be taken by ordinance or resolution in the manner provided under this Charter, except in such case the ordinance or resolution shall be effective immediately and shall not be subject to referendum or initiative powers otherwise reserved to the people.

(Amended 6-8-82)

(B) All actions, other than those set forth in Division (A) of this section, shall be taken by ordinance or resolution.

(C) No action of the Council shall be invalidated merely because the form thereof fails to comply with the provisions of this Section 4.01 of the Charter.

§4.02 INTRODUCTION OF ORDINANCES AND RESOLUTIONS.

(A) Any member of Council may introduce any ordinance or resolution, at a regular or special meeting, which shall be in written or printed form and shall contain a concise title.

(B) The Mayor may present a proposed ordinance or resolution to the Council or any committee of the Council at any regular or special meeting of the Council or the committee, and the Council shall, by motion, reply to the Mayor within thirty days indicating the action, if any, the Council contemplates taking on the Mayor's proposal.

§4.03 FORM OF ORDINANCES AND RESOLUTIONS.

(A) The form and style of ordinances and resolutions shall be determined by the Rules of Council.

(B) Each ordinance or resolution shall contain only one subject, which shall be expressed in its title, and if any emergency is declared, the title shall indicate the declaration of the emergency; provided that appropriation ordinances may contain the various subjects, accounts, and amounts for which monies are appropriated, and that ordinances and resolutions which are codified or recodified are not subject to the limitation of containing one subject.

(C) Any ordinance or resolution which amends an existing ordinance, section or part of a section or ordinance, or which amends a section or part of a section of the codified ordinances of the City, shall set out in full the ordinance, section or part of a section, or the section or part of a section of the codified ordinances, to be amended, and shall indicate matter to be omitted by enclosing it in brackets or by striking through the type and shall indicate new matter by underscoring or italics.

(D) Any ordinance or resolution may be amended by motion at any time before its passage by a majority vote of the members of the Council, and the amendment of such an ordinance or resolution shall not require that it receive additional readings. Each amendment to a pending ordinance or resolution proposed before its passage shall be considered and voted upon separately.

(E) This section is directory and is intended to be enforced only by the Council. The failure of the Council to comply with the provisions of this section shall not invalidate any ordinance or resolution passed by the Council or any action taken thereunder.

§4.04 READING ORDINANCES AND RESOLUTIONS.

(A) Each ordinance and resolution shall be read at regular or special meetings of the Council held on three separate days, unless this requirement is dispensed with by vote of not less than two-thirds of the members of the Council.

(B) Each ordinance or resolution shall be read in full at each reading provided for under Division (A) of this section, unless the Council authorizes, by a majority vote of its members, that readings shall be by title only. The Mayor or other presiding officer may require that any ordinance or resolution be read in full at any reading provided for under Division (A) of this section. The failure to read an ordinance or resolution in full or by title only, as required or authorized by this Division (B), shall not invalidate any ordinance or resolution passed by the Council or any action taken thereunder. This Division (B) is directory only and is intended to be enforced only by the Council.

§4.05 VOTE REQUIRED FOR PASSAGE.

(A) Each non-emergency ordinance or resolution shall be passed by a vote of a majority of the members of the Council.

(B) Each emergency ordinance or resolution shall be passed by a vote of at least two-thirds of the members of the Council. If an emergency ordinance or resolution shall fail to receive the required two-thirds vote, but receives the necessary majority vote required for passage as a non-emergency measure, it shall become effective as a non-emergency measure.

(C) Each vote upon the question of passage of an ordinance, resolution or motion shall be taken of the members of the Council, and the vote of each member of the Council shall be entered in the records of the proceedings of the Council.

§4.06 CONTENT OF EMERGENCY LEGISLATION.

(A) Each emergency ordinance or resolution shall determine that the ordinance or resolution is necessary for the immediate preservation of the public peace, health, safety or welfare, or for the urgent benefit or protection of the City or its inhabitants, whether individuals or other entities, and shall contain a statement of the necessity for the emergency in the body of the ordinance or resolution.

(B) Ordinances and resolutions for any of the following purposes shall not be enacted as emergency measure:

- (1) Granting, renewing or extending a franchise;
- (2) Establishing rates to be charged for services by investor owned public utilities or public utilities owned or operated by the City; and
- (3) The enactment, amendment or repeal of any ordinance or resolution: establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations or codes regulating structural standards for the construction, alteration or improvement of buildings and other structures; or eliminating or modifying specific provisions of the civil service laws of Ohio and substituting local provisions or procedures in lieu of the specific provisions of those laws.

§4.07 EFFECTIVE DATE OF LEGISLATION.

(A) Ordinances and resolutions for the following shall take effect immediately upon their passage unless a later time is specified therein:

- (1) Appropriating money;
- (2) Providing for an annual tax levy for current expenses;
- (3) Providing public improvements petitioned for by the owners of a majority of the feet front of the property benefited and to be especially assessed for the cost thereof;
- (4) Submission of any question to the electorate or the determination to proceed with an election;
- (5) Approval of a codification, recodification, or rearrangement of ordinances and resolutions;
- (6) Ordinances and resolutions passed pursuant to Division (A) of Section 4.01 of this Charter; or
- (7) Ordinances or resolutions adopted as emergency measures.

(B) All other ordinances and resolutions shall go into effect thirty days after their passage by the Council.

§4.08 REPEAL OF ORDINANCES OR RESOLUTIONS.

The Council may, by ordinance or resolution, repeal any existing ordinance or resolution or section or part of such ordinance or resolution, or any section or part of a section of the codified ordinances and resolutions of the City. Such repeal may be included in an ordinance or resolution that amends or revises existing provisions or enacts new provisions. This section shall not abrogate the doctrine of repeal by implication.

§4.09 AUTHENTICATION.

Each ordinance and resolution shall be authenticated by the signature of the Mayor and the Clerk of Council. The failure or refusal of those officers to authenticate by signature shall not invalidate an otherwise properly enacted ordinance or resolution.

§4.10 ZONING MEASURES.

(A) Ordinances or resolutions establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations shall be initiated by a member of Council. If the proposed ordinance or resolution changes the zoning classification of any property, written notice of the proposed rezoning ordinance or resolution shall be mailed by the Clerk of Council by first class United States mail at least ten days before the first reading of such ordinance or resolution to the owner(s) of the property proposed to be rezoned, unless such notice is waived by the property owner(s) in writing. Such notices shall be sent to the addresses of owners appearing on the County Auditor's current tax list or to the residence addresses of such owners. The failure of delivery of such notice shall not invalidate any ordinance or resolution. Immediately after the first reading of the ordinance or resolution, the presiding officer of Council shall refer such measure to the Planning Commission for its consideration and recommendation. Within forty-five days after receipt of referral, the Planning Commission shall hold a public hearing on such measure and return to the Clerk of Council the written recommendations of a majority of the members of the Commission. In the event of a tie vote among the members of the Planning Commission regarding a zoning measure, such fact shall be certified in writing by the Chairman of the Planning Commission to the Clerk of Council and such certificate shall constitute a recommendation to the Council that the zoning measure not be adopted by the Council. Unless the Council and Planning Commission have previously held a joint public hearing as hereinafter provided, upon receipt

of the recommendations of the Planning Commission, the Mayor shall set a date for a public hearing before the Council, not earlier than fifteen days after the receipt of the Planning Commission's recommendations. The Clerk of Council shall cause a notice of the public hearing to be published one time in a newspaper of circulation within the City; said publication to be made at least seven days prior to the date of the public hearing. When the amendment, revision, change or repeal involves ten or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first class United States mail at least seven days before the date of the public hearing, to the owners of the property within, contiguous to and directly across the street from the affected parcel or parcels. Such notices shall be sent to the addresses of owners appearing on the County Auditor's current tax list or to the residence addresses of such owners and to other lists as may be required by Council. The failure of delivery of the notice shall not invalidate any ordinance or resolution. The Council and Planning Commission may hold joint hearings on any such ordinance or resolution. In the event of a joint public hearing between the Planning Commission and Council on any such ordinance or resolution, notice as required for public hearings of Council shall be given and no other public hearing before the Planning Commission or Council shall be required. (Amended 11-5-96)

(B) A concurring vote of at least two-thirds of the membership of Council shall be necessary to pass any zoning ordinance or resolution which differs from the written recommendations of the Planning Commission, but in no event shall an ordinance or resolution be passed unless it receives at least a majority vote of the members of Council.

§4.11 ADOPTION OF CODES BY REFERENCE.

Council may adopt or incorporate by reference codes prepared by the State or any department, board or other agency or political subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization pertaining to such matters as the Council determines to be appropriate. The ordinance or resolution adopting any standard ordinance or code shall make reference to the date and source of the standard ordinance or code without reproducing it at length in the ordinance or resolution. Subsequent amendments or changes to standard codes may also be adopted and incorporated by reference. When adopted by reference, publication of the standard ordinance or code shall not be required, but copies of same shall be kept in the office of the Clerk of Council to be available to interested persons.

