

CERTIFICATE



We, the qualified members of the Charter Commission of the Municipality of New Lexington, Ohio, elected November 6, 1979, have framed the foregoing Charter and have fixed November 4, 1980, as the time of the election at which the Charter shall be submitted to the electors of the Municipality of New Lexington.

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**CHARTER
MUNICIPALITY OF
NEW LEXINGTON, OHIO**

PREAMBLE

In order that we may have the benefits of municipal home rule and exercise all of the powers of local self-government conferred under the Constitution and Statutes of the State of Ohio, We, the citizens of the Municipality of New Lexington, Ohio, do hereby adopt this Charter for our municipality.

ARTICLE I

NAME; BOUNDARIES; FORM OF GOVERNMENT

Section 1.01. Name and Boundary

The municipal corporation existing as the Village of New Lexington under the general statues 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. When the Village of New Lexington shall attain city status under the laws of Ohio, it shall be known as the “City of New Lexington.” As used in this Charter, “Municipality” shall mean either the Village or City of New Lexington, as appropriate.

Section 1.02. Form of Government

The municipal government provided for by this Charter shall be known as the “Mayor-Council-Administrative Director Plan.”

ARTICLE II

CORPORATE POWERS

Section 2.01. Powers Granted

The Municipality 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 real 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 difference manner of exercising powers.

2.03. Construction of Powers

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 powers stated in this Article.

2.04. Intergovernmental Cooperation

(A) In carrying out any lawful function or power of the municipality, the Council may, by majority vote of its members, authorize the execution of contracts or in any other manner provide for cooperation or joint action, between the municipality and:

- (1) Political subdivisions, special districts, instrumentalities or other units of government of the State of Ohio or other states.
- (2) The State of Ohio, its officers, departments, divisions, instrumentalities or other units or agencies.
- (3) Other states, their officers, departments, divisions, instrumentalities, or other units or agencies.
- (4) The federal government, its officers, departments, divisions, instrumentalities or other units or agencies.
- (5) Councils of governments or other instrumentalities consisting of other political subdivisions, special districts, instrumentalities or other governmental units or agencies allowed under the laws of Ohio, other states or the federal government.
- (6) Persons, corporations whether for profit or non-profit, firms and other entities; unless such contracts, cooperation or joint actions are prohibited by the Constitution of the State of Ohio.

(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 COUNCIL

Section 3.01. Powers of Council

(A) All legislative power of the Municipality shall be vested in the Council, except as otherwise provided by this Charter and the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:

- (1) The power to levy taxes and assessments and incur debts subject to limitations imposed thereon by this Charter.
- (2) The power to adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws.
- (3) The power to provide for the exercise of all powers of local self-government granted to the Municipality by the Constitution of the State of Ohio in a manner not inconsistent with this Charter or the Constitution of the State of Ohio.
- (4) The power, by ordinance or resolution, to establish or authorize the number of officers and employees in the various offices, departments, divisions, bureaus, boards and commissions of the Municipality and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council.
- (5) The power to require such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees of the Municipality. The premium for said bonds shall be paid by the Municipality.
- (6) The power to create, combine, change and abolish other offices, departments, divisions, bureaus, boards and commissions. The power herein expressed in this subsection shall be exercised by ordinance or resolution. The Council shall not abolish any office, board, or commission created by this Charter nor shall the Council abolish or merge or combine the divisions of police and fire into one administrative unit.
- (7) The power to establish, pursuant to ordinance or resolution, the rates or charges made of consumers of all municipal utilities and services.
- (8) The power to acquire and to sell or otherwise convey title to or interests in real property, and to lease, as lessor or lessee, or otherwise grant or receive interests in real property in the manner and according to terms and conditions, if any, as provided or authorized by ordinance or resolution.
- (9) The power to provide for an independent audit of the accounts and records of the Municipality, which may be in addition to audits by state offices and agencies as may be required under general laws of Ohio.

(10) To exercise all other powers granted to the Council by this Charter and by the Constitution and laws of the State of Ohio.

Section 3.02. Composition, Term and Qualifications

(A) The Council shall consist of seven members to be elected from the Municipality at large, to serve overlapping four year terms of office. The term of members of the Council shall commence on the first day of January of the year following their election.

(B) The six persons holding the office of member of Council on January 1, 1981, who were elected or appointed under the general statutory village plan of government, are hereby designated as members of the Council under this Charter, to exercise the powers, duties and functions of members of Council pursuant to this Charter; and such persons shall continue in office exercising powers, duties and functions pursuant to this Charter until the term for which they were elected or appointed under the general statutory village plan of government shall expire. No later than January 15, 1981, the Council shall elect, by a vote of at least four members, a qualified person as the seventh member of Council, to serve for a term ending on December 31, 1981. At the regular municipal election to be held in November of 1981, four members of the Council shall be elected for four year terms of office and one member shall be elected for a two year term of office. At the regular municipal election to be held in November of 1983, three members of the Council shall be elected for four year terms of office. Thereafter, all members of Council shall be elected for four year terms of office, except those members elected to fill vacancies pursuant to section 3.08 of this Charter.

(C) Members of the Council shall be electors of the Municipality at the time they file for office and during their term in office. Members of the Council shall not:

- (1) Hold any other public office during a term, except they may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office permitted by this charter or the laws of Ohio;
- (2) Hold any compensated position of employment with the Municipality while serving as a member of the Council unless permitted by this Charter or the laws of Ohio;
- (3) Hold any compensated appointive office or position of employment with the Municipality for a period of one year after the expiration of the term to which they were elected or appointed, unless permitted by this charter or the laws of Ohio.

As used in this Division (C) of this Section of the Charter, “public office,” “appointive office” and “position of employment” shall not include holding an office or membership in a volunteer fire department or volunteer fire protection agency; and members of the Council maybe officers or members in a volunteer fire department or volunteer fire protection agency, but they shall not receive any additional compensation for service in any such volunteer department or agency that provides fire protection services to the Municipality. As used in this Division (C) of this Section of the Charter, the Council may, by ordinance or resolution, define the words “volunteer fire department” and “volunteer fire protection agency.”

