

Charter

of the
MUNICIPALITY
OF WEST MILTON
OHIO



Submitted to Electors

TUESDAY, MAY 4, 1965

(Amended Nov. 5, 1974)

(Amended Nov. 5, 1991)

(Amended Nov. 3, 2015)

PREAMBLE

We, the people of the municipality of West Milton, Miami County, Ohio, in order to secure for ourselves the benefits of local self-government under the Constitution of the State of Ohio, do adopt this Charter for the government of the municipality of West Milton, Ohio.

TO THE VOTERS OF WEST MILTON, OHIO:

We, the Charter Commission elected by you on May 5, 1964, to write a Charter for our village government, have completed our responsibility and respectfully submit this Charter to you for your affirmative vote of "yes".

We are privileged, in the State of Ohio, to have "Home Rule" which allows municipalities to secure the maximum powers of self-government by the adoption of a Charter. Without a Charter, our village must be operated according to the general laws of the State of Ohio passed by the State Legislature. With a Charter, we are free to vary from these laws to the extent of this Charter and the State Constitution. We believe that the Charter we are submitting for your affirmative vote will give West Milton the most efficient government possible. This Charter has taken several months to prepare with many hours of thought, research and discussion going into its' drafting. Please read it carefully.

This Charter recommends that our Village have the Manager-Council form of government. The biggest weakness in our present government is the lack of a full-time competent administrative head to supervise the daily operation of our Village. We believe that the salary of the new manager can be paid through the savings he will effect by his skilled administration of our village. This year our village will have eight (8) full time employees and an average of seven (7) part time personnel, costing \$62,000.00. Our budget for the year is in excess of \$290,000.00. This is big business, and demands a full time manager. The Board of Public Affairs will be abolished under this Charter with the supervision of the water and sewer facilities placed under the Manager. Council will have the responsibility of hiring the Manager, and he will be responsible to Council. Investigation indicates a trained Manager can be secured at a salary of less than \$7,500.00 per year.

Other provisions in this Charter include:

1. The Village Council will be a seven (7) member body elected at large on a non-partisan ballot. Terms for councilmen will be overlapping to assure continuity in governmental leadership.
2. We will save the expense of a Village primary election with the non-partisan ballot.
3. The Mayor will be elected from the Council by the councilmen.
4. The Council is given no additional taxing authority.
5. This Charter is written so that it can continue in force when we reach sufficient population to change from a village to a city.
6. The Charter can be amended in several ways assuring that all future needs can be met without difficulty.

We urge you to give serious study to this Charter and to cast your vote for better village government. If you truly want the best possible government for our village, vote "yes" for this Charter on May 4, 1965.

Respectfully submitted,

Robert L. Osborne Chairman

Philip J. Crew Vice Chairman

Dorothy W. Stout Assistant Secretary

Fred T. Anderson ... Vice Chairman

Robert L. Pearson Secretary

Mel Adams, Walter C. Anderson, Lawrence E. Barker, Ralph Clinefelter, Bonner Ezell, Forrest Henderson, Charles E. Jay, Ronald K. Minnich, George R. Mote, Dwight L. Scranton.

**REPORTS OF
CHARTER COMMISSIONS,
APPROVED BY THE VOTERS ON
NOVEMBER 5, 1991 AND NOVEMBER 3, 2015**

**TO THE CITIZENS OF THE
MUNICIPALITY OF WEST MILTON, OHIO**

The Charter Review Commissions created by Council having completed their review of the existing Charter, returned their report to the Council, who in turn submitted to the voters of the Municipality via Miami Co. Board of Election. The changes proposed were approved by the Voters of West Milton.

1991 Commission Member submitting their report:

Howard L. DeHart - Chairman
Michael Jones - Vice Chairman
Patricia Grim - Secretary
William G. O'Brien

Christopher M. Gee
Ron Hoblit
Donald R. Hamann
Barry R. Wickline

2015 Commission Member submitting their report:

Chris Long – Chairman
Jason Tinnerman – Vice Chair
Krista Carpenter – Secretary
Michael Coate
Jack Scudmore

Andy Graflin
Robert Herron
Paul Johnson
William O'Brien

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ARTICLE I

NAME AND BOUNDARIES

SECTION 1.01 - NAME AND BOUNDARIES

The present municipality, known as the Village of West Milton, Ohio, shall continue to be a body politic and corporate, under the name of the Village of West Milton, or the City of West Milton, as the population requires, and with the same boundaries with power and authority to change its boundaries and annex other territory in the manner authorized by the general laws of Ohio. (Report of Charter Commission, approved by the voters November 5, 1991)

ARTICLE II

FORM OF GOVERNMENT

SECTION 2.01 - FORM OF GOVERNMENT

The form of government provided under this Charter shall be known as the Council-Manager Plan.

ARTICLE III POWERS

SECTION 3.01 - POWERS OF THE MUNICIPALITY

The municipality shall have all powers possible for a municipality, to have under the constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter.