§4.12 CODIFICATION OF ORDINANCES AND RESOLUTIONS.

By a majority vote of the members of Council, the Council may cause the ordinances and resolutions of the City to be revised, codified, recodified, rearranged, or published in book form, and such action shall become effective immediately upon approval thereof by a majority vote of the members of Council, and may contain new matter therein. The Clerk of Council shall cause a notice of such proposed action by the Council to be published one time in a newspaper of circulation in the City at least seven days prior to Council's action, and no further publication shall be necessary. A current service supplementing the City's codified ordinances and resolutions shall be maintained in the manner prescribed by the Council.

§4.13 PUBLICATION OF ORDINANCES AND RESOLUTIONS.

(A) Unless otherwise provided in this Charter, each ordinance and resolution passed by the Council shall be published by one of the following methods, as determined by the Council:

- (1) Publication of the full text of the ordinance or resolution once in a newspaper determined by the Council to be of circulation within the City; or
- (2) By posting a copy of the ordinance or resolution in a public area of the Municipal building and at least two other publicly owned or operated buildings and by publication of a concise summary of the ordinance or resolution and the location of the postings of the copies thereof once in a newspaper determined by the Council to be of circulation within the City such posting shall be maintained for at least seven days.

(B) The Clerk of Council shall cause each ordinance or resolution passed by the Council to be published or posted, as required by Division (A) of this section, within ten days after it has been passed. Any ordinance or resolution may take effect prior to its publication or posting.

(C) The failure to publish or post an ordinance or resolution as required by Divisions (A) or (B) of this section or an error or omission in such publication or posting shall not invalidate the ordinance or resolution, and in such events the Clerk of Council shall cause the ordinance or resolution to be published or posted as required by Division (A) of this section at a later date.

§4.14 CITIZEN PETITIONS FOR COUNCIL CONSIDERATION.

(A) In addition to other methods preserved by the Constitutions of the United States and the State of Ohio or prescribed by this Charter, the electors of the City may petition the Council in regard to any matter within the powers of the Council in the manner provided by this section. All petitions shall be in written form and shall be signed by not less than fifty electors of the City. The person circulating the petition shall swear or affirm before a notary public or other officer authorized by law to administer oaths that: the signatures on the petition were made in the presence of the circulator and the signature are believed by the circulator to be genuine. The notary or other officer administering the oath or affirmation shall sign and date his or her acknowledgment. The petition shall contain a concise statement of the matter the petitioners want the Council to consider or the action requested of the Council by the petitioners, and the name and address of the person to whom Council shall respond.

(B) The petition shall be filed with the Clerk of Council who shall present it to the Council at its next regular meeting after the petition is filed.

(C) Within thirty days after presentation of the petition to the Council, the Council shall cause a written letter or notice to be mailed, by first class mail, to the person designated in the petition to receive the Council's response at the address shown in such petition, explaining the views of the majority of the Council on the matters set forth in the petition. The Council's response shall be read at the next regular meeting of the Council.

(D) This section imposes no duty upon the Council other than to consider the matters set forth in the petition and to respond thereto in the manner required under Division (C) of this section.

ARTICLE V
THE MAYOR

§5.01 ELECTION, TERM OF OFFICE.

The Mayor shall be elected from the City at large for a term of office of four years commencing on the first day of January following his or her election.
(Amended 11-5-96)

§5.02 POWERS AND DUTIES.

(A) The Mayor shall preside at all meetings of the Council and shall have those powers, duties and functions as provided under Section 3.04 of this Charter. The Mayor shall not have veto power over ordinances or resolutions passed by the Council.

(B) The Mayor shall exercise judicial powers conferred on mayors of municipal corporations by the laws of Ohio.

(C) The Mayor shall be recognized as the head of the City government for ceremonial purposes.

(D) The Mayor shall be the head of the City government for all military purposes in time of war, national emergency, riot or insurrection, or other emergency threatening the safety of life or property within the City; and as such head shall have all the powers, duties and functions granted by the Constitution and laws of Ohio to mayors or other chief executives of municipal corporations, or as granted to the Mayor by ordinances or resolutions adopted by the Council.

(E) The Mayor shall have other powers, duties and functions as provided by this Charter, the Constitution of Ohio, the ordinances and resolutions passed by the Council, and the laws of Ohio to the extent that such laws do not conflict with and are consistent with this Charter and the City's ordinances and resolutions.

§5.03 VACANCY.

(A) In the event of a vacancy in the office of Mayor, the Vice-Mayor shall act as the Mayor, with all the powers, duties and functions of the Mayor, until the Council appoints one of its members to serve for the unexpired term of the Mayor. If no member of Council shall accept the appointment as the Mayor, the Council shall appoint an elector of the City to serve for the unexpired term of the Mayor. The appointment by the Council shall be by a majority vote of its members, and a member who is nominated for such appointment may vote thereon.

(B) The Vice-Mayor shall retain his office as a member of Council and all rights and privileges thereof while acting as Mayor under this section.

(C) The vacancy created in the Council as a result of filling a vacancy in the office of Mayor by the appointment of a Council member as the Mayor shall be filled pursuant to Section 3.10 of this Charter.

ARTICLE VI THE CITY MANAGER

§6.01 APPOINTMENT, REMOVAL AND QUALIFICATIONS.

(A) The Council shall appoint a person possessing the qualifications set forth in Division (B) of this section as the City Manager by a majority vote of the members of the Council. The City Manager shall serve at the pleasure of the Council and may be removed from office, without cause, upon a majority vote of the members of Council.

(B) The City Manager shall be chosen solely on the basis of his or her personal, executive and administrative qualifications. The Council shall be the sole judge of those qualifications. The Council shall consider the adequacy of the training and experience of persons considered for appointment to the office of City Manager. The Council shall determine and publish in such manner as it determines appropriate the criteria it will consider in making the appointment of the City Manager.

(C) The City Manager need not be a resident of the City at the time of his or her appointment. The City Manager shall become a resident of the City within six months after his or her appointment, unless the Council waives the residence requirement by majority vote of its members.

(D) No member of the Council shall be appointed as the City Manager while a member of Council or for two years after vacating a seat on the Council.
(Amended 6-8-82)

§6.02 POWERS, DUTIES AND FUNCTIONS.

(A) The City Manager shall be the chief executive, administrative, and law enforcement officer of the City. The City Manager shall be responsible to the Council for the administration of all of the City's affairs placed in his or her charge by or under this Charter, the ordinances or resolutions of the City and the laws of Ohio. The City Manager shall have the following powers and duties:

- (1) To appoint and promote all department heads, officers and employees of the City in the Classified and Unclassified Service of the City under the Manager's direction, control and supervision, except as may be otherwise provided in this Charter.

- (2) To remove, suspend or discipline department heads, officers and employees of the City who are in the Classified or Unclassified Service of the City under the Manager's direction, control and supervision, subject to the provisions of this Charter pertaining to Civil Service, except as may be otherwise provided in this Charter.
- (3) To direct and supervise the administration of all departments, offices and agencies of the City which are under his or her direction, control and supervision, including the direction, control and supervision of all employees, except as may be otherwise provided in this Charter.
- (4) To attend all Council meetings. The City Manager shall have the right to take part in discussion but may not vote on matters before the Council.
- (5) To see that all laws, provisions of this Charter and ordinances and resolutions of the City, subject to enforcement by the Manager or by officers or employees subject to the Manager's supervision, are faithfully executed.
- (6) To prepare and submit the annual budget and capital program to the Council.
- (7) To submit to 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.
- (8) To make such other reports as the Council may require concerning the operations of Municipal departments, offices, boards, commissions and agencies subject to the Manager's direction and supervision.
- (9) To keep the Council fully advised as to the financial condition and future operating and capital needs of the City and make such recommendations to the Council concerning the affairs of the City as the Manager deems desirable.
- (10) To require reports and information of subordinate officers and employees of the City as he or she deems necessary in the orderly operation of the City, or when requested to do so by the Council or any board or commission of the City.
- (11) To execute, on behalf of the City, all contracts, agreements, bonds, notes, certificates of indebtedness, and other instruments to which the City is a party. To affix to official documents and instruments of the City the City Manager's seal which shall be the seal of the City, but the absence of the seal shall not affect the validity of any document or instrument.
- (12) To perform such other powers, duties and functions as required by this Charter, the ordinances and resolutions of the City and the laws of Ohio, to the extent such laws are not in conflict with and are consistent with this Charter and the City's ordinances and resolutions.
(Ord. 6-8-82; 11-6-84; 11-2-93.)

§6.03 CITY MANAGER MAY ACT AS DEPARTMENT HEAD.

The Council, by a majority vote of its members, may authorize and revoke an authorization allowing the City to serve as the head of any administrative department of the City, except the Departments of Finance, Law, Police or Fire.
(Amended 6-8-82.)

§6.04 ACTING CITY MANAGER.