Section 3.03. Council Organization and Rules

The Council shall be a continuing body, but shall meet in the Council Chamber at its first meeting in January of each 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 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, composition and manner of appointment of committees of Council; and such other matters as Council shall determine to be necessary for the proper functioning and government of the Council.

Section 3.04. President of Council

At each organizational meeting of the Council in January of each year, the Council shall elect by a majority vote of its members and from among its membership a person to serve as President of the Council until the next organizational meeting of the Council. The President of the Council shall have the powers, duties and functions

as provided in Section 5.03 of this Charter, and shall have such other powers, duties and functions as may be provided by this Charter, the Rules of Council or by ordinance or resolution.

Section 3.05. Clerk of Council

The Council shall appoint, by a majority vote 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 may hold other office or position of employment in the Municipality. 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 any required notice of regular and special meetings of the Council to its members and, when required, 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 President of the Council.

Section 3.06. Council Meetings

(A) The Council shall determine, by a majority vote of its members, the frequency, dates and times of regular meetings, but it shall hold at least two regular meetings in each month.

(B) Special meetings of the Council shall be called, for any purpose, by the Mayor or any three members of the Council upon at least twenty-four hours 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. Members of the Council and the Mayor may waive receipt of notice of a special meeting either prior or subsequent to the meeting.

(C) Any regular or special meeting of the Council may be adjourned or recessed to another time, date or place without giving the notice required in Division (B) of this Section.

(D) All meetings of the Council and of other Boards and Commissions of the Municipality shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies.

Section 3.07. Compensation of Elected Officials

(A) The salaries of all elected officials of the Municipality shall be established by Council by ordinance or resolution to be adopted no later than July 1, of each odd-numbered year commencing in the year 1981. The salaries so established shall be effective for a two year period beginning January 1, of the even numbered year following the adoption of the ordinance or resolution establishing them and shall apply to all elected officials whether they are beginning their terms or are in midterm. In the event Council shall fail to establish salaries as required in this Section, the salaries in effect for the prior two year period shall remain in effect until changed in accordance with this Section. The initial salary of elected officials under this Charter shall be that salary established for each office and in effect on January 1, 1981, and if none have been established, the Council first Serving under this Charter shall establish such salaries within ninety days.

(B) In addition to salaries determined pursuant to Division (A) of this Section of the Charter, the Council may authorize, by ordinance or resolution, other compensation to elected officials in the form of fringe benefits. Such other compensation need not be authorized in the manner and at the times as provided in Division (A) of this Section of the Charter, and such other compensation shall not constitute a change in compensation that is prohibited by this Charter or the general laws of Ohio. Benefits to be paid to or on behalf of elected officials pursuant to insurance contracts or similar plans which require the payment of monies as an insurance or similar premiums, and such premiums, are included in such other compensation authorized by this Division (B) of this Section of the Charter.

(C) In addition to salaries and other compensation, the Council may, at any time, authorize the payment of the expenses of elected officials from the monies of the Municipality for purposes and in the manner provided by ordinance or resolution. The payment of expenses of elected officials shall not constitute a change in compensation that is prohibited by this Charter or the general laws of Ohio.

Section 3.08. Council Vacancies

(A) A vacancy in the Council shall be filled by a majority vote of the remaining members of the Council. If the vacancy occurs subsequent to fifteen days before the date when candidates for the office of Council member must file their nominating petitions or if two years or less remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve for the unexpired term. If the vacancy occurs at least fifteen days prior to the date when candidates for the office of Council member must file their nominating petitions and more than two years remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve until a successor is elected at the next regular municipal election for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office on the first day of January following the election.

(B) If the Council shall fail to elect a person to fill a vacancy in the Council under Division (A) of this Section within thirty days after the occurrence of the vacancy, its power to do so shall lapse and the Mayor shall appoint a person to serve for the time as provided in Division (A) of this Section.

ARTICLE IV LEGISLATIVE PROCEDURE

Section 4.01. Form of Action by Council

Action of Council shall be by ordinance, resolution or motion. Motion shall be used to conduct the business of Council, and procedural matters, four elections conducted among and appointments made by Council members and as otherwise provided in this Charter. All other action shall be taken by ordinance or resolution. No action of Council shall be invalidated merely because the forms thereof fails to comply with the provisions of this Section.

Section 4.02. Introduction of Ordinances and Resolutions

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.

Section 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; 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.

Section 4.04. Reading Ordinances and Resolutions

Each ordinance and resolution shall be read at two regular meetings, unless this requirement is dispensed with by a vote of at least two-thirds of the members of the Council. The first reading shall be in full unless the Council dispenses with this requirement by a vote of at least two-thirds of the members of Council. The second reading shall be by title only, unless the Council requires the reading to be in full by a vote of a majority of its members.

Section 4.05. Vote Required For Passage

(A) The vote on the question of passage of each ordinance, resolution and motion shall be taken by “yeas” and “nays” and entered on the Journal, and none shall be passed without concurrence of a majority of the members of Council. Each emergency ordinance or resolution shall require the affirmative vote of at least two-thirds of the members of Council for its enactment. If an emergency ordinance or resolution shall fail to receive the required two-thirds affirmative vote, but receives the necessary majority for passage as non— emergency legislation, it shall become effective as non— emergency legislation.

(B) A majority vote shall mean the affirmative vote of at least four members, and a two – thirds vote shall mean the affirmative vote of at least five members.

Section 4.06. Content of Emergency Legislation

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 to meet an emergency in the operation or government of the Municipality, and shall contain a statement of the necessity for the emergency.