SECTION 3.02 - CONSTRUCTION

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

SECTION 3.03 - INTERGOVERNMENTAL RELATIONS

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

ARTICLE IV

THE COUNCIL

SECTION 4.01 - NUMBER - ELECTION - TERM

The Council shall consist of seven (7) members elected at large for four (4) year overlapping terms, one of whom shall be the Mayor-Councilmember and one of whom shall be the Vice-Mayor Councilmember, as provided in Section 4.04. All elections of Councilmembers shall be on a non partisan ballot. The terms of Councilmembers shall begin the first Tuesday after January first (1) following their election.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.02 - QUALIFICATION OF MEMBERS

Any qualified elector who has been a resident of the municipality or of territory annexed thereto for a period of one (1) year immediately prior to the date of election and who is not the occupant of an incompatible office under the Federal, State, County, or Municipal Government, shall be eligible to serve as a member of Council. A Councilmember who ceases to be a qualified resident or who accepts and enters upon the performance of duties of an incompatible office shall automatically vacate the position of Councilmember.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.03 - COMPENSATION AND EXPENSES

The Council may change the salary of Councilmembers and the additional compensation paid to the Mayor-Councilmember by ordinance, but no ordinance changing such salary or additional compensation shall become effective until the date of commencement of the terms of Councilmembers elected at the next regular municipal election, provided that such election follows the adoption of such ordinance by at least six (6) months, Councilmembers may receive their actual and necessary expenses incurred in the performance of their duties of office. Nothing in this section shall be construed as prohibiting any Councilmember when so serving, from receiving additional compensation as may be provided for the position of Mayor-Councilmember.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.04 - MAYOR - COUNCILMEMBER

VICE-MAYOR - COUNCILMEMBER - CHAIRPERSON

(A) MAYOR - COUNCILMEMBER - ELECTION - TERM - POWERS - The Mayor Councilmember shall be elected at the regular municipal election every four (4) years beginning in 1993 by direct vote of the people on a non-partisan ballot for a term beginning the first Tuesday after January 1, following their election. The incumbent shall continue until a successor has been qualified and elected for office, but in no case beyond the end of their term. The Mayor Councilmember shall preside at Council meetings when present and shall have no power to veto. The Mayor-Councilmember shall be the ceremonial head of the municipality, but shall exercise no administrative authority. The Mayor-Councilmember shall be recognized as the head of the municipal government for military purposes.
(Report of Charter Commission, approved by the voters November 5, 1991)

(B) VICE-MAYOR-COUNCILMEMBER - ELECTION - TERM - DUTIES - The Vice-Mayor Councilmember shall be elected at the regular municipal election in 1993 for a two (2) year term and beginning in 1995 for four (4) terms thereafter by direct vote of the people on a non-partisan ballot for a term beginning the first Tuesday after January 1, following their election. The incumbent shall continue until a successor has been qualified and elected for office, but in no case beyond the end of their term. The Vice-Mayor-Councilmember shall have and exercise all powers of Mayor-Councilmember during the Mayor-Councilmember's absence.

(Report of Charter Commission, approved by the voters November 5, 1991)

(C) ASSUMPTION OF THE RESPONSIBILITIES OF THE OFFICE OF MAYOR COUNCILMEMBER - In the event of a vacancy in the office of Mayor-Councilmember following the regular municipal-election off993; the Vice-Mayor-Councilmember shall assume the responsibilities of the Mayor-Councilmember, until the next regular and/or special municipal election when a Mayor-Councilmember shall be elected by direct vote of the people to fill the unexpired term: A Mayor-Councilmember elected under this provision shall be sworn into office at the next stated Council meeting.
(Report of Charter Commission; approved by the voters November 5, 1991)

(D) ASSUMPTION OF THE RESPONSIBILITIES OF THE OFFICE OF VICE-MAYOR COUNCILMEMBER- In the event of a vacancy in the office of Vice-Mayor-Councilmember Following the regular municipal election of 1993, the Chairperson of Council shall assume the responsibilities of the Vice-Mayor-Councilmember, until the next regular and/ or special municipal election when a Vice-Mayor-Councilmember shall be elected by direct vote of the people to fill the unexpired term. A Vice-Mayor-Councilmember elected under this provision shall be sworn into office at the next stated Council meeting.

(Report of Charter Commission, approved by the voters November 5, 1991)

(E) CHAIRPERSON OF COUNCIL - SELECTION AND DUTIES - At the first organizational meeting of Council (Re. Section 4.12) following the regular municipal election of 1993, and the

seating of all Councilmembers, the Council shall select a Chairperson from among its own members to serve for a term of two (2) years. The Chairperson shall in the absence of the Mayor Councilmember and Vice-Mayor-Councilmember assume the responsibilities of the office until such time as the absentee returns or the office is declared vacant and filled under the provisions of Section 4.04 (C) or (D). (Report of Charter Commission, approved by the voters November 5, 1991)

(F) RIGHT OF COUNCIL TO FILL VACANCIES - The provisions of Section 4.04 (A) (B) (C) (D) and (E) notwithstanding the Council shall have the option to fill the Council seats as provided by section 4.07 (B). The appointed Councilmembers to serve until the next special and/or regular municipal election and the seating of the newly elected Mayor-Councilmember, Vice-Mayor Councilmember or Councilmembers. Councilmembers who have assumed the office of Mayor Councilmember and/or Vice-Mayor-Councilmember under the provisions of Section 4.04 (C) (D) shall retire to their previously held office and serve for the remainder of their unexpired term. (Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.05 - GENERAL POWERS AND DUTIES

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

SECTION 4.06 - PROHIBITIONS

(A) HOLDING OTHER OFFICE - Except where authorized by this Charter, no Councilmember shall hold any municipal office or employment during the term for which he was elected or appointed to the Council and no former Councilmember shall hold any compensated municipal employment until one (1) year after the expiration of the term for which he was elected or appointed to the Council. (Report of Charter Commission, approved by the voters November 5, 1991)