(A) When there is a vacancy in the office of City Manager, the Council shall appoint a person to serve as Acting City Manager until the Council shall fill the vacancy. The Acting City Manager may hold other office or employment with the City, except the offices of Mayor or member of Council.
(Amended 6-8-82)

(B) The City Manager shall designate, by a letter filed with the Clerk of Council, an officer or employee who is under the Manager's direction, control and supervision to serve as the Acting City Manager when the City Manager is temporarily absent or disabled, provided the Council may, by a majority vote of its members, designate another person to serve as the Acting City Manager if the absence or disability of the City Manager continues for more than fourteen days.

(C) Persons serving as Acting City Manager under this section shall have all the powers, duties and functions of the City Manager.
(Amended 6-8-82)

ARTICLE VII
ADMINISTRATIVE DEPARTMENTS

§7.01 DEPARTMENT OF LAW.

(A) There is hereby created the Department of Law to be headed by a Director of Law. The Director of Law shall be appointed by the Council by a vote of at least a majority of its members. The Director of Law shall serve at the pleasure of the Council and may be removed, without cause, by a vote of a majority of the members of the Council.

(B) The Director of Law shall be an attorney-at-law duly authorized to practice law in the State of Ohio. The Director of Law may serve as legal counsel to any school district, county, township, other municipality, or other political subdivision, district or unit of the federal, State or local governments and may receive additional compensation therefor. The Director of Law may also engage in the private practice of law and may hold other public or private employment.

(C) The Director of Law shall be the legal advisor, prosecuting attorney and counsel for the City, and, subject to the direction of the Council, shall represent the City in all proceedings in Court or before any administrative board or body. The Director of Law shall perform all other powers, duties and functions now or hereafter imposed on City Directors of Law under the laws of Ohio; and shall perform other duties as required by this Charter, by ordinance or resolution, or as directed by the City Manager; provided that such laws, ordinances, resolutions or directions by the Manager are not in conflict with and are consistent with this Charter, and further provided that the directions of the City Manager are not in conflict with and are consistent with the laws of Ohio and the ordinances and resolutions of the City.

(D) The Council may provide for assistants and special counsel to the Director of Law. All assistants shall be appointed by the Director of Law. The Assistants shall be responsible to the Director of Law and when authorized, may exercise all or any part of the powers, duties and functions granted to the Director of Law under this section. Special counsel may be employed by the Council to perform powers, duties and functions authorized by and in the manner provided by the Council.

(E) In the event of a vacancy in the office of Director of Law, the Council may appoint a qualified person to serve as Acting Director of Law until the vacancy is filled. The Director of Law may designate, by a letter filed with the Clerk of Council, a qualified person to serve as Acting Director of Law in the event the Director of Law is temporarily absent or disabled. The Acting Director of Law appointed or designated pursuant to this Division shall exercise the powers, duties and functions of the Director of Law while serving as Acting Director of Law.

(Amended 6-8-82.)

§7.02 DEPARTMENT OF FINANCE.

(A) There is hereby created a Department of Finance to be headed by a Director of Finance. The Director of Finance shall be appointed by the City Manager. The Director of Finance shall serve at the pleasure of the City Manager, and may be removed, without cause, by the City Manager.

(B) The Director of Finance shall be qualified by training or experience to carry out the powers, duties and functions of the office. The City Manager shall be the sole judge of the qualifications of the Director of Finance.

(C) The Director of Finance shall be the chief fiscal officer of the City and shall perform the powers, duties and functions now or hereafter given to City Auditors and Treasurers under the general laws of Ohio to the extent those laws are not in conflict with this Charter. The Director of Finance, in addition to the powers, duties and functions prescribed by this Charter shall have other powers, duties and functions as required by ordinance or resolution, or as directed by the City Manager. The Director of Finance shall keep the financial records of the City; establish accounting systems, financial records and reports used by the offices, departments, divisions, bureaus, boards and commissions of the City; assist the City Manager in the preparation and submission of appropriation measures, estimates, budgets, capital programs and other financial matters; provide full and complete information concerning the financial affairs and status of the City as required by the City Manager or Council; and provide full and complete information and assistance concerning the finances or accounting systems or records of any office, department, division, bureau, board or commission of the City as requested by the City Manager.

The Director of Finance may perform audit functions; however, the Director of Finance shall conduct a review of all proposed expenditures. In performing any audit function, the Director of Finance shall follow generally accepted auditing standards. The Director of Finance may recommend to the Council that circumstances exist which require the retention of an independent certified public accountant or firm to audit some or all of the financial records of the City. The Council shall have the sole discretion, with or without a recommendation by the Director of Finance, to determine whether such independent auditing services shall be secured, except as may be otherwise provided in this Charter. If the audit services of an independent certified public accountant or firm are authorized by the Council, such audit services shall be in addition to any other audit or examination of the City that may be required to be made by an officer of the State of Ohio vested with the power to audit the financial records of municipal corporations under the laws of the State unless the independent audit is accepted by the State officer in lieu of his or her audit.

(Amended 6-8-82; 11-2-93.)

§7.03 DEPARTMENT OF DEVELOPMENT SERVICES.

(A) There is hereby created a Department of Development Services to be headed by a Director of Development Services. The Director of Development Services shall be appointed by the City Manager. The Director of Development Services shall serve at the pleasure of the City Manager, and may be removed, without cause, by the City Manager.

(B) The Director of Development Services shall be qualified by training or experience to carry out the powers, duties and functions of the office, and, if feasible considering applicants for the position and the compensation to be paid, shall possess a degree in urban planning, or its equivalent, or demonstrated satisfactory performance as an urban planner or economic development professional.

(C) The Director of Development Services shall be subject to the direction, control and supervision of the City Manager and shall have the following powers, duties and functions:

- (1) To advise the City Manager on matters affecting the development, redevelopment and renewal of the City.
- (2) To coordinate the work of and to advise the Council, the City Manager, the Planning Commission, and other departments, boards and commissions of the City in the development and modification of comprehensive plans for the City.
- (3) To advise, by way of review and recommendation, the Council, the City Manager, and the City's departments, boards and commissions concerning programs and activities to implement the comprehensive plans of the City.
- (4) To advise and assist the Planning Commission in the exercise of its powers, duties and functions.
- (5) To advise, by way of review and recommendation, the Council, the City Manager, and the City's Departments, Boards and Commissions concerning programs and strategies that enhance a viable, diverse economic base within the City.
- (6) To perform such other powers, duties and functions as are provided under this Charter, the ordinances and resolutions of the City, and as directed by the City Manager, provided the City Manager's directions are not in conflict with and are consistent with this Charter and the City's ordinances and resolutions. (Amended 11-5-02)

§7.04 OTHER ADMINISTRATIVE DEPARTMENTS.

(A) In addition to the administrative offices and departments specifically established and created by this Charter, the administrative offices, (except the offices of City Treasurer and President of Council), departments, divisions, bureaus and other sub-units existing under the laws of Ohio and ordinances and resolutions of the City on the effective date of this Charter shall continue, with their existing powers and duties, until they are abolished, merged, combined or otherwise altered or reorganized by an ordinance or resolution adopted by the Council.

(B) Each office, department, division, bureau or other sub-unit shall be organized and have those powers, duties and functions as are provided: under this Charter; under the ordinances or resolutions of the City; and under the laws of Ohio to the extent such laws do not conflict with the provisions of this Charter or the ordinances and resolutions of the City.

(C) Within one year after the appointment of the initial City Manager under this Charter, the Council shall, by ordinance or resolution, promulgate a complete structure of organization of the administrative departments and sub-units, other than the Departments of Finance, Law, and Development Services. The organizational structure so provided may, from time to time, be altered, revised or changed by ordinance or resolution. The Council shall, from time to time, specify the powers, duties and functions of each administrative department and sub-unit and provide for their staffing by ordinance or resolution; provided that such powers, duties and functions shall not conflict with and shall be consistent with this Charter.

(D) All administrative departments and sub-units thereof, except the Department of Law, and the personnel therein, shall be subject to the control, direction and supervision of the City Manager, subject to the provisions of this Charter relating to Civil Service. The Director of Law shall have the control, direction and supervision of that department and the personnel therein, including the appointment, promotion, removal, suspension and other disciplining of such personnel, subject to the provisions of this Charter relating to Civil Service.
(Amended 6-8-82; 11-5-02)

§7.05 ACTING DEPARTMENT HEADS.

Unless otherwise provided in this Charter, the City Manager shall appoint acting heads of departments and sub-units thereof that are subject to the direction, control and supervision in the event of a vacancy or the temporary absence or disability of heads of such departments or sub-units, until the vacancy is filled or the temporary absence or disability is removed.
(Amended 6-8-82)

ARTICLE VIII BOARDS AND COMMISSIONS

§8.01 PLANNING COMMISSION.