Section 4.07. Effective Date of Legislation

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

- (1) Appropriation of money;
- (2) An annual tax levy for current expenses;
- (3) Improvements petitioned for by owners of the requisite majority of the front footage or of the area of the property benefited and to be assessed;
- (4) Submission of any question to the electorate or the determination to proceed with an election;
- (5) Approval of a revision, codification, recodification, or rearrangement of ordinances and resolutions;
- (6) Any emergency ordinance or resolution.

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

Section 4.08. Authentication

Each ordinance and resolution shall be authenticated by the signature of the Mayor and the Clerk of Council. The failure or refusal to sign shall not invalidate an ordinance or resolution.

Section 4.09. Recording Legislation

Each ordinance and resolution shall be recorded in a book or other record prescribed by Council. The Clerk of Council or a duly authorized representative of the Clerk shall, upon request of any person and upon the payment of a fee if established by Council, certified true copies of any ordinance or resolution, which copies shall be admissible as evidence in any court.

Section 4.10. Amendment

(A) A pending ordinance or resolution may be amended at any time prior to its passage by the Council by a majority vote of the members of the Council present and voting on the amendment, and such amendment shall not require additional readings of the ordinance or resolution.

(B) Any ordinance or resolution, or the codified ordinances or resolutions of the Municipality, may be amended by the passage of subsequent ordinances or resolutions that: revise existing sections or parts thereof; enact new or supplemental sections or parts thereto; or repeal existing sections or parts thereof. This Division does not prevent repeals by implication.

Section 4.11. 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. Immediately after the first reading of the ordinance or resolution, the presiding officer of Council shall set a date for a public hearing before a joint meeting of Council and the Planning Commission, not earlier than fifteen days after the first reading. The Clerk of Council shall cause a notice of the public hearing to be published one time in a newspaper of general circulation within the Municipality; 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 certified mail with return receipt 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 address of owners appearing on the County Auditor's current tax list and to other lists as may be required by Council. The failure of delivery of the notice shall not invalidate any ordinance or resolution.

(B) Immediately after the public hearing referred to in Division (A) of this Section, a copy of each ordinance or resolution establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations shall be referred to the Planning Commission. Within fifteen days after receipt of referral, the Planning Commission shall return to the Clerk of Council the written recommendations of a majority of the members of the Commission. The ordinance or resolution shall be given its second reading at the next regular meeting of the Council, or at an earlier special meeting of the Council, subsequent to the receipt by the Clerk of Council of the written recommendations of a majority of the members of the Planning Commission or subsequent to the fifteen day period within which such recommendations must be filed with the Clerk of Council, whichever is sooner.

(C) 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 and Zoning Commission, but in no event shall an ordinance or resolution be considered as having passed unless it receives at least a majority vote of the members of Council.

Section 4.12. Adoption of Technical Codes

(A) Council may, by ordinance or resolution, adopt standard ordinances and codes prepared by the State or any department, board or other agency or subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing, heating, electrical, ventilation, air conditioning, refrigeration machinery, state pressure piping, piping, boilers, building standards, housing standards, and such other matters as the Council may determine to be appropriate for adoption by reference, by incorporation by reference.

(B) The ordinance or resolution adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance. In such cases, publication of the standard ordinance or code shall not be required, but at least two copies of such code shall be kept at all times in the office of the Clerk of Council and available for reference by interested persons. If the standard ordinance or code is amended after its adoption by reference by the Council, the Council may

adopt the amendment or change by incorporation by reference under the same procedure as is established herein for the adoption of the original standard ordinance or code.

Section 4.13. Codification

By a majority vote of the members of Council, the Council may cause the ordinances and resolutions of the Municipality 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 Municipality at least seven days prior to Council's action, and no further publication shall be necessary. A current service supplementing the Municipality's codified ordinances and resolutions shall be maintained in the manner prescribed by the Council.

Section 4.14. Publication of Ordinances and Resolutions

(A) The Title of each ordinance and resolution passed by the Council shall be published in a newspaper of general circulation within the Municipality once a week for two consecutive weeks. In addition, the full text of each ordinance and resolution passed by the Council shall be published on the New Lexington Municipal Website within three business days after passage and shall be available in paper copy form for the standard per page fee in the Office of the Clerk of Council.

(B) The failure to publish an ordinance or resolution as required by Division (A) of this Section shall not invalidate the ordinance or resolution, and in such event, the Clerk of Council shall publish such ordinance or resolution on the New Lexington Municipal Website at a later date.

Section 4.15. Substantial Compliance

The provisions of Sections 4.01 through 4.14 of Article IV shall be directory only and the failure of the Council to strictly follow such provisions shall not invalidate any ordinance or resolution which has been adopted in substantial compliance with such provisions.

ARTICLE V THE MAYOR

Section 5.01. Election, Term and Qualifications

(A) The person holding the office of Mayor of the Municipality under the general statutory plan of government for villages on January 1, 1981, is hereby designated as the Mayor under this Charter with the powers, duties and functions of the Mayor under this Charter. Such person shall continue in office through December 31, 1983. At the regular municipal election to be held in November 1983 and every four years thereafter, the Mayor shall be elected from the Municipality at large for a term of four years commencing on the first day of January following the election.

(B) The Mayor shall be an elector of the Municipality at the time he or she files for office and during his or her term in office. The Mayor shall not:

- (1) Hold any other public office during a term, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office permitted by this Charter or the laws of Ohio;
- (2) Hold any compensated position of employment with the Municipality while serving as the Mayor unless permitted by this Charter or the laws of Ohio;
- (3) Hold any compensated appointive office or position of employment with the Municipality for a period of one year after the expiration of the term to which he or she was elected or appointed, unless permitted by this Charter or the laws of Ohio.