(B) APPOINTMENTS AND REMOVALS - Other than in the legal exercise of its right to confirm neither the Council nor any of its members shall in any manner dictate the appointment or removal of any municipal administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(C) INTERFERENCE WITH ADMINISTRATION - Except for the purpose of investigations under Section 4.10, the Council or its members shall communicate with municipal officers and employees, who are subject to the direction and supervision of the Manager, concerning their public duties, solely through the Manager. Neither Council nor its members shall give orders to any such municipal officer or employee, either publicly or privately. (Report of Charter Commission, approved by the voters November 5, 1991)

(D) ADMINISTRATIVE CODE AND COUNCIL RULES - No Councilmember shall violate any of the provisions contained within the Council Rules or contained within the Administrative Code. Any such violation shall be grounds for forfeiture of office pursuant to Section 4.07 (A) (7) of this Charter. (Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.07 - VACANCIES, FORFEITURE OF OFFICE

(A) A member of the Council shall be deemed to have vacated his office upon a declaration of the Council that such member shall:

(1) Not possess or has failed to maintain the qualifications to the office of member of Council

as provided in this Charter (Re. Section 4.02);

(2) Have resigned;

(3) Have failed to attend three consecutive regular meetings and/or workshops of the Council, unless any of such absences shall have been excused by a majority vote of the other members of the Council, no later than the next regular Council meeting;

(4) Have died or;

(5) Have been removed from office for malfeasance, misfeasance, or nonfeasance as provided by Federal, State, or Municipal law;

(6) Conviction for or plead guilty to any felony, or any misdemeanor involving moral turpitude, or any theft offense;

(7) Violates any express prohibition of this Charter.

Upon occurrence of any of the events described in Division (A) (1) through (A) (7) of this section, the Council shall declare the office of the affected member of Council to be vacated by a motion adopted by a majority vote of the Council. The Council shall provide written notice of its intention to consider whether to declare a vacancy in the Council to any affected Councilmember accused of conduct which gives rise to his removal for the reason stated in Division (A) (1), (A) (3), (A) (5), (A) (6), or (A)

(7) of this section.

(Report of Charter Commission, approved by the voters November 5, 1991)

(B) FILLING OF VACANCIES

(1) Whenever the office of Councilmember shall become vacant for any reason Council shall cause notice of that vacancy to be published. Vacancy shall not be filled by Council sooner than ten (10) days following publications of the notice of the vacancy. A vacancy in the Council shall be filled for the remainder of the unexpired term, if any, at the next regular and/or special municipal election following not less than one hundred twenty (120) days upon the occurrence of the vacancy, but the Council by a majority vote of all of its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the term takes office. If the Council fails to do so within forty (40) days following the occurrence of the vacancy the Mayor Councilmember shall fill it by appointment. Notwithstanding the requirements that a quorum of the Council consist of four (4) members, if at any time the membership of the Council is reduced to less than four (4) the remaining members by a majority action appoint additional members to raise the membership to four (4). Each Councilmember so appointed shall hold office until the next special and/or regular municipal election for Councilmembers to be elected for the expired term.

(2) When the office of Mayor-Councilmember or Vice-Mayor-Councilmember shall become vacant it shall be filled at the next regular and/or special municipal election for the remainder of the unexpired term. In the event the office of Mayor-Councilmember and Vice-Mayor Councilmember should become vacant at the same time for any reason they shall be filled at the next regular and/or special municipal election as provided by Section 4.04 (A) - (B) for the remainder of the unexpired term.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.08 - JUDGE OF QUALIFICATIONS

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

SECTION 4.09 - MUNICIPAL CLERK

The Council shall appoint an officer of the municipality who shall have the title of Municipal Clerk. The Municipal Clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to the clerk by this Charter or by the Council. Nothing in this Charter or by the Council. Nothing in this Charter shall be construed as preventing the Municipal Clerk being employed or appointed to any other capacities by the Manager.

SECTION 4.10- INVESTIGATIONS

The Council shall have the power to make investigations into the affairs of the municipality and the conduct of any municipal department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for not more than ten (10) days or both.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.11 - INDEPENDENT AUDIT

Council shall have the power to employ a public accountant to make an audit of the financial affairs of the municipality whenever such an audit is deemed necessary by the Council.

SECTION 4.12 - PROCEDURE

(A) MEETINGS

Council shall meet for their first organizational meeting on the first Tuesday after January 1st, following each regular municipal election. At said meeting, the newly elected members shall take the Oath of Office. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor-Councilmember or of four (4) or more members and, whenever practicable, upon no less than twelve (12) hours notice to each member.

(Report of Charter Commission, approved by the voters November 5, 1991)

(B) MEETINGS OF VILLAGE BODIES

(1) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted under this section.

(2) As used in this section:

(a) "Public Body" means any legislative authority or board, commission, committee, agency, authority, or similar decision-making body of the Village of West Milton.

(b) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting. The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under this section.

(4) Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four (24) hours advance notice to the news media that have requested notification, except

in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall immediately notify the news media that have requested notification of the time, place, and purpose of the meeting. The rule shall provide that any person may, upon request and payment of a reasonable fee, obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include; but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(5) The members of a public body may hold an executive session only after a majority of a quorum of the public body determines; by a roll-call vote, to hold such a session and only at a regular or special meeting for the sole purpose of consideration of any of the following matters:

(a) To consider the appointment, employment, dismissal, discipline, promotion, demotion, compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of any elected official for conduct related to the performance of his official duties or for his removal of office. If a public body holds an executive session pursuant to Division 5a of this section, the motion and vote to hold the executive session shall state which one or more of the approved purposes listed in Division 5a of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(b) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest.

(c) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action.

(6) If a public body holds an executive session to consider any of the matters in Divisions 5a through 5c of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those Divisions are to be considered at the executive session.