(A) There is hereby created a Planning Commission consisting of seven members. The Planning Commission's membership shall be comprised as follows:

- (1) One person appointed by a majority vote of the members of the Board of Education of the Fairfield City School District to serve at the pleasure of such Board of Education. In the event such Board of Education shall fail to appoint such member within thirty days after this Charter is effective or a vacancy in such member's office, the Mayor shall appoint a person to serve for one year after which such Board of Education shall appoint the member. The person appointed under this Division (A)(1) may be a member of the Board of Education or an officer or employee of the Fairfield City School District;

- (2) One member shall be appointed by a majority vote of the Council from among the Council's membership to serve at the pleasure of the Council, and such member of Council may be removed from membership on the Planning Commission, without cause, by a majority vote of the members of the Council;
- (3) One member shall be appointed by a majority vote of the members of the Parks and Recreation Board from among its membership to serve at the pleasure of the Board, and who may be removed from membership on the Planning Commission, without cause, by a majority vote of the members of the Parks and Recreation Board;
- (4) Four citizen members, one from each ward of the City, shall be appointed by a majority vote of the members of the Council. Each citizen member shall be an elector of the City and shall, at the time of appointment and during the term, reside within the ward he or she was appointed to represent. Citizen members shall serve for overlapping terms of four years each, except the first members appointed under this Charter shall be appointed so that two shall serve for a term of one year and two shall serve for a term of three years. Thereafter, each citizen member shall serve a term of four years.

(B) The Director of Development Services shall attend all meetings of the Planning Commission and may take part in all discussions of the Commission, but shall not have the right to vote on any matter before the Commission.

(C) The Planning Commission shall have the following powers, duties and functions:

- (1) To authorize plans and maps, and modifications thereof.
- (2) To develop and recommend a comprehensive plan, and modifications thereof, to the Council. The comprehensive plan, and modifications thereto, shall be adopted by ordinance or resolution. A concurring vote of at least two-thirds of the membership of Council shall be necessary to pass any ordinance or resolution adopting the comprehensive plan, or modifications thereto, which differs from the written recommendations of the Planning Commission, but in no event shall such ordinance or resolution be passed unless it receives at least a majority vote of the members of Council.

The comprehensive plan shall consider and provide general goals and objectives for the:

- (a) Location, character and design of streets, alleys, viaducts, bridges, waterways, waterfronts, subways, boulevards, parkways, parks, playgrounds, airports and other public grounds ways, open spaces, buildings and other public property;
- (b) Location and character of public utilities (whether owned by the City or investor owned) for water, wastewater treatment, electric and gas service, transportation, communications and other purposes;
- (c) Preservation and care for historical landmarks, and the design and location of statutory and other works of art to be or which are located on the City's property;
- (d) Development, redevelopment and renewal of the City;
- (e) The use of land and the zoning thereof within the City;

- (f) Subdivision and other land development regulations of the City;
- (g) Exterior design, signs, arrangement, texture and materials for public and private buildings and structures within the City, considering the historical or architectural value and significance of the building or structure and its relationship to the characteristics and features of the surrounding area.

The Council shall implement the comprehensive plan by the adoption of appropriate ordinances and resolutions. The Council shall keep the Planning Commission informed concerning such ordinances and resolutions, and the Planning Commission shall monitor proposed actions of the Council upon its own initiative. In the event the Planning Commission or the Chairman thereof shall determine that any such proposed ordinance or resolution appears to be in conflict with the comprehensive plan, the Chairman of the Planning Commission shall immediately notify the Council in writing that such ordinance or resolution should be referred to the Commission for its review for consistency with the comprehensive plan. Upon receipt of such notice, the President of Council shall immediately refer such ordinance or resolution to the Commission and the Council shall not take further action thereon until it has received and considered the Commission's written recommendations or until a period of thirty days after the referral of the ordinance or resolution to the Commission, whichever, occurs first. A concurring vote of at least two-thirds of the membership of Council shall be necessary to pass any such ordinance or resolution which differs from the written recommendations of the Planning Commission, but in no event shall such ordinance or resolution be passed unless it receives at least a majority vote of the members of Council. The failure of the Council to comply with this division shall not invalidate any ordinance or resolution adopted unless a civil action in an appropriate court is commenced by the Planning Commission, Director of Law or a taxpayer of the City to enjoin Council's action within fifteen days after the passage of the ordinance or resolution. In the event such a civil action shall be commenced, the effectiveness of the ordinance or resolution may be stayed by the court, and in such event, the ordinance or resolution shall not become effective until such civil action is finally resolved by the courts. In reviewing the action of the Council, the courts shall determine if the action is in substantial compliance with the comprehensive plan. If such court determination is in the affirmative, the civil action shall be dismissed. If the court's determination is in the negative, the action of the Council shall be enjoined until the Council's action is in substantial compliance with the comprehensive plan or subsequent revisions to the plan.

This section shall not give the Planning Commission any jurisdiction or control over the power of the Council to levy taxes or issue bonds, notes or certificates of indebtedness, and the validity of such tax levies and bond, note or other debt issues shall not be impaired or adversely affected by this section.

- (3) To act as the Platting Commission of the City and to carry out powers and duties relating to platting as granted to it by the ordinances and resolutions of the City and the general laws of Ohio, to the extent such laws are not in conflict with and are consistent with this Charter and the City's ordinances and resolutions;
- (4) To perform such other powers, duties and functions as provided under this Charter, the ordinances and resolutions of the City, and the laws of the State of Ohio to the extent that such laws are not in conflict with and are consistent with this Charter and the City's ordinances and resolutions.

§8.02 BOARD OF ZONING APPEALS.

(A) There is hereby created a Board of Zoning Appeals consisting of seven members to be determined as follows:

- (1) One member shall be appointed by a majority vote of the Council from among its membership to serve at the pleasure of the Council. Such member may be removed from office on the Board, without cause, by a majority vote of the members of the Council;
- (2) One member shall be appointed by a majority vote of the Planning Commission from among its members to serve at the pleasure of the Planning Commission. Such member may be removed from office on the Board, without cause, by a majority vote of the Planning Commission;
- (3) Five citizen members who shall be electors of the City and who shall be appointed by a majority vote of the Council. Citizen members of the Board shall serve for overlapping terms of five years each, except that the members first appointed under this Charter shall serve for the following terms of office: one member shall serve for a term of one year; one member shall serve for a term of two years; one member shall serve for a term of three years; one member shall serve for a term of four years; and one member shall serve for a term of five years; and thereafter, each member shall serve for a term of office of five years.

(B) The Board of Zoning Appeals shall have those powers, duties and functions as are provided under this Charter, by the ordinances and resolutions of the City and the general laws of Ohio, to the extent those laws are not in conflict with and are consistent with this Charter and the ordinances and resolutions of the City.

§8.03 BOARD OF BUILDING APPEALS.

(A) There is hereby created a Board of Building Appeals consisting of six members to be appointed by the City Manager, subject to confirmation by the Council by a majority vote of its members. Members of the Board shall serve for overlapping terms of office of four years each, except that the members first appointed under this Charter shall serve for the following terms: three shall serve terms of office of two years each and three shall serve terms of office of four years each; and thereafter each member shall serve a four year term of office.

(B) Members of the Board of Building Appeals shall be electors of the City; and, to the extent feasible, one member each shall be appointed from the following occupations or professions: a building contractor, a registered mechanical engineer, a master electrician, a heating engineer, a master plumber, and an attorney-at-law licensed to practice law in Ohio. The builder, mechanical engineer, electrician, heating engineer, and plumber shall, to the extent feasible, have at least five years' experience in the building construction industry. Failure of members of the Board to meet the occupational and experience qualifications as set forth in this division shall not cause a forfeiture of their office nor invalidate any action taken by the Board.

(C) The Board of Building Appeals shall have those powers, duties and functions as provided under this Charter and the ordinances and resolutions of the City.
(Amended 6-8-82.)

§8.04 CIVIL SERVICE.

(A) There is hereby created a Civil Service Commission consisting of three members. Members of the Civil Service Commission shall be electors of the City at the time of their appointment and during their terms of office. Not more than two members of the commission shall be registered to vote in a primary election of the same political party. Members of the Civil Service Commission shall be appointed for overlapping three year terms of office by a majority vote of the members of the Council. The members of the Commission first appointed under this Charter shall be appointed as follows: one member shall be appointed for a one year term; one member shall be appointed for a two year term; and one member shall be appointed for a three year term; and thereafter, each member shall be appointed for a three year term of office.