As used in this Division (B) of this Section of the Charter, “public office,” “appointive office” and “position of employment” shall not include holding an office or membership in a volunteer fire department or volunteer fire protection agency; and the Mayor may be an officer or member in a volunteer fire department or volunteer fire protection agency, but he or she shall not receive any additional compensation for service in any such volunteer department or agency that provides fire protection services to the Municipality. As used in this Division (B) of this Section of the Charter, the Council may, by ordinance or resolution, define the words “volunteer fire department” and “volunteer fire protection agency.”

Section 5.02. Powers and Duties

(A) The Mayor shall be the chief executive officer and the chief conservator of the peace of the Municipality, and shall:

- (1) Preside at all meetings of the Council, but shall have no vote except in case of a tie vote among Council members; and in the event of such a tie vote among Council members, the Mayor may vote on any matter before the Council, except that the Mayor may not cast a vote to break a tie vote of the Council on any matter where this Charter requires the Council to approve or concur in an action of the Mayor. The Mayor shall not have a veto power over ordinances or resolutions passed by the Council.
- (2) Be responsible for the administration of all municipal affairs as required by this Charter, the ordinances and resolutions of the Municipality and the state laws, to the extent those laws are not inconsistent with this Charter or the ordinances and resolutions of the Municipality, and shall assure that the Charter, ordinances, resolutions and laws are faithfully executed.
- (3) With the assistance and full cooperation of the Administrative Director and Finance Director, submit the annual capital and operating budget and the annual appropriation measures of the Municipality to the Council for its consideration, revision and adoption.
- (4) Prepare and submit a full report of the administrative activities of the Municipality to the Council for each fiscal year, and shall make such other reports and recommendations to the Council as the Mayor deems necessary or as the Council may require. The Administrative Director, Finance Director and other officials and employees of the Municipality shall provide such assistance and cooperation as the Mayor may require concerning all matters under their supervision or control.

Section 5.03. Vacancy, Temporary Absence or Disability

(A) In the event of a vacancy in the office of Mayor, the President of Council shall become the Mayor, unless the person holding the office of President of Council shall decline, by a written statement filed with the Clerk of Council within ten days after such vacancy occurs, to succeed to the office of Mayor and elects to remain as a member of Council and as the President of Council. In the event the President of Council declines to succeed to the office of Mayor, the Council shall elect another of its members to succeed to the office of Mayor for the term as provided in this Section. If the vacancy in the office of Mayor occurs subsequent to fifteen days before the date when candidates for the office of Mayor must file their nominating petitions or if two years or less remain in the term vacated, the person succeeding to the office of Mayor under this Section shall serve for the unexpired term. If the vacancy in the office of Mayor occurs at least fifteen days prior to the date when candidates for the office of Mayor must file their nominating petitions and more than two years remain in the term vacated, the person succeeding to the office of Mayor under this Section, shall serve until a successor to the office of Mayor is elected at the next regular municipal election for the remainder of the unexpired term. The person elected for the unexpired term shall take office on the first day of January following election.

(B) When the Mayor is temporarily absent from the Municipality or is under a temporary disability, the President of Council shall serve as Acting Mayor and shall exercise all the powers, duties and functions of the Mayor. The President of Council shall continue as a Council member and as the President of Council while serving as the Acting Mayor, and shall be entitled to vote on all matters coming before the Council.

ARTICLE VI

ADMINISTRATIVE DEPARTMENTS

Section 6.01. Administrative Director

(A) There is hereby created the office of Administrative Director, who shall be appointed by the Mayor subject to the approval of the Council by a vote of at least a majority of its members. The Administrative Director shall serve at the pleasure of the Mayor and the Council and may be removed without cause by the Mayor with the approval of the Council by a vote of at least a majority of its members; or he or she may be removed without cause by the Council by a vote of at least two-thirds of its members without the consent of the Mayor.

(B) The Administrative Director shall be qualified by training or experience in the management of public service enterprises, public or private safety forces, other governmental services or functions, or commercial or industrial operations. The Mayor or Council shall be the sole judges of the qualifications of the Administrative Director.

(C) The Administrative Director shall be the principal administrative officer of the Municipality. He or she shall, subject to the supervision of the Mayor, control, direct and supervise all departments, divisions and other sub-units of departments, except the departments of Law, Finance, Police and Fire. The Administrative Director shall perform other duties and have other powers and responsibilities as are provided in this Charter or by ordinance or resolution. In addition to and not by way of limitation upon the above stated general powers, the Administrative Director shall also have the following powers, duties and functions:

- (1) To manage and supervise the operation of all municipal utilities, including the treatment and distribution of water, the sewerage system, the generation and-or distribution of electrical energy, artificial and natural gas plants and systems, and other similar municipal utilities.
- (2) To make such bylaws and regulations as he or she deems necessary for the safe, economical, and efficient management and protection of all municipal utilities. Such bylaws and regulations, when not repugnant to this Charter, the municipal ordinances and resolutions or to the Constitution of Ohio shall have the same validity as ordinances.
- (3) To supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, landings, market houses, bridges, viaducts, sidewalks, sewers, drains, ditches, culverts, ship channels, streams and water courses, as well as the lighting, sprinkling, and cleaning of all streets, alleys, and public buildings and places.

Section 6.02. Law Department

(A) There is hereby created the Department of Law to be headed by a Law Director. The Law Director shall be appointed by the Mayor subject to the approval of the Council by a vote of at least a majority of its members. The Law Director shall serve at the pleasure of the Mayor and the Council and may be removed without cause by the Mayor with the approval of the Council by a vote of at least a majority of its members; or he may be removed without cause by the Council by a vote of at least two-thirds of its members without the consent of the Mayor.

(B) The Law Director shall be an attorney-at-law duly authorized to practice law in the state of Ohio. The Law Director 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; however, he shall not be required to serve as legal counsel for a school district by virtue of his office as Law Director. The Law Director may also engage in the private practice of law and he may hold other public or private employment.

(C) The Law Director shall be the legal advisor, prosecuting attorney and counsel for the Municipality, and, subject to the direction of Council, shall represent the Municipality in all proceedings in Court or before any administrative board or body. The Law Director 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 Mayor.