(7) A resolution, rule or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in Division 5 of this section and considered at an executive session held in compliance with this section.

(8) Enforcement of the provisions of this section may be brought by any manner prescribed by law, including, but not limited to provisions of Ohio Revised Code Section 121.221.

(Report of Charter Commission, approved by the voters November 5, 1991)

(C) VOTING

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four (4) members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and Section 4.07 (B), shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the Council.

(Report of Charter Commission, approved by the voters November 5, 1991)

(D) RULES AND JOURNAL

1. Council shall determine its own rules and order of business;
2. Council shall make no procedural rules in conflict with this Charter;
3. Council shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.13- ACTION REQUIRING AN ORDINANCE

Council action shall be by ordinance or resolution. Ordinances shall prescribe permanent rules for the conducting of the Municipal Government. Resolutions shall be orders of the Council of a special or temporary nature, in addition to other acts required by specific provisions of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any municipal department, office or agency;
 - (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - (3) Levy taxes, except as otherwise provided in Article VII with respect to the property tax levied by adoption of the budget;
 - (4) Grant, renew or extend a franchise;
 - (5) Regulate the rate charged for its services by a public utility;
 - (6) Authorize the borrowing of money;
 - (7) Convey, lease or authorize the conveyance or lease for any land of the municipality;

 - (8) Adopt with or without amendment ordinances proposed under the initiative power;
 - (9) Amend or repeal any ordinance previously adopted;
 - (10) Fix salaries of all elected municipal officials and administrative department heads. Acts other than those referred to in the preceding sentences may be done either by ordinance or by resolution.
- (Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.14 - PROCEDURE FOR PASSAGE OF ORDINANCES AND RESOLUTIONS

(A) FORM

- (1) Each proposed ordinance or resolution shall be introduced in typewriter or printed form, and shall not contain more than one subject, which shall be clearly stated in the title, but general appropriation ordinances shall contain the various subjects and accounts for which monies are to be appropriated. The enactment clause of all ordinances shall be, "The Municipality of West Milton, Ohio hereby ordains". The enactment clause of all resolutions shall be, "Be it resolved by the Municipality of West Milton, Ohio."
 - (2) Any ordinance which repeals or amends an existing ordinance or part of the municipal code shall be set out in full in the ordinance section or sub-section to be repealed or amended and shall indicate matter to be omitted by strikeout type and shall indicate new matter by bold or italic type.
- (Report of Charter Commission, approved by the voters November 5, 1991)

(B) PROCEDURE

- (1) An ordinance may be introduced by any member of Council at any regular or special meeting of Council.
- (2) FIRST READING-Each ordinance brought before council (other than emergency ordinances) shall receive two separate readings on separate days. The first reading shall be in its entirety. Following this first reading by Council, the ordinance shall be published in a newspaper of general circulation within the Municipality of West Milton. The publication shall be at least five (5) days prior to the time advertised for the second reading. The ordinance shall be available for

public inspection at the municipal offices, together with a notation as to the time and place of its consideration for final adoption.

(a) Council shall have the opportunity to discuss generally a proposed ordinance at the time it is introduced. Changes in the proposed ordinance may be agreed upon by the Council at such meetings without prejudice to the valid introduction at that time.

(3) SECOND READING - For the second reading at the time and place so advertised such ordinances shall be read by title only, unless a member of Council present (or member of the public, directly affected by the ordinance) request reading in full. All interested persons shall be given the opportunity to be heard prior to the final vote. After such reading the Council may finally adopt such ordinance, except if an amendment changes it in substance. When an ordinance is amended as to substance it shall not be finally adopted until a notice of the time and place such amended ordinance be further considered. The time shall not be less than five (5) days after publication of the proposed amendment.

(4) FINAL ADOPTION - The affirmative vote of at least four (4) members of Council shall be necessary for final passage of any ordinance unless otherwise provided by this Charter.

(5) EFFECTIVE DATE - Unless the ordinance shall specify a later date, the effective date of any ordinance shall be ten (10) days after adoption except as otherwise provided by the Charter or the Constitution of the State of Ohio.

(6) No ordinance shall be passed on the day on which it shall have been introduced, unless it be declared an emergency measure.

(Report of Charter Commission, approved by the voters November 5, 1991)

(C) RESOLUTIONS

(1) A resolution may be introduced by any member of Council at any regular or special meeting of Council. The resolution shall be read and discussed by all interested persons and may be acted upon at the first reading.

(2) A resolution may be enacted on a formal motion and a majority vote of the members of the Council present unless otherwise provided by this Charter.

(3) A resolution takes effect immediately upon its adoption.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.15 - EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 7.07 (b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

SECTION 4.16 - CODES OF TECHNICAL REGULATION

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

(1) The requirements of Section 4.14 (B) for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulation as well as of the adopting ordinance shall be authenticated and recorded by the Municipal Clerk pursuant to subsection 4.17 (A).

Copies of any adopted code of technical regulation shall be made available by the Municipal Clerk for public reference or for purchase at a reasonable price. (Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 4.17 - AUTHENTICATION AND RECORDING-CODIFICATION - PRINTING

(A) AUTHENTICATION AND RECORDING: The Municipal Clerk shall authenticate by his/her signature and record in full in a properly indexed book kept for that purpose, all ordinances and resolutions adopted by Council.

(Report of Charter Commission, approved by the voters November 5, 1991)

(B) CODIFICATION: Within five (5) years after adoption of this Charter and at least every ten (10) years thereafter, the Council shall provide for the preparation of a general codification of all ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Ohio, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the West Milton Municipal Code. Copies of the Code shall be furnished to city officials, placed in libraries and public offices for free public reference, and made available for purchase by the public at cost.