(B) All compensated positions of the City shall be in the Classified Service of the City, except the following offices and positions which shall constitute the Unclassified Service of the City:

- (1) The Mayor and members of Council;
- (2) The City Manager;
- (3) The Directors of the Departments of Law, Finance and Development Services, and the heads of all other administrative departments, except the Police Chief and Fire Chief (if such position is a full-time compensated position) and the Superintendent of Building Inspection and Zoning;
- (4) Assistant Directors of Law and special legal counsel;
- (5) Members of all Boards and Commissions established by this Charter or by ordinance or resolution;
- (6) The Clerk of Council and other employees of the Council;
- (7) Professional engineers employed by the City;
- (8) Part-time, volunteer and paid-on-call employees of the City;
- (9) Part-time members of the police department and members of any auxiliary police force or unit;
- (10) Secretaries to the City Manager, Mayor, Director of Law, Director of Development Services and Director of Finance;

- (11) The Secretary of each Board and Commission established by this Charter or by ordinance or resolution; provided that if such Secretary holds other employment within the Classified Service of the City, this section shall not exempt such person from the requirement of competitive examination to hold such other employment;
- (12) Persons of exceptional professional or scientific qualifications;
- (13) Consultants and others engaged to provide services as independent contractors;
- (14) Seasonal employees who are not employed for more than one hundred twenty consecutive days or for more than one hundred twenty days in any one year.
- (15) Special categories of employees employed under federal or state programs, as defined and authorized by the Civil Service Commission.
- (16) The Assistant Director of Parks and Recreation.

As used in this division, "part-time" means employment by the City for not more than thirty hours per week, on the average over the period of any one calendar year.

(C) Officers and employees in the Classified Civil Service of the City shall be appointed and promoted pursuant to competitive examinations, to the extent practicable, and shall be dismissed, suspended or otherwise disciplined, for cause only, pursuant to the powers granted by Division (E) of this Section. Officers and employees in the Unclassified Service of the City shall not be appointed or promoted pursuant to competitive examination and shall serve at the pleasure of the appointing authority and may be removed, suspended or otherwise disciplined without cause, except as may otherwise be provided in portions of this Charter applicable to such officers or employees.

(D) The City Manager shall be the appointing authority with the power to appoint, promote, remove, suspend or otherwise discipline:

- (1) All officers and employees in the administrative departments, or sub-units thereof, except the Department of Law, subject to the provisions of this Section 8.04 pertaining to Civil Service;
- (2) Employees of each Board or Commission created by this Charter or by ordinance or resolution, subject to the provisions of this Section 8.04 pertaining to Civil Service. The Secretary of each Board and Commission shall be appointed by the Board or Commission as provided in Section 8.08 of this Charter.

The Director of Law shall be the appointing authority for that department with the power to appoint, promote, remove, suspend or otherwise discipline officers and employees within that department, subject to the provisions of this Section 8.04 pertaining to Civil Service.

(E) The general laws of Ohio pertaining to civil service in general statutory plan cities shall apply to the City under this Charter, except as such laws may conflict with or be inconsistent with the provisions of this Charter; and further provided that the Council may, by ordinance or resolution, upon the recommendation of the Civil Service Commission, eliminate or modify the application of specific provisions of those laws to the City and substitute local procedures or provisions in lieu of the specific provisions of those laws. Such action by the Council shall be taken only after the ordinance or resolution has been considered at meetings held on at least three separate days. Any such ordinance or resolution shall be adopted only upon a vote of three-fourths of the members of the Council. No such ordinance or resolution shall be adopted as an emergency measure.

(F) The Civil Service Commission of the City shall administer the civil service provisions of the general laws of Ohio for the Classified employees of any school district, health district, court or other unit of government to the extent and if required under the general laws of Ohio. The City may receive funds from such other units of government for the services rendered to them. (Amended 6-8-82; 11-6-84; 11-4-86; 11-2-99; 11-5-02)

§8.05 PARKS AND RECREATION BOARD.

(A) There is hereby created a Parks and Recreation Board consisting of seven members to be appointed as follows:

- (1) Five members shall be electors of the City and shall be appointed for overlapping three year terms of office by a majority vote of the members of the Council, provided that the terms of no more than two of such five members shall be for the same three year period and provided further that Council shall appoint at least one elector from each ward of the City from among such five members
(Amended 11-3-98)
- (2) One member shall be appointed by a majority vote of the members of Council from among its membership to serve at the pleasure of the Council, and such member may be removed from membership on the Board, without cause, by a majority vote of the members of the Council;
- (3) One member shall be appointed by the Board of Education of the Fairfield City School District, by a majority vote of its members, to serve at the pleasure of the Board of Education, and such member may be removed from membership on the Board, without cause, by a majority vote of the members of the Board of Education. Any member of the Board of Education or officer or employee of the School District may be appointed as such member of the Parks and Recreation Board. In the event such Board of Education shall fail to appoint such member within thirty days after this Charter takes effect or a vacancy in such member's office, the Mayor shall appoint a person to serve for one year after which such Board of Education shall appoint the member.

(B) Except as may be otherwise provided in this article and Charter, the Parks and Recreation Board shall have the following powers, duties and functions:

- (1) To determine the programs and activities of the City regarding parks and recreation. Such programs and activities and the Department of Parks and Recreation shall be administered, operated, maintained, directed, controlled and supervised by the City Manager;
- (2) The compensation and the number of employees provided for Park and Recreation programs and activities shall be determined by the Council. Upon authorization of the City Manager, employees provided for Park and Recreation programs and activities may be utilized to perform work for the other departments, or sub-units thereof, and boards and commissions of the City;

- (3) The appointment and/or promotion of the Director and Assistant Director of the Department of Parks and Recreation by the City Manager shall be subject to the prior approval of the Parks and Recreation Board.
- (4) To recommend to the Council that the Council submit additional tax levies and bond issues to a vote of the electors to provide for current operating expenses and permanent improvements for parks and recreation purposes. This division shall not limit or expand the Council's power to levy taxes or to issue bonds for parks or recreation purposes;
- (5) To authorize expenditures of moneys and the awarding of contracts for the operation and maintenance of the City's parks and recreation programs as provided by Section 9.02 of this Charter;
- (6) When the City owns or is trustee of property or funds donated to the City for park purposes, such property or funds shall be managed and administered, on behalf of the City, by the Parks and Recreation Board in accordance with the provisions and conditions of the deed of gift, devise, bequest or other instrument making the donation or creating the trust; and the Board shall have, in addition to powers granted by this Charter and the City's ordinances and resolutions, the powers granted to boards of park trustees under Section 755.22 of the Revised Code of Ohio, as it may be amended from time to time, or any successor statute to that Section, to the extent such statutory powers are not in conflict with and are consistent with this Charter;
- (7) To adopt rules and regulations and systems of streets, boulevards, or parkways as the Board believes to be in the best interest of the efficient and orderly use and operation of the City's parks and recreation areas. Such rules and regulations shall be adopted in the same form and manner provided by this Charter for the adoption of ordinances and resolutions by the Council and shall be effective as an ordinance of the City. Copies of such rules and regulations and the proceedings of the Board relative to their adoption shall be filed with and maintained by the Clerk of Council;
- (8) Property under the control of the Board shall not be transferred, or used for any but park or recreation purposes except with the consent of the Board. The Board shall have all other powers conferred upon boards of park commissioners by general laws which are not in conflict with this Charter, but Council may modify such laws and may designate boulevards, streets and highways in the parks and parkways as part of the public street and road system of the City, and give to the City Manager supervision over the construction, repair and maintenance thereof. Such action shall be by ordinance which, unless it is approved by the Board of Park Commissioners, shall require a vote of three-fourths of the members elected to the Council;
- (9) To perform such other powers, duties and functions as conferred on the Board under this Charter or by the ordinances and resolutions of the City.

(C) The Director of Law shall be the legal advisor to the Board, the Director of Finance shall be the chief fiscal officer of the Board, as provided in the provisions of this Charter specifying the powers, duties and functions of the Directors of Law and Finance. The City Manager shall function as, or designate another administrative officer or employee of the City to serve as liaison and coordinator between the Board and the City's other departments or sub-units thereof, boards and commissions.
(Amended 6-8-82; 11-6-84; 8-8-88; 11-2-93.)

§8.06 CHARTER REVIEW COMMISSION.

(A) After the first day of January but before the first day of April of each even numbered year, each member of Council shall appoint, by a writing filed with the Clerk of Council, an elector of the City to serve as a member of the Charter Review Commission. Members of the Commission who are appointed by ward Council members shall, at the time of appointment and during their term, be residents of the ward represented by the member of Council who made the appointment. The seven members so appointed shall constitute the Charter Review Commission hereby created. Members of the Commission shall serve until reappointed or their successors are appointed pursuant to this division.
(Amended 11-3-98.)

(B) The Commission shall meet at such frequency as it may determine to be necessary, provided the Commission shall hold an organizational meeting to select its officers no later than the fifteenth day of May in each even numbered year, and the Commission shall hold at least one meeting annually at which a public hearing is held to receive the comments and recommendations of members of the general public concerning the Charter and its provisions. The Commission shall make recommendations, if any, to the Council for revisions or amendments to the Charter as it shall determine to be appropriate. The Council may submit any amendments or revisions recommended by the Commission to a vote of the electors in the manner provided by the Constitution of Ohio. The Council shall appropriate adequate funds to the Commission to permit it to perform its powers, duties and functions, including amounts required to pay consultants or special legal counsel selected by the Commission.

§8.07 OTHER BOARDS AND COMMISSIONS.