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

Section 6.03. Finance Department

(A) There is hereby created the Department of Finance to be headed by a Finance Director. The person holding the office of Village Clerk-Treasurer under the general statutory plan for villages at the time this Charter becomes effective, January 1, 1981, shall be the Finance Director with all the powers, duties and functions provided under this Charter, and shall hold that office through December 31, 1983. The offices of Village Clerk and Treasurer under the general statutory plan for villages shall be abolished effective January 1, 1981. Beginning January 1, 1984, and thereafter, the Finance Director shall be appointed by the Mayor subject to the approval of the Council by a vote of at least a majority of its members. The Finance Director shall serve at the pleasure of the Mayor and the Council and may be removed without cause by the Mayor with the approval of the Council by a vote of at least a majority of its members; or he may be removed without cause by the Council by a vote of at least two-thirds of its members without the consent of the Mayor.

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

(C) The Finance Director shall be the chief fiscal Officer of the Municipality 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 Finance Director shall be responsible for the enforcement and administration of any income tax levied by the Municipality. The Finance Director, 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 Mayor. The Finance Director shall keep the financial records of the Municipality, establish the accounting systems, financial records of the Municipality, establish the accounting systems, financial records and reports used by the offices, departments, divisions, bureaus, boards, and commissions of the Municipality; assist the Mayor 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 Municipality as requested by the Mayor 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 Municipality as requested by the Mayor or Administrative Director.

(D) The Finance Director shall collect all rents, service and other charges required to be paid for municipal utilities; however, the rates for service and charges for all municipal utilities shall be established by the Council.

Section 6.04. Police Department

(A) There is hereby created a Department of Police to be headed by a Police Chief. The Police Chief shall be appointed by the Mayor subject to the approval of the Council by a vote of at least a majority of its members. The Police Chief shall serve at the pleasure of the Mayor and the Council and may be removed without cause by the Mayor with the approval of the Council by a vote of at least a majority of its members; or the Police Chief may be removed without cause by the Council, by a vote of at least two-thirds of its members, without the consent of the Mayor.

(B) The powers, duties and functions of the Police Chief and the members and the organization of the Department of Police shall be as provided in this Chapter, by the ordinances and resolutions of the Municipality in the general laws of Ohio, to the extent the general laws are not inconsistent with the Charter or the ordinances and resolutions of the Municipality. The Police Chief shall be under the general supervision and direction of the Mayor.

Section 6.05. Fire Department

(A) There is hereby created a Department of Fire to be headed by a Fire Chief. The Fire Chief shall be appointed by the Mayor subject to the approval of the Council by a vote of at least a majority of its members. The Fire Chief shall serve at the pleasure of the Mayor and the Council and may be removed without cause by the Mayor with the approval of the Council by a vote of at least a majority of its members; or the Fire Chief may be removed without cause by the Council, by a vote of at least two-thirds of its members, without the consent of the Mayor.

(B) The powers, duties and functions of the Fire Chief and the organization of the Department of Fire shall be as provided in this Charter, by the ordinances and resolutions of the Municipality and the general laws of Ohio, to the extent the general laws are not inconsistent with the Charter or the ordinances and resolutions of the Municipality. The Fire Chief shall be under the general supervision and direction of the Mayor.

(C) In addition to, or in lieu of, providing fire protection by its own forces, the Council may authorize and direct the execution of contracts with other units of government or private fire protection agencies to provide additional, emergency or full fire protection services or emergency medical services within the Municipality. The Council may also authorize and direct the execution of contracts whereby the fire forces of the Municipality may provide fire protection service or emergency medical services to areas outside the Municipality.

Section 6.06. Municipal Engineer

The Council may provide engineering services to the Municipality by annual contracts or by contracts for shorter or longer periods of time. The Council may also create such engineering positions of employment as it deems appropriate.

Section 6.07. Other Administrative Departments

(A) In addition to the administrative offices and departments specifically established and created by this Charter, the administrative offices, departments, divisions, bureaus and other sub-units existing under the laws of Ohio and ordinances and resolutions of the Municipality 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 Council.

(B) Each 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 Municipality; 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 Municipality.

Section 6.08. Acting Department Heads

In the event of a vacancy or the temporary absence or disability of the head of any administrative department, the Mayor may appoint an acting head of the department until the vacancy is filled or the temporary absence or disability is removed.

ARTICLE VII

BOARDS AND COMMISSIONS

Section 7.01. Planning Commission

(A) There is hereby created a Planning Commission consisting of the Mayor, one member of the Council to be appointed by a majority vote of the Council to serve during his or her current term on Council, and three electors of the Municipality to be appointed by the Mayor to serve overlapping six year terms of office, and to serve without compensation. The first members appointed by the Mayor shall be appointed so that one serves a term of six years, one serves a term of four years and one serves a term of two years. Thereafter, each member appointed by the Mayor shall serve for a six-year term.

(B) The powers, duties and functions of the Planning Commission shall be provided by this Charter and ordinances and resolutions of the Municipality, which ordinances and resolutions shall be adopted by July 1, 1981, or as soon thereafter as practical, but until such ordinances or resolutions shall be passed, the Planning Commission shall possess powers, duties and functions as are provided by the laws of Ohio, to the extent that such laws do not conflict with the provisions of this Charter. Upon the adoption of ordinances or resolutions by the Council, after the effective date of this Charter, with respect to the powers, duties and functions of the Planning Commission, the laws of Ohio, with respect to planning commissions and their powers and duties, shall not be applicable unless they are specifically adopted by reference by ordinance or resolution.

Section 7.02. Board of Zoning Appeals

(A) There is hereby created a Board of Zoning Appeals consisting of five members who shall be electors of the Municipality and shall be appointed by the Mayor subject to the approval of the Council by a vote of a majority of its members. Members of the Board of Zoning Appeals shall serve overlapping five year terms of office, and shall serve without compensation. The first members appointed shall be appointed so that one serves a term of five years, one serves a term of four years, one serves a term of three years, one serves a term of two years and one serves a term of one year. Thereafter, each member shall serve a term of five years.