(Report of Charter Commission, approved by the voters November 5, 1991)

(C) PRINTING OF ORDINANCES AND RESOLUTIONS: The Council shall cause such ordinances and resolutions having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments may be distributed or sold to the public at cost. Following publication of the first West Milton Municipal Code and at all times thereafter the ordinances, resolutions and Charter amendments will be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in, or additions to, the provisions of the Constitution and other laws of the State of Ohio, or the codes of technical regulations and other rules and regulations included in the Code.

(Report of Charter Commission, approved by the voters November 5, 1991)

ARTICLE V MANAGER

SECTION 5.01 - APPOINTMENT-QUALIFICATIONS - COMPENSATION

The Council shall appoint a Manager for an indefinite term and fix the compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. The appointee need not be a resident of the municipality or state at the time of the appointment, but must reside within the municipality within a six (6) month time period.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 5.02- REMOVAL

The Council may remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all its members plus one (1) a preliminary resolution which must state the reason for removal and may suspend the Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five (5) days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may

file with the Council a written reply, to the preliminary resolution, not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal which may be made effective immediately, by affirmative vote of a majority of all its members plus one (1) at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if the Manager has not requested a public hearing, or at any time after the public hearing if the Manager has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 5.03 - RESIGNATION OF THE MANAGER

In the case of voluntary resignation of the Manager, the Council and the Manager shall agree upon the effective date of the resignation.

SECTION 5.04 - ACTING MANAGER

(A) TEMPORARY VACANCY: By letter filed with the Municipal Clerk the Manager shall designate, subject to the approval of the Council, a qualified individual to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another qualified individual to serve until the Manager shall return or his disability shall cease.

(B) RESIGNATION OR REMOVAL: In the event of the resignation or removal of the Manager, the Council shall designate a qualified resident of the municipality to serve until a new Manager is appointed.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 5.05 - POWERS AND DUTIES OF THE MANAGER

The Manager shall be the chief administrative officer of the municipality. He shall be responsible to the Council for the administration of all municipal affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all municipal employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) He shall direct and supervise the administration of all departments, offices and agencies of the municipality, except as otherwise provided by this Charter.
- (3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (5) He shall prepare and submit the annual budget and capital program to the Council.
- (6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the municipality as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of the municipal departments, offices and agencies subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the municipality and make such recommendations to the Council concerning the affairs of the municipality as he deems desirable.

(9) He shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VI ADMINISTRATIVE DEPARTMENTS SECTION

6.01 - GENERAL PROVISIONS

(A) CREATION OF DEPARTMENTS: The administrative functions of the municipality shall be carried on by a Department of Law, Department of Finance, Department of Safety, Department of Service, and such other department as may be created by ordinance after consultation with the Manager.

(B) DIRECTION BY MANAGER: All administrative departments, offices and agencies shall be under the direction and supervision of the Manager, and shall be administered by an officer appointed by the Manager, with the approval of Council, who shall be subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

SECTION 6.02-DEPARTMENT OF LAW

The Department of Law shall be administered by the Director of Law, who shall be an Attorney at Law admitted to practice in the State of Ohio, and in good professional standing. He/she shall perform such duties as are assigned to the office of Solicitor by law, as well as those imposed by the administrative code. He/she shall be appointed by the Manager, with the approval of Council, for an indefinite term of office.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 6.03 - DEPARTMENT OF FINANCE

The Department of Finance shall be administered by the Director of Finance, who shall perform those functions customarily performed by the Auditor and Treasurer under the general laws of Ohio. He/she shall be the fiscal officer of the municipality and shall be responsible for the accounting, collection and custody of public funds, and control of disbursements. He/she shall countersign all bonds and notes issued by the municipality, and shall perform such other functions as may be assigned by ordinance or by order of the Manager. He/she shall be appointed by the Manager, with the approval of Council, for an indefinite term of office.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 6.04 - DEPARTMENT OF SAFETY

The Department of Safety shall be administered by the Director of Safety. He/she shall be responsible for the general supervision of the fire division and police division, and shall perform such other functions relative to fire and police protection as may be assigned by ordinance or by order of the Manager. He/she shall be appointed by the Manager, with the approval of Council, for an indefinite term of office.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 6.05 - DEPARTMENT OF SERVICE

The Department of Service shall be administered by the Director of Service. He/she shall be responsible for the general supervision, custody, care and maintenance of the public buildings, grounds, streets, sewers, municipal utilities, and cemeteries owned by the municipality. He/she shall perform such functions and duties with reference to the service department as may be assigned by ordinance or by order of the Manager. He/she shall be appointed by the Manager, with the approval of Council, for an indefinite term of office.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 6.06 - ADMINISTRATIVE CODE

Subject to the provisions of this Charter, and after consultation with the Manager, the Council shall adopt an administrative code which shall provide in detail the organization of the municipal government, define the powers and duties of each organizational unit, and determine the administrative procedures to be followed. Amendments to and revisions of the administrative code shall be made by the Council after consultation with the Manager. Where the administrative code is silent the officers and employees of the municipality shall have and may exercise all powers and duties provided for similar officers and employees under the laws of the State of Ohio. However, provisions of the administrative code shall supersede those of the general law of the State of Ohio in case of conflict.

SECTION 6.07 - PERSONNEL SYSTEM

(A) COVERAGE: The Personnel System is to be construed to apply to all employees of the municipality except the administrative department head.