The Council may create, change and abolish other boards and commissions as it determines to be necessary, and may provide for their organization, membership, terms of office of members, powers, duties and functions by ordinance or resolution. The Council shall not have the power to abolish or change the boards and commissions established by this Charter.

§8.08 ORGANIZATION, VACANCIES, EX-OFFICIO MEMBER.

(A) Unless otherwise provided in this Charter, each of the City's boards and commissions, whether created by this Charter or by ordinance or resolution shall:

- (1) Organize by April 30 of each year by electing a chairman, vice chairman and secretary. The chairman and vice chairman shall be members of the board or commission and the secretary may be elected from within or without the membership of the board or commission. The secretary shall keep an accurate and complete record of the proceedings of the board or commission; and shall file a copy of its proceedings with the Clerk of Council for public inspection;
(Amended 11-3-98.)
- (2) Take action by motion, and a majority vote of the members of the board or commission shall be necessary to take action. A majority of the members shall constitute a quorum. All members of boards and commissions shall be electors of the City;
- (3) Adopt rules for the conduct and government of the board or commission, however, the rules shall not conflict with the provisions of this Charter or ordinances and resolutions of the City.

(B) Unless otherwise provided in this Charter, a vacancy during the term of any member of a board or commission created by this Charter or by ordinance or resolution shall be filled for the unexpired term, if any, in the manner authorized for an original appointment; provided that if such appointing authority shall fail to fill the vacancy within thirty days, the Mayor shall fill the vacancy by appointment for the unexpired term, if any. This division shall be subject to applicable provisions of this Charter concerning removal, with or without cause, of members of boards and commissions.

(C) The City Manager, or his or her designated representative, shall be an ex-officio member of all boards and commissions. In such capacity, the City Manager or the designated representative may, but shall not be required to, attend meetings of the board or commission and may participate in discussions on any matter before the board or commission, but the Manager or the designated representative shall not be entitled to vote on any matter before the board or commission. The City Manager, or the designated representative, shall not be counted in determining quorum requirements or the majority required for the board or commission to take action. This Division (C) shall not apply to any board or commission where the City Manager is a regular voting member of the board or commission.
(Amended 6-8-82)

§8.09 COMPENSATION PROHIBITED.

Members of boards and commissions shall not be paid any compensation for service thereon; provided that such members may be reimbursed for their necessary expenses, when authorized by an appropriation or ordinance or resolution passed by the Council. This section shall not prohibit any person who serves on a board or commission by virtue or in connection with another office or position of employment with the City from receiving compensation for such other office or position of employment.

ARTICLE IX
FINANCE, TAXATION AND DEBT

§9.01 GENERAL PROVISIONS.

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds and notes, assessments and other fiscal matters of the City shall be applicable to the City, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefor is made in the Constitution of Ohio. The financial records of the City shall be audited annually either by an independent certified public accountant or firm or by an officer of the State of Ohio vested with the power to audit the financial records of municipal corporations under the laws of the State. The Council shall not levy a tax on income in excess of one percent without having obtained the approval of the rate in excess of one percent by a majority vote of the electors of the City voting on the question at a general, primary or special election. (Amended 11-2-93.)

§9.02 PURCHASING AND CONTRACTING PROCEDURES.

(A) The City Manager shall be the contracting officer of the City, and shall award all contracts and orders and make all purchases on behalf of the City; provided that the Parks and Recreation Board shall first authorize expenditures of money, the awarding of contracts or orders, or the making of purchases relative to the City's parks or recreation programs. The authorization of that Board may be given to the City Manager generally or by specific expenditure, contract, order or purchase. Once the Board gives such authorization, the City Manager shall award the contract or order or make the purchase.

(B) When any expenditure or contract is of a nature or in an amount that is more than the amount specified by the laws of Ohio for which work may be accomplished only after advertisement and bidding, such contract or expenditure shall first be authorized and directed by ordinance or resolution passed by Council, and after advertisement once a week for at least two weeks in a newspaper of circulation in the City. If satisfactory bids are received, the City Manager may award a written contract to the lowest and best bidder; provided that the Parks and Recreation Board shall also have previously authorized the contract, if it is relative to the City's parks or recreation programs.

(C) When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contract, they shall be made only upon the order of the City Manager. No such order shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the City Manager on behalf of the City. Alterations or modifications in contracts relative to the parks and recreation programs of the City shall be authorized by the Parks and Recreation Board prior to approval by the City Manager.

(D) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the City Manager unless the Director of Finance or his duly authorized representative shall first certify:

- (1) That the money required for such contract, agreement, obligation or expenditure is in the City's treasury or in the process of collection, and
- (2) That the money has been appropriated by Council for the purpose, and it remains unencumbered.

Said certification as to the availability of funds shall be filed and recorded in the accounting records of the City and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be void and unenforceable against the City unless recognized by Council as a moral obligation.

(E) The City Manager (or Parks and Recreation Board in their authorization to the Manager) shall not divide any order or contract to avoid the requirements of competitive bidding.

(F) The City Manager may, by uniform rule, promulgate administrative regulations to amplify the procedures to be followed by the City in its purchasing and contracting, provided such rules shall not conflict with and shall be consistent with the provisions of this Charter and the City's ordinances and resolutions. (Amended 6-8-82)

ARTICLE X NOMINATIONS, ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

§10.01 NOMINATIONS.

(A) Nominations for the offices of member of Council and the Mayor shall be made only by nominating petition and no primary election shall be held. Nominating petitions shall be signed by not less than fifty electors of the City. The petitions shall be filed with the election authorities not later than four p.m. of the ninetieth day before the day of the regular Municipal election at which such officers are to be elected.

(B) Any provisions of the Ohio Revised Code notwithstanding, nominations for the office of Judge of the Fairfield Municipal Court shall be made only by nominating petition and no primary election shall be held. Nominating petitions shall be signed by not less than fifty electors of the City. The petitions shall be filed with the election authorities not later than four p.m. of the ninetieth day before the day of the regular municipal election at which such judge is to be elected, except that where a vacancy for the unexpired term of a judge of the Fairfield Municipal Court occurs less than ten (10) days prior to the ninetieth day before the day of the regular municipal election for such unexpired term, such nominating petition shall be filed with the election authorities not later than four p.m. of the tenth day after such vacancy occurs. (Ord. 142-99. Passed 8-9-99.)

§10.02 ELECTIONS.

(A) The members of Council and the Mayor shall be elected at non-partisan elections to be held at the times and to be otherwise conducted by the election authorities in the manner provided by the election laws of Ohio, except as otherwise provided in this Charter.

(B) The Council may, by a two-thirds vote of its members, at any time, order a special election by ordinance or resolution, the purpose of which shall be set forth in the ordinance or resolution; and which may include the referral of a proposed or pending ordinance or resolution to the voters for their approval or rejection.

(C) All regular and special elections shall be conducted by the election authorities in the manner and at the times provided by the election laws of Ohio, except as otherwise provided in this Charter. (Amended 6-8-82)

§10.03 INITIATIVE AND REFERENDUM.

(A) Ordinances and resolutions may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by Council and rules and regulations adopted by the Parks and Recreation Board pursuant to Section 8.05(B)(6) of this Charter shall be subject to referendum as provided by the Constitution and laws of Ohio, except:

- (1) Initiative and referendum petitions shall be signed by electors of the City equal in number to not less than ten percent of the number of persons voting at the last previous regular Municipal election; and such petitions shall be filed with the Clerk of Council who shall perform the powers, duties and functions of the Auditor, as specified in the general laws pertaining to initiative and referendum. The Clerk of Council shall determine the validity of such petitions and certify the results thereof within ten days after their filing to the Council and the election authorities.
- (2) Ordinances and resolutions initiated by petition or subjected to referendum shall be submitted to the electors for approval or rejection at the next general or primary election occurring subsequent to sixty days after certification of the text of the ordinance or resolution to the election authorities, unless Council, by a majority vote of its members, submits such ordinances or resolutions for approval or rejection at a special election to be held not earlier than sixty days after certification of the text or the ordinance or resolution to the election authorities.
- (3) All ordinances and resolutions, including emergency measures, shall be subject to referendum, except that the following ordinances and resolutions shall not be subject to referendum:
 - (a) When the Council is required to pass more than one ordinance or resolution to complete the legislation necessary to make and pay for public improvement, the right to referendum shall apply only to the first ordinance or resolution required to be passed and not to any subsequent ordinances or resolutions relating thereto.
 - (b) Ordinances or resolutions providing for appropriations for the current expenses of the City, or for public improvements petitioned for by the owners of a majority of the feet front of the property benefited and to be especially assessed for the cost thereof.
 - (c) Ordinances and resolutions adopted as emergency measures which authorize the issuance of bonds, notes or certificates of indebtedness, or emergency ordinances and resolutions appropriating money, authorizing contracts or enacting police regulations necessitated by fire, natural disasters, riot or acts of war or insurrection.
- (4) Initiative and referendum petitions shall contain or have attached thereto a statement of the names and addresses of not less than three nor more than five electors who signed the petition who are appointed to act as a committee to represent the petitioners before the Council or any other public body or court. Such statement shall be signed by each such committee member accepting the appointment. Vacancies on such committee shall be filled by a majority vote of the remaining members of the committee.