(B) The Board of Zoning Appeals shall have those powers, duties and functions as provided by this Charter and as provided by the ordinances and resolutions of the Municipality, except that all decisions of the Board shall be final and shall not be subject to appeal to the Council or any other agency of the Municipality. Appeals may be made to the courts as provided by the laws of Ohio by any interested party, including the Municipality.

Section 7.03. Merit System

(A) All appointments and promotions of employees in the classified service of the Municipality shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examination. The Administrative Director shall be the personnel director of the Municipality to administer the Merit System. The Council shall, by ordinance or resolution, establish a Code of Personnel Practices and Procedures to implement the mandate of this section; provided that appointments to and removal from elected or appointed offices, boards, and commissions created by this Charter or by ordinance or resolution, shall be made in accordance with the specific applicable provision of this Charter or the ordinance or resolution and shall not be subject to this Article. The Code of Personnel Practices and Procedures shall include provisions for causes and procedures for the dismissal, suspension and other disciplinary action with respect to employees in the classified service. The ordinance or resolution that first establishes the Code of Personnel Practices and Procedures under this Charter shall be adopted by September 30, 1981, or as soon thereafter as practicable. The Council may, by ordinance or resolution and from time to time, revise, amend or recodify the Code of Personnel Practices and Procedures first established under this Charter. Employees whose position classifications are included within the classified service who have been continuously employed by the Municipality for at least six months prior to the effective date of the ordinance or resolution first establishing the Municipality's Code of Code of Personnel Practices and Procedures under this Charter shall have permanent status in the classified service without being required to be further qualified by competitive examination; however, such employees shall be subject to all other provisions

the requirements of the Code of Personnel Practices and Procedures and shall be subject to all other ordinances and resolutions and administrative regulations of the Municipality.

(B) On and after the effective date of the ordinance or resolution first adopting the Code of Personnel Practices and Procedures under this Charter, except as otherwise provided in this Charter, all compensated positions of employment shall be in the classified civil service except the following offices and positions which shall be in the unclassified or exempt service:

- (1) Members of the Council.
- (2) The Clerk of Council and other employees of the Council.
- (3) The Mayor.
- (4) The Administrative Director.
- (5) The Finance Director.
- (6) The Law Director, Assistant Law Directors, and special legal counsel.
- (7) All heads of Departments.
- (8) Professional engineers employed by the Municipality.
- (9) Members of Boards and Commissions established by this Charter or by Council.
- (10) Volunteer and part-time members of the Fire Department and members of the auxiliary police unit within the Police Department.
- (11) The Secretary of each Board and Commission established by this Charter or by Council, provided that if such Secretary holds other employment within the classified civil service of the Municipality, 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) Unskilled laborers as defined in authorized by the Council, by ordinance or resolution.
- (14) Temporary employees who are not employed for more than ninety continuous days or for more than ninety days in one year, or such other groups of employees who are employed on a seasonal basis.
- (15) Special categories of employees employed under federal or state programs, as determined by the Council, by ordinance or resolution.

(C) There is hereby created a Personnel Review Board which shall consist of three qualified electors of the Municipality not holding other officer employment with the Municipality to be appointed by the Mayor with the consent of the Council by a majority vote of its members. Not more than two members of the Board shall be adherents of the same political party. Members of the Personnel Review Board shall serve for terms of three years, except that of the three members of the Board first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, all commencing on the effective date of the ordinance or resolution establishing the Code of Personnel Practices and Procedures. The Personnel Review Board shall have the power to hear such appeals from administrative determinations made pursuant to said Code of Personnel Practices and Procedures, as may be authorized by said Code, and may have such other powers and duties as may from time to time be given to it by ordinance or resolution. The Board shall keep a record of its proceedings which shall be open to public inspection and shall conduct its proceedings in accordance with the Code of Personnel Practices and Procedures and the rules of the Board, provided that such rules shall be consistent with the provisions of the Code of Personnel Practices and Procedures.

(D) Unless otherwise provided in this Charter, the Administrative Director shall appoint, whether by original or promotional appointment, all employees within the classified and unclassified service of the Municipality; provided that: such appointment shall be subject to the approval of the Mayor; the positions of employment have first been authorized by Council; and that this provision shall not apply to employees of the Council, Assistant Directors of Law, or the Secretary of any board or commission. The Council shall appoint its employees by a majority vote of its members.

Section 7.04. Park and Recreation Board

(A) There is hereby created a Park and Recreation Board consisting of a member of the Council to be appointed by a majority vote of the Council to serve during his or her current term on Council, and for electors of the Municipality to be appointed by the Mayor subject to the approval of Council by a majority vote of its members for overlapping terms of office of three years, which members shall serve without compensation. The first members appointed by the Mayor shall be appointed so that two serve a three year term and two serve a one year term. Thereafter, each member appointed by the Mayor shall serve a three year term of office.

(B) The Park and Recreation Board shall have those powers, duties and functions as provided by this Charter and as provided by the ordinances and resolutions of the Municipality.

Section 7.05. Charter Revision Commission

(A) There is hereby created a Charter Revision Commission which shall consist of five members to be appointed as follows: two shall be appointed from the membership of the Council by a majority vote of the members for one year terms of office; and three shall be electors to are not members of the Council to be appointed by the Mayor for overlapping terms of office. The first members appointed by the Mayor shall be appointed so that one serves for a one year term, one serves for a two year term and one serves for a three year term. Thereafter, each member appointed by the Mayor shall serve for a three year term of office. Members of the Commission shall serve without compensation. Terms of members of the Commission shall begin on the first day of July after their appointment, commencing in the year 1982.