(B) MERIT PRINCIPLE: All appointments and promotions of municipal officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(C) PERSONNEL DIRECTOR: There shall be a Personnel Director appointed by the Manager as provided in Section 6.01 (B) who shall administer the personnel system of the municipality.

(D) PERSONNEL BOARD: There shall be a Personnel Board consisting of three (3) members appointed by the Council for terms of three (3) years with the exception that one (1) of the three (3) members first appointed shall be designated by Council to serve a term of one (1) year and one (1) a term of two (2) years. The Council shall fill all vacancies by appointment for the unexpired term. Members of the board shall be qualified electors of the municipality and shall hold no other municipal office. The Personnel Director shall provide necessary staff assistance for the personnel board.

(E) PERSONNEL RULES: The Personnel Director shall prepare personnel rules. The Manager shall refer such proposed rules to the Personnel Board which shall report to the Manager its recommendations thereon. When approved by the Manager, the rules shall be proposed to the Council, and the Council may by ordinance adopt them with or without amendment. These rules shall provide for:

- (1) The placement of all municipal employees into competitive and noncompetitive positions; provided the members of the Fire and Police Divisions be placed in the competitive class, except the Fire Chief and Police Chief.
- (2) The classification of all competitive municipal positions, based on the duties, authority, and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (3) A pay plan for all municipal positions;
- (4) Methods for determining the merit and fitness of candidates for appointment or promotion;
- (5) The policies and procedures regulating reduction in force and removal of employees;
- (6) The hours of work, attendance regulations and provisions for sick and vacation leave;
- (7) The policies and procedures governing persons holding provisional appointments;
- (8) The policies and procedures governing relationships with employee organizations;
- (9) Policies regarding in-service training programs;
- (10) Grievance procedures, including procedures for the hearing of grievance sby the Personnel Board, which shall render decisions based on its findings to the Manager and Council with a copy to the aggrieved employee; and
- (11) Other practices and procedures necessary to the administration of the municipal personnel system.

ARTICLE VII
FINANCIAL PROCEDURES
SECTION 7.01- FISCAL YEAR

The Fiscal, Budget and Accounting Year of the municipal government shall be the calendar year.

SECTION 7.02 - SUBMISSION OF BUDGET AND BUDGET MESSAGE

(A) ANNUAL BUDGET: On or before the first Council meeting in October of each year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message. For the purpose of submitting the budget the Manager shall obtain from the head of each department or agency of the municipality, plans for the work to be undertaken by such department during the next fiscal year, together with estimates of the cost of performing such work. The Department of Finance shall supply him with estimates of available revenue. From this data, the Manager shall prepare the consolidated estimates for the annual budget. The Council shall consider these estimates and adopt them, with or without amendments, as the budget of the municipality for the ensuing year and transmit them to the County Budget Commission in the form required by law. (Report of Charter Commission, approved by the voters November 3, 2015)

(B) BUDGET MESSAGE: The Manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the municipality for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, and summarize the municipality's debt position and include such other material as the Manager deems desirable.

SECTION 7.03

(A) SUBMISSION TO COUNCIL: The Manager shall prepare and submit annually to Council a five-year capital program at least three (3) months prior to the final date for submission of the budget.

(B) CONTENTS: The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired. The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(C) CAPITAL IMPROVEMENT FUNDS: Council may create and maintain a General Capital Improvement Reserve Fund, and may from time to time, transfer or appropriate thereto all monies accruing to any other fund of the municipality not needed for the purposes of such fund and available for transfer and also the unencumbered balance remaining in the General Fund of the municipality at the end of any fiscal year. Monies in the General Capital Improvement Reserve Fund shall not be expended for any purpose except to purchase equipment, apparatus, or other property, or to construct buildings, structures, roads and other public improvements needed for the use of the municipality or to pay bonded obligations of the municipality by means of transfer to its Bond and Interest Retirement Fund. Council may also create and maintain Capital Improvement Funds for water, sewer, street, and other funds as needs dictate. Monies in these funds shall not be expended for any purpose except to purchase equipment, apparatus, property, construct buildings, structures, roads or transfer to its Bond and Interest Retirement Funds, and other public improvements as indicated in the ordinance which establishes these funds.

SECTION 7.04 - COUNCIL ACTION ON BUDGET

In all instances not provided for by this Charter, the procedure for the preparation, hearing, advertising and adoption of the budget and the appropriation of municipal funds shall be governed by the General Laws of the State of Ohio pertaining to such matters.

SECTION 7.05 - COUNCIL ACTION ON CAPITAL PROGRAM

(A) NOTICE AND HEARING: The Council shall publish in one or more newspapers of general circulation in the municipality a notice stating;

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

(B) ADOPTION: The Council, by resolution shall adopt the capital program with or without amendment after the public hearing, and on or before the first Council meeting of the fifth month of the current fiscal year.

(As amended by Ordinance CM-293, approved by the voters November 5, 1974)

SECTION 7.06 - PUBLIC RECORDS

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the municipality.

SECTION 7.07 - AMENDMENT OF APPROPRIATIONS AND EMERGENCY APPROPRIATIONS

(A) AMENDMENT OF APPROPRIATIONS: The Council, after conferring with the Manager, may at any time by ordinance transfer any unencumbered balance of an appropriation from one item or project to another under the same fund, or reduce or increase any item, provided the ordinance as amended does, not authorize the expenditure of more. money than is estimated will be available.

(B) EMERGENCY APPROPRIATIONS: To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinances in accordance with the provisions of Section 4.15. To the extent there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

SECTION 7.08 - LAPSE OF APPROPRIATIONS

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation may be deemed abandoned by resolution of Council.