- (5) Ordinances and resolutions proposed by initiative or subjected to referendum, and rules and regulations adopted by the Parks and Recreation Board subjected to referendum, if approved by a majority of the electors voting thereon, shall become effective on the day on which the election authorities certify the official vote on the question.

(B) No ordinance or resolution repealed by Council after the filing of referendum petitions thereon shall be passed, unless by way of initiative petition and election, within six months of the repeal by the Council.

§10.04 RECALL.

(A) The electors shall have the power to remove from office by a recall election any elected official of the City in the manner herein provided.

(B) If the elected official shall have served six months of his term, an elector or electors of the City may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of a named elected official or officials. Not later than thirty days after service of such notice of intent on the Clerk of Council, such persons may file, with the Clerk of Council, a petition demanding the removal of an elected official. Separate petitions shall be filed for each elected official sought to be removed by recall. The Clerk 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 of the grounds for the removal. Such petition shall be signed by at least that number of electors which equals twenty percent in number of the electors voting at the last preceding regular Municipal election; provided, if the petition is filed demanding the removal of a ward Council member, such petition shall be signed by at least that number of electors of the ward which equals twenty percent in number of the electors voting in such ward at the last preceding regular Municipal election.

(C) Within ten days after the day on which such petition is filed, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council shall find the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition and make a record of such delivery. Such person shall be allowed a period of ten days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk of Council shall find the petition sufficient, the Clerk shall promptly so certify to Council and shall deliver a copy of such certificate to the person whose removal is sought within five days, and shall make a record of such delivery.

(D) If the person whose removal is sought shall not resign within five days after the day on which the Clerk's certification shall have been delivered, Council shall thereupon fix a day for holding a recall election, not less than thirty days nor more than forty-five days, after the date of the Clerk's certification of sufficiency to the Council, and shall cause notice of such recall election to be published on the same day of each week, for two consecutive weeks in a newspaper of circulation in the City. At such recall election, this question shall be placed upon the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (naming the office)?", with the provision on the ballot for voting affirmatively or negatively. In the event a majority of the vote is negative, such person shall be removed, his office shall be vacant, and such vacancy shall be filled as provided in this Charter. The person removed at such recall election shall not be eligible for appointment to the vacancy created thereby. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for the remainder of his or her term. In the event that a recall election is ordered, as provided by this section, for a ward Council member, only the electors of the ward which such Council member represents shall be entitled to vote upon the issue of recall.

(E) A removal by recall election shall not bar the person so removed from becoming a candidate for office in future elections.

ARTICLE XI GENERAL PROVISIONS

§11.01 LIMITATIONS ON TERMS OF ELECTED OFFICIALS.

After the effective date of this Charter, no person shall be elected to more than two consecutive terms of office as a member of Council or the Mayor; nor shall any person be elected to more than a total of two consecutive terms of office as a member of Council and the Mayor in combination. (Amended 11-5-96)

§11.02 QUALIFICATIONS OF OFFICERS.

(A) All elected officials and members of boards and commissions shall be qualified electors of the City at the time they file for office or are appointed and during their term of office. The Mayor and members of Council shall also have been qualified electors of the City for a continuous period of at least one year immediately prior to the date they file for office or are appointed. Members of the Council elected from wards shall be residents of the ward for a continuous period of at least one year immediately prior to the date they file for office or are appointed during their term of office.

(B) Except as otherwise provided in this Charter, elected officials and members of boards and commissions shall not hold any other public office during their term of office, except they may, during their term, hold office in political parties or be delegates to political party conventions, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, positions or capacity to further intergovernmental cooperation, and may hold any office or position expressly permitted by this Charter or the laws of Ohio. Elected officials and members of boards and commissions shall not hold a position as an employee of the City during his or her term of office. Additionally, candidates for the office of Mayor or member of Council shall not hold a position as an employee of the City during the period beginning on the date they file for office and continuing until after the official results of the election have been certified by the election authorities or, if elected, continuing until their term of office begins. A member of Council shall not hold any compensated appointive office or employment with the City until one year after he or she vacates the office of Council member. The Mayor shall not hold any compensated appointive office or employment with the City until one year after he or she vacates the office of Mayor, except that this prohibition shall not apply to the person who held the office of Mayor immediately prior to the effective date of this Charter. (Amended 11-7-00.)

§11.03 REMOVAL OF ELECTED OFFICIALS AND MEMBERS OF BOARDS AND COMMISSIONS.

(A) Upon notice to the accused elected official or member of any board or commission, and publication of the notice required by Division (D) of this section, and after an opportunity has been given the accused person to be heard and present defenses, the Council shall remove any elected official or member of a board or commission for any of the following causes by a two-thirds vote of the remaining members of the Council, not counting an accused member of the Council:

- (1) Unexcused absences from any three consecutive regular meetings of the Council, in the case of elected officials, or the board or commission on which any accused person holds membership, in the case of members of boards and commissions. An absence from a regular meeting may be excused by a majority vote of the Council, in the case of members of the Council, or the board or commission on which any accused person serves, in the case of members of boards and commissions, at any time, including the excusing of any absence after action is initiated for the person's removal under this section.
- (2) Failure to possess or maintain the qualifications of the office held by the accused person.
- (3) A determination that the accused person is guilty of misfeasance, malfeasance or nonfeasance in office.
- (4) A determination that the accused person has wilfully violated any provision of this Charter.
- (5) Conviction of any felony or a misdemeanor involving moral turpitude after the date of the election for or during the accused person's term of office.
- (6) Adjudication of the accused person as legally incompetent during his or her term of office.

(B) Upon the removal of any accused person from office pursuant to this section, the office of the offending person shall be vacant, subject to any appeal to and review by an appropriate court, and the vacancy shall be filled as provided in this Charter.

(C) The removal of any official of the City or the occurrence of any of the causes permitting his or her removal shall not invalidate any action of the Council, other elected official or board or commission, in which the official participated. The subsequent removal of a person who fills a vacancy created pursuant to this section, because of the reinstatement, by a court, of the officer removed by the Council shall not invalidate any action of the Council, other elected office, or board or commission in which such person who filled the vacancy participated.

(D) The Council shall be the judge of the election and qualifications of its members, other elected officials and members of boards and commissions, and the grounds for removal from office, and for those purposes shall have the power to subpoena witnesses, administer oaths and require the production of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of circulation in the City at least

one week in advance of the hearing. At such hearing the Law Director, or other special counsel as designated by the Council, shall present evidence and testimony in support of the grounds charged for removal. Such hearing may be adjourned from time to time without the necessity of further publication of notice. Decisions made by the Council under this section shall be subject to review by the Courts on matters of law and whether the Council acted arbitrarily and without probative evidence to support the grounds for removal.
(Amended 11-7-00.)

§11.04 CONFLICTS OF INTEREST, ETHICS, CAMPAIGN FINANCING.

The laws of Ohio pertaining to conflicts of interest, criminal misbehavior, ethics and financial disclosure by municipal officials and employees, and campaign financing and other election practices of candidates for municipal office shall apply under this Charter.

§11.05 SUCCESSION.

The City of Fairfield under this Charter is hereby declared to be the legal successor of the City of Fairfield under the laws of Ohio; and shall have title to all property, real and personal, owned by its predecessor, including all monies on deposit and all taxes or assessments in process of collection, together with all accounts receivable and rights of action. The City shall be liable for all outstanding orders, contracts and debts of its predecessor, and any other obligations for which it may be held liable by any court of competent jurisdiction. All contracts entered into by the City or for its benefit prior to January 1, 1980 shall continue in full force and effect.

§11.06 EFFECT OF CHARTER ON EXISTING LAWS AND RIGHTS.

(A) The adoption of this Charter shall not affect any pre-existing rights of the City, nor any right, liability, pending suit or prosecution, either on behalf of or against the City or any officer thereof, nor any franchise granted by the City, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears in this Charter, all acts of Council of the City, including ordinances and resolutions in effect at the date this Charter becomes effective, shall continue in effect until amended or repealed.

(B) No action or proceeding pending against the City or an officer thereof shall be abated or affected by the adoption of this Charter. All actions or proceedings shall be prosecuted or defended under the laws in effect at the time they were filed.

§11.07 RETIREMENT SYSTEMS.

The laws of Ohio governing the retirement of officers and employees of the City shall be applicable under this Charter.

§11.08 AMENDMENT OF CHARTER.

This Charter may be amended by the voters as provided by the Constitution of Ohio.

§11.09 EFFECT OF PARTIAL INVALIDITY.

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

§11.10 INTERFERENCE WITH ADMINISTRATION.

Except as may be necessary for the Council and other elected officials to conduct their business and the affairs of the City vested in the Council or such other officials under this Charter, the exercise of the Council's legislative powers, and the purpose of making inquiries and investigations pursuant to Section 3.12 of this Charter, the members of the Council and other elected officials of the City shall not give orders to any officer or employee under the supervision of the City Manager. The Council shall hold the City Manager responsible for the administrative affairs of the City under the Manager's control.