(B) The Charter Revision Commission shall continuously review the provisions of this Charter and the operations of the Municipality and shall report its recommendations, if any, for changes or revisions in this Charter to the Council no later than the first day of June of each year, commencing in the year 1983. The Clerk of Council shall publish the recommendations, if any, of the Commission in full at least once in a newspaper of general circulation in the Municipality. The Council may submit any amendments to the Charter recommended by the Commission, in the form recommended by the Commission or in a revised form, to the voters in the manner provided by the Constitution and laws of Ohio. The Council shall appropriate funds to the Commission as determined to be necessary by the Commission to carry out its powers, duties and functions, including amounts required to pay any consultants or special legal counsel selected by the Commission.

Section 7.06. Deposit and Investment Board

(A) There is hereby created a Deposit and Investment Board consisting of the Mayor, Finance Director and Law Director.

(B) The Deposit and Investment Board shall deposit and invest the monies of the Municipality in the manner and as provided by the ordinances and resolutions of the Municipality. If ordinances and resolutions providing for the deposit and investment of the monies of the Municipality do not exist or are not adopted, those monies shall be deposited and invested in the manner provided by the laws of Ohio until otherwise provided by the ordinances and resolutions of the Municipality.

Section 7.07. Income Tax Board of Review

The Council may, by ordinance or resolution, establish a Board of Review to function as an appeal board and to perform other duties in regard to the administration of the municipal income tax. The membership of the Board, their term of office, method of appointment and the Board's powers, duties and functions shall be provided by ordinance or resolution. Meetings of the Board, when hearing or deciding an appeal of a taxpayer, shall not be open to the public unless the taxpayer filing the appeal requests the meeting to be open. Copies of proceedings of the Board shall be promptly filed with the Finance Director.

Section 7.08. Cemetery Board

Control over cemeteries and burial grounds owned by the Municipality shall be vested in a Board of Cemetery Trustees as that Board is organized under the laws of Ohio pertaining to general statutory plan villages; and the Board shall be governed in all respects and have those powers, duties and functions as provided by the laws of Ohio pertaining to general statutory plan villages, unless otherwise inconsistent with this Charter. When a Cemetery were burial ground is owned in common or jointly by the Municipality and one or more other municipal corporations or townships, the control over the cemetery or burial ground shall be vested and governed in all respects by the laws of Ohio relating to union cemeteries. If the laws of Ohio shall now or hereafter fail to provide for the government and operation of any cemetery or burial ground owned solely, or in common or jointly with other units of government, the Council shall provide by ordinance or resolution for the organization of a board, together with its powers, duties and functions to control the cemetery or burial ground.

Section 7.09. 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. Boards and commissions created by this Charter may be abolished or revised as to organization or their functions only by amendment of this Charter, except where this Charter permits revision or amplification by ordinance or resolution.

Section 7.10. Organization – Vacancies

(A) Unless otherwise provided or allowed in this Charter, each board or commission created by this Charter shall:

- (1) Organized at its first meeting each year by electing a chairman, vice chairman and secretary. The chairman and vice chairman shall be a member of the board or commission and the secretary may be elected from within or without the membership of the board or commission. The secretary will 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. The Income Tax Board of Review shall file copies of its proceedings with the Finance Director.
- (2) Take action by motion, and a majority vote of the members of the board or commission shall be necessary to take any action. A majority of the members shall constitute a quorum. All members of boards and commissions shall be electors of the Municipality.
- (3) Adopt rules for the conduct and government of the board or commission; however, the rules may not conflict with the provisions of this Charter or ordinances or resolutions of the Municipality.

(B) Unless otherwise provided in this Charter, a vacancy during the term of any member of a board or commission created by this Charter shall be filled for the unexpired term in the manner authorized for an original appointment.

ARTICLE VIII

FINANCE, TAXATION AND DEBT

Section 8.01. General

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds, assessments and other fiscal matters of the Municipality shall be applicable to the Municipality, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefore is made in the Constitution of Ohio.

Section 8.02. Contracting Powers and Procedures

(A) The Administrative Director shall be the contracting officer of the Municipality and shall award and execute all contracts on behalf of the Municipality. When there is a vacancy in the office of Administrative Director or he or she is temporarily absent or disabled, the Mayor shall exercise the powers granted to the Administrative Director by this Section.

(B) When any expenditure or contract 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 or directed by an ordinance or resolution passed by the Council and shall be advertised once a week for at least two weeks in a newspaper of general circulation in the Municipality; provided the Council, by an ordinance or resolution adopted by a vote of at least two-thirds of its members, may authorize, without advertising and competitive bidding, contracts and expenditures for any purpose where the statutory or common law of Ohio does not require competitive bidding.

(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 Administrative Director. 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 Administrative Director on behalf of the Municipality. Modifications or alterations in contracts shall not require advertising and competitive bidding.

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

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

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

(E) The Administrative Director shall not divide any order or contract to avoid the requirements of competitive bidding.

ARTICLE IX

NOMINATIONS AND ELECTIONS

Section 9.01. Nominations

Nominations for all elected offices of the Municipality shall be made by petition only and no primary shall be held to nominate officers of the Municipality. Nominating petitions shall be in the form determined by the election authorities provided under the general laws of Ohio and signed by electors of the Municipality equal in number to not less than one percent nor more than three percent of the electors of the Municipality voting at the last preceding gubernatorial election.

Section 9.02. Regular Municipal Elections

The regular municipal elections for all elected offices, and for issues to be presented to the voters, shall be held on the dates and at the times fixed by the election laws of Ohio for general statutory plan cities, except that all such officers shall be elected to terms of office as provided in this Charter.

Section 9.03. Special Elections

The Council may, at any time, order a special election by ordinance or resolution which shall set forth the date and purpose of the election. Special elections may be held on any dates, including but not limited to the dates of general in primary elections in odd or even numbered years.