SECTION 7.09 - ADMINISTRATION OF THE BUDGET

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the municipality for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

ARTICLE VIII

PLANNING

SECTION 8.01 - PLANNING DIRECTOR

There shall be a Planning Department headed by a director who shall be appointed by the Manager with the approval of Council as provided in Section 6.01. The Planning Director shall have the following responsibilities:

- (1) To advise the Manager on any matter affecting the physical development of the Municipality.
- (2) To formulate and recommend to the Manager a comprehensive plan and modifications thereof.
- (3) To review and make recommendations regarding proposed council action implementing the comprehensive plan pursuant to Section 8.04.
- (4) To participate in the preparation and revision of the capital program provided for in Section 7.03; and
- (5) To advise the Planning Board in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

SECTION 8.02 - PLANNING BOARD

There shall be a Planning Board consisting of five (5) members appointed by the council for terms of three (3) years from among the qualified electors of the municipality. Members of the board shall hold no other municipal office. The board may make recommendations to the Manager and the Council on all matters affecting the physical development of the municipality, shall be consulted on the comprehensive plan and the implementation thereof as provided in Sections 8.03 and 8.04, and shall exercise all other responsibilities as may be provided by this Charter or ordinance.

SECTION 8.03 - COMPREHENSIVE PLAN

(A) **CONTENT:** The Council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the municipality. Such plan may cover the entire municipality and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire municipality and all of its functions and services.

(B) **ADOPTION:** Upon receipt from the Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the Planning Board which shall, within a time specified by the Council, report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

(C) EFFECT: The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

SECTION 8.04 - IMPLEMENTATION OF THE COMPREHENSIVE PLAN

(A) LAND USE AND DEVELOPMENT REGULATIONS: The Council may by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(B) URBAN RENEWAL: The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) The alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(C) COUNCIL ACTION: Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan the Council shall refer the proposal to the Planning Board, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance the Council shall make findings and report on the relationship between ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

SECTION 8.05 - BOARD OF ADJUSTMENT

The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such board to hear and determine appeals from administrative decision of the West Milton Planning Board and Building Official, and such other matters as may be required by ordinance of this Council.

(As amended by Ordinance CM-293, approved by the voters November 5, 1974)

ARTICLE IX

NOMINATIONS AND ELECTIONS SECTION

9.01 -NOMINATIONS

There shall be no primary election for municipal offices. Nominations for elective offices of the municipality shall be made by petition only, signed by not less than thirty (30) qualified electors on the standard forms for the nomination of non-partisan candidates for such office, filed with the Board of Elections at least seventy-five (75) days before the day of election. Each candidate shall file a separate petition; group petitions shall not be used. The signature of the candidate indicating his acceptance of the nomination and willingness to accept the office if elected shall appear on each copy of his petition. The petition may be in a number of parts but each part shall be verified under oath by the circulator as required by the election Laws of the State of Ohio.

(Report of Charter Commission, approved by the voters November 3, 2015)

SECTION 9.02 - BALLOTS

The full names of all candidates nominated shall be printed on the official ballot without party designation. If two (2) candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residence shall be placed below their names on the ballot. The names of all candidates shall be rotated on the ballot as provided by Law.

SECTION 9.03 - ELECTIONS

The regular municipal election shall be held on the first Tuesday after the first Monday in November of odd numbered years. The Council may by resolution order a special election to be held at any time, the purpose and date of which shall be set forth in the resolution. Such resolution shall be certified within five (5) days to the Board of Elections of Miami County which shall conduct the election at the time fixed in such resolution and in the manner provided by law.

SECTION 9.04 - QUALIFICATIONS

All citizens qualified by the constitution and laws of the State of Ohio to vote in the municipality, and who satisfy the requirements for registration prescribed by law, shall be qualified electors of the municipality within the meaning of this Charter.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

SECTION 10.01 - INITIATIVE

Ordinances and other measures may be proposed by initiative petitions and adopted by election, to the extent and in the manner now or hereafter provided for by the Laws of Ohio.

(Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 10.02 - REFERENDUM

Ordinances and other measures adopted by Council shall be subject to referendum to the extent and in the manner now or hereafter provided by the Constitution or the Laws of Ohio.

SECTION 10.03 - RECALL

Electors of the municipality shall have the power to remove from office by recall election any elected official of the municipality to the extent provided by the Constitution and Laws of the State of Ohio.

ARTICLE XI GENERAL PROVISIONS

SECTION 11.01 - PERSONAL FINANCIAL INTEREST

Any municipal officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the municipality or in the sale of any land, material, supplies or services to the municipality or to a contractor supplying the municipality, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a municipal officer or employee in the making of such sale or in the making or performance of such contract. Any municipal officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the municipality shall render the contract or sale voidable by the Manager or the Municipal Council.

SECTION 11.02 - PROHIBITIONS AND PENALTIES

(A) PROHIBITIONS:

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any municipal position or appointive municipal administrative office because of race, sex, political or religious opinions or affiliations.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the

rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

- (3) No person who seeks appointment or promotion with respect to any municipal position or appointive municipal administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(B) PENALTIES: Any person who by himself or with others willfully violates any of the provisions of paragraphs (1) through (3) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00) or by imprisonment for not more than ten (10) days or both. Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any municipal office or position and, if an officer or employee of the municipality, shall immediately forfeit his office or position.