§11.11 OPEN MEETINGS.

The general laws of the state of Ohio pertaining to open meetings of public bodies shall apply to the City under this Charter to the extent they are consistent with this Charter.

ARTICLE XII
TRANSITIONAL PROVISIONS

§12.01 EFFECTIVE DATE OF CHARTER.

This Charter shall be submitted to the electors of the City at an election to be held June 5, 1979. If approved by a majority of those voting, the Charter shall take effect from the date the election is certified for the purpose of designating, nominating and electing officers of the City and conducting municipal elections. For all other purposes, this Charter shall take effect on January 1, 1980.

§12.02 EFFECT OF CHARTER ON EXISTING OFFICES.

(A) The persons elected to the offices of members of Council at the November 1979 municipal election shall serve as the members of Council under this Charter with the powers, duties and functions as provided in this Charter.

(B) The person elected as the Mayor at the November 1979 municipal election shall serve as the Mayor under this Charter with the powers, duties and functions as provided in this Charter.

(C) Subsection (C) hereof was repealed pursuant to a special election held on June 8, 1982.

(D) The offices of member of Council, the Mayor and the City Auditor existing under the general statutory plan of government for the City are hereby abolished effective as of January 1, 1980. On and after the effective date of this Charter, January 1, 1980, the offices of member of Council and Mayor shall exist as provided for in this Charter. The office of City Auditor shall exist until the last day of November, 1983 and shall be abolished effective as of December 1, 1983. (6-8-82)

- (E) Any other provisions of this Charter notwithstanding:
- (1) The terms of office of the Mayor and members of Council elected at the November, 1995 regular municipal election shall end on the last day of December, 1997.
 - (2) The four members of Council elected from wards or districts of the City shall be elected to two year terms of office at the November, 1997 regular municipal election and commencing with the November, 1999 regular municipal election and thereafter shall be elected to four year terms of office at the regular November municipal election every fourth year.
 - (3) The Mayor and members of Council elected from the City at large shall be elected to four year terms of office commencing with the November, 1997 regular municipal election and thereafter shall be elected to four year terms of office at the regular November municipal election every fourth year.
 - (4) A person who was elected to the office of Mayor or member of Council at the November, 1995 or November, 1997 regular municipal election may continue to be elected to consecutive terms for the same office as Mayor or member of Council for additional two or four year terms so long as the total consecutive years of such terms in the same office do not exceed eight if the person's most recent term would end at eight consecutive years or ten if the person's most recent term would end at ten consecutive years. A person who was elected to the office of Mayor or member of Council at the November, 1995 regular municipal election may also continue to be elected to additional consecutive terms as the Mayor or a member of Council in combination, provided that using January 1, 1998 as the beginning date, the additional consecutive years of such terms do not exceed eight if the person's most recent term would end at eight consecutive years or ten if the person's most recent term would end at ten consecutive years, and provided further that no person may at any time be elected to terms exceeding eight or ten consecutive years to the same office as Mayor or member of Council as stated above. For purposes of this section, member of Council includes both City at large and ward or district members of Council. The December, 1997 extension of the terms of office of the Mayor and members of Council shall not be included in the calculation of the eight or ten consecutive year period, whichever is applicable under this section, but shall not constitute an interruption of such applicable consecutive year period.
(Amended 11-5-96)

(F) The person who holds the office of Treasurer under the general statutory plan of government for the City on the effective date of this Charter shall continue in office until the last day of December, 1981, and shall continue to exercise the powers, duties and functions of a city treasurer under the general laws of Ohio applicable to the general statutory plan of government for cities in Ohio during such period. If the office of Treasurer of the City shall become vacant, for any reason, during such period, the office of Treasurer shall be abolished upon a declaration of the vacancy by a vote of a majority of the members of the Council. In

any event, the office of Treasurer shall be and is hereby abolished effective December 31, 1981. While such Treasurer's office remains in effect for the period commencing on the effective date of this Charter and ending on the last day of December, 1981, unless sooner terminated by a vacancy, the Director of Finance shall not exercise the powers, duties and functions of the office of Treasurer. Upon the abolition of the office of Treasurer, as provided in this Division, the Director of Finance shall exercise the powers, duties and functions of the Treasurer as provided by Division (C) of Section 7.02 of this Charter.

(G) The offices of President of the legislative authority and City Director of Law existing under the general statutory plan of government for the City are hereby abolished effective as of January 1, 1980.

(H) The offices of Director of Public Service and Director of Public Safety, or any combined office of Director of Public Service and Safety, existing under the general statutory plan of government for the City are hereby abolished effective as of January 1, 1980; provided the person holding the statutory office of Director of Public Service immediately prior to the effective date of this Charter is hereby designated to serve as the Acting City Manager under this Charter until the Council shall appoint a City Manager or an Acting City Manager as provided in Sections 6.01(A) or 6.04(A) of this Charter.

(I) The Planning Commission existing under the general statutory plan of government for the City shall be abolished upon the appointment of citizen members of the Planning Commission, created by this Charter, by the Council pursuant to Division (A)(4) of Section 8.01 of this Charter. Until the Planning Commission under the statutory plan of government is so abolished, it shall exercise the powers, duties and functions conferred by this Charter upon the Planning Commission created by Division (A) of Section 8.01 of this Charter. Upon the abolition of the planning commission under the statutory plan of government, the terms of office of its members shall terminate.

(J) Any Board of Zoning Appeals existing under the general statutory plan of government for the City shall be abolished upon the appointment of citizen members of the Board of Zoning Appeals, created by this Charter, by the Council pursuant to Division (A)(3) of Section 8.02 of this Charter. Until any Board of Zoning Appeals under the statutory plan of government is so abolished, it shall exercise the powers, duties and functions conferred by this Charter upon the Board of Zoning Appeals created by Division (A) of Section 8.02 of this Charter. Upon the abolition of any Board of Zoning Appeals under the statutory plan of government, the terms of office of its members shall terminate.

(K) Any Board of Building Appeals existing under the general statutory plan of government for the City shall be abolished upon the appointment of members of the Board of Building Appeals, created by this Charter, by the City Manager and the confirmation of a majority of such appointments by the Council, pursuant to Division (A) of Section 8.03 of this Charter. Until any Board of Building Appeals under the statutory plan of government is so abolished, it shall exercise the powers, duties and functions conferred by this Charter upon the Board of Building Appeals created by Division (A) of Section 8.03 of this Charter. Upon the abolition of any Board of Building Appeals under the statutory plan of government, the terms of office of its members shall terminate.

(L) The Civil Service Commission existing under the general statutory plan of government for the City shall be abolished upon the appointment of the members of the Civil Service Commission, created by this Charter, by the Council pursuant to Division (A) of Section 8.04 of this Charter. Until the Civil Service Commission under the statutory plan of government is so abolished, it shall exercise the powers, duties and functions conferred by this Charter upon the Civil Service Commission created by Division (A) of Section 8.04 of this Charter. Upon the abolition of the Civil Service Commission under the statutory plan of government, the terms of office of its members shall terminate.

(M) Any board or commission established pursuant to Chapter 755 of the Revised Code of Ohio existing under the general statutory plan of government for the City shall be abolished upon the appointment of citizen members of the Parks and Recreation Board, created by this Charter, by the Council pursuant to Division (A)(1) of Section 8.05 of this Charter. Until any such board or commission under the statutory plan of government is so abolished, it shall exercise the powers, duties and functions conferred by this Charter upon the Parks and Recreation Board created by Division (A) of Section 8.05 of this Charter. Upon the abolition of any such board or commission under the statutory plan of government, the terms of office of its members shall terminate.

(N) Any other board or commission, not mentioned in Division (I), (J), (K), (L) or (M) of this section, existing under the general statutory plan of government for the City, shall continue in existence with its existing powers, duties and functions under the laws of Ohio and/or the ordinances and resolutions of the City until it shall be changed or abolished pursuant to Section 8.07 of this Charter.

(O) Except as otherwise provided by this Charter, all person holding office at the time this Charter takes effect shall continue in office and in the performance of their duties until other provisions have been made in accordance with this Charter for the performance or discontinuance of the duties of the office. When that provision shall have been made, the term of any officer shall expire and the office shall be abolished. The powers conferred and the duties imposed upon any officer, body, commission, board, department or division of the City under the laws of Ohio or under any Municipal ordinance, resolution or contract in force at the time this Charter takes effect, if the office, body, commission, board, department or division is abolished by this Charter, shall be thereafter exercised and discharged by those upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of Council thereafter enacted. (6-8-82; 11-5-96)

§12.03 CONTINUANCE OF PRESENT EMPLOYEES.

Every employee of the City on January 1, 1980, shall continue in such employment, subject in all respects to the provisions of this Charter and ordinances, resolutions, rules or regulations enacted or promulgated under the Charter.