SECTION 11.03 -CHARTER AMENDMENT

(A) PROPOSAL OF AMENDMENT: Amendments to this Charter may be framed and proposed;

(1) In the manner provided by law, or

(2) By ordinance of the Council containing the full text of the proposed amendment and effective upon adoption, or

(3) By the electors of the municipality. Proposal of amendment by the electors of the municipality shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article X for initiative petitions until such time as final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by qualified electors of the municipality equal in number to at least twenty percent (20%) of the total number of qualified electors registered to vote at the last regular municipal election. The petitioner's committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the municipal vote on the amendment, or

(4) By report of a Charter Commission created by ordinance.

(Report of Charter Commission, approved by the voters November 5, 1991)

(B) ELECTION: Upon delivery to the municipal election authorities of the report of a charter commission or delivery by the municipal clerk of an adopted ordinance or a petition finally determined sufficient, proposing an amendment pursuant to subsection (A), the election authorities shall submit the proposed amendment to the electors of the municipality at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the municipality at least thirty (30) days prior to the date of the election. The election shall be held not less than sixty (60) days and not more than one hundred twenty (120) days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the Council shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be within the discretion of the Council.

(C) ADOPTION OF AMENDMENT: If a majority of the qualified voters of the municipality voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, thirty (30) days after its adoption by the voters.

SECTION 11.04 - SEPARABILITY

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

SECTION 11.05 - SALARIES

(A) INITIAL SALARY OF COUNCILMEMBER: Members of the Council shall receive a salary of twelve dollars (\$12.00) per meeting, not to exceed payment for more than one (1) meeting per week.

(Report of Charter Commission, approved by the voters November 5, 1991)

(B) INITIAL SALARY OF MAYOR-COUNCILMEMBER: The Mayor-Councilmember shall be paid, in addition to the compensation paid to him as a Councilmember, the sum of five hundred dollars (\$500.00) annually.

(Report of Charter Commission, approved by the voters November 5, 1991)

ARTICLE XII

TRANSITIONAL PROVISION

SECTION 12.01 -CONTINUATION OF OFFICERS

Members of Council holding office in 1991 and members of Council elected in the general municipal election of 1991 shall continue in office for their elected term except if a Councilmember seeks the seat of Mayor-Councilmember or Vice-Mayor-Councilmember in the general municipal election of 1993 their then current term of office will be terminated as of the date they are seated in their newly elected office. From the effective date of the Charter amendment creating the office of Mayor-Councilmember and Vice-Mayor-Councilmember and until the provisions of Article IV- Section 4.01 and 4.04 become effective with the general municipal election of 1993 the selection of Mayor and Vice-Mayor shall remain with the Council. (Report of Charter Commission, approved by the voters November 5, 1991)

SECTION 12.02 - CONTINUATION OF EMPLOYEES

Every employee of the Municipal Government when this Charter takes effect shall be retained in his employment and shall thereafter be subject in all respects to the provisions of this Charter.

SECTION 12.03 - DEPARTMENTS, OFFICES AND AGENCIES

(A) TRANSFER OF POWERS: If a municipal department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the municipal department, office or agency designated in this charter or, if the Charter makes no provision, designated by the Council.

(B) PROPERTY AND RECORDS: All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

SECTION 12.04 - PENDING MATTERS

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

SECTION 12.05 - CONTINUATION

All ordinances, resolutions, orders and regulations of the municipality in effect at the time of adoption of this Charter, shall remain in effect except as superseded by the provisions of this Charter until they are amended or repealed.

SECTION 12.06 - SCHEDULE (Historical Reference Only)

(A) FIRST ELECTION: At the time of its adoption, this Charter shall be in effect to the extent

necessary in order that the first election of members of the Municipal Council may be conducted in accordance with the provisions of this Charter. The first election shall be held on the 2nd day of November, 1965. The existing Council shall prepare and adopt temporary regulations applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for recount of ballots in cases of doubt or fraud.

(B) PRELIMINARY MEETINGS: In order to take such steps and complete such preparations preliminary to the going into effect of this Charter as will facilitate the choice of a Municipal Manager and the efficient establishment of the municipal services upon the basis provided in this Charter, the members elected to the first Council may effect a temporary organization at any time after the election, but they shall not be deemed to have entered into office or have any of the powers of Council until the organization meeting to be held on January 1, 1966.

(C) TIME OF TAKING FULL EFFECT: This Charter shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected Council as provided in subsection (D).

(D) FIRST ORGANIZATIONAL MEETING: On the 1st day of January following the first election of Council Members under this Charter, the newly elected members of the Council shall meet at 7:30P.M. at the Municipal Council Room:

- (1) For the purpose of electing the Mayor and Vice Mayor, appointing or considering the appointment of a Manager or acting Manager, and choosing, if it so desires, one of its members to act as temporary Clerk pending appointment of a Municipal Clerk pursuant to Section 4.09.
- (2) For the purpose of adopting ordinances and resolutions necessary to effect the transition of government under this Charter and to maintain effective municipal government during that transition.

(E) TEMPORARY ORDINANCES: In adopting ordinances as provided in subsection (D), the Council shall follow the procedures prescribed in Article IV, except that at its first meeting or any meeting held within sixty (60) days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective municipal government. Every temporary ordinance shall be plainly labelled as such, but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the Council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Article IV for ordinances of the kind concerned.

(F) INITIAL EXPENSES: The initial expenses of the Council, including the expense of recruiting a Municipal Manager, shall be paid by the municipality on vouchers signed by the Mayor

(G) INITIAL SALARY OF COUNCILMEMBERS: Members of the Council shall receive a salary of twelve dollars (\$12.00) per meeting, not to exceed payment for more than two (2) meetings per month.

(H) INITIAL SALARY OF MAYOR: The Mayor shall be paid, in addition to the compensation paid to him as a Councilmember, the sum of \$500.00 annually.