Section 9.04. Conduct of Elections

All regular and special elections shall be conducted by the election officials as established under the laws of Ohio. Such elections shall be held in conformity with the provisions of this Charter. Where the Charter is silent, the provisions of the election laws of Ohio shall be followed.

Section 9.05. Council Referral of Ordinances and Resolutions

Except as required, authorized or allowed by this Charter or the laws of Ohio, the Council shall not, on their own initiation, refer any pending ordinance or resolution to a vote of the electors of the Municipality.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

Section 10.01. Initiative and Referendum

Ordinances, resolutions, issues and other measures may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by the Council shall be subject to referendum, as provided by the Constitution and laws of Ohio; provided ordinances and resolutions calling elections under this Charter shall not be subject to referendum.

Section 10.02. Recall

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

(B) If the elected official shall have served six months of his or her term, an elector or electors of the Municipality 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. No petitions for the recall of an elected official may be circulated until such written notice of intent is served upon the Clerk of Council. 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. Such petition shall be signed by at least that number of electors which equals fifteen percent in number of the electors voting 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 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 certificate shall have been delivered, Council shall, by ordinance or resolution, 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 general 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, the office shall be vacant, and such vacancy shall be filled as provided in this Charter. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one year following such election.

ARTICLE XI

GENERAL PROVISIONS

Section 11.01. Removal of Officials

(A) Elected officials and members of Boards and Commissions shall be removed for cause as provided in this Section of the Charter.

(B) As used in this Section of the Charter, the "Charging Official" shall mean: the "Mayor" except where the person accused of a grounds for removal is the person holding the office of Mayor; or the "President of Council" where the person sought to be removed for cause holds the office of Mayor.

(C) The Charging Official, if he or she has reason to believe there is probable cause (as such causes are defined in this Section 11.01) for the removal of an elected official or member of a Board or Commission, shall give notice of the alleged cause for removal and the time, date and place of the commencement of hearing for removal, which shall not be earlier than ten days after the service of the notice, to the accused person by personal service, certified mail, or by leaving a copy of such notice at the person's last known place of residence in the Municipality. At such time, date and place and at any adjourned meetings, the Council shall hear, provide an opportunity to the accused person to be heard and present defenses, and determine whether the accused person shall be removed from his or her office. The Council shall remove an official for any of the following causes by a two-thirds vote of the members of the Council, provided that if the accused person is a member of Council, such person shall not vote on any matter during the removal procedure and shall not be counted in determining required majorities:

- (1) Unexcused absences from any four consecutive regular meetings of the Council or the Board of Commission on which such person serves or any six regular or special meetings thereof in any year, provided the accused person received notice of special meetings. An absence from a regular or special meeting may be excused by a majority vote of the members of the Council or the Board or Commission on which such person serves at any time, including the excusing of any absence after action is initiated but prior to the commencement of hearings for the person's removal under this Section.
- (2) Failure to possess or maintain the qualifications of the office.
- (3) A determination that the accused person is guilty of misfeasance, malfeasance or nonfeasance in office.

(D) Upon removal of an official 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, in the vacancy shall be filled as provided in this Charter.

(E) The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any action of the official or any body, including the Council, in which the member participated. The subsequent removal of a person who fills a vacancy created pursuant to this Section by the reinstatement by a court of a person previously removed by the Council, shall not invalidate any action of the person who filled the vacancy or any body, including the Council, in which such person who filled the vacancy participated.

(F) The Council shall be the judge of the qualifications of and of the grounds for removal from office and shall conduct the proceedings relative to removal. The Council 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 either a private or public hearing on demand, but in any case, a record of the proceedings shall be made and preserved. If a public hearing is demanded, a 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, and in such an event, the Mayor, or other presiding officer of the Council, may reschedule the time, date and place of the hearing set by the Charging Official to accommodate the publication of the notice. If the hearing is rescheduled, the Mayor or other presiding officer, shall notify the accused person of such fact. 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.

(G) The Director of Law shall prosecute the removal proceedings before the Council and any review thereof by the Courts. If a person accused is not finally removed, the Municipality shall pay the reasonable costs of the defense of such person and any compensation withheld pending the appeal of the action of the Council.

Section 11.02. Conflicts of Interests, 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.

Section 11.03. Succession

The Municipality of New Lexington under this Charter is hereby declared to be the legal successor of the Municipality of New Lexington under the laws of Ohio; and shall have title to all property, real and personal, owned by its predecessor, including all moneys on deposit and all taxes or assessments in process of collection, together with all accounts receivable and rights of action. The Municipality 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 Municipality or for its benefit prior to the effective date of this Charter shall continue in full force and effect.

Section 11.04. Effect of Charter on Existing Laws and Rights

(A) The adoption of this Charter shall not affect any pre-existing rights of the Municipality nor any right, liability, pending suit or prosecution, either on behalf of or against the Municipality or any officer thereof, nor any franchise granted by the Municipality 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 Municipality including ordinances or 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 Municipality 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.

Section 11.05. Retirement System - Health District

The laws of Ohio governing the retirement of officers and employees of the Municipality and the organization of health districts shall be applicable under this Charter.

Section 11.06. Amendment of Charter

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

Section 11.07. 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.

ARTICLE XII

TRANSITIONAL PROVISIONS

Section 12.01. Effective Date of Charter

This Charter shall be submitted to the electors of the Municipality at an election to be held November 4, 1980. If approved by a majority of those voting, the Charter shall take effect from the date the final result of the election is certified by the election authorities for the purpose of designating, nominating, and electing officers of the Municipality and conducting municipal elections. For all other purposes, this Charter shall take effect January 1, 1981.

Section 12.02. Continuance of Present Officials - Abolition of Offices

Except as otherwise provided by this Charter, all persons 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 Municipality under the laws of Ohio or under any municipal ordinance, resolution or contract in force at the time this Charter takes effect shall, if the office, body, commission, board, department or division is abolished by this Charter, 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.

Section 12.03. Continuance of Present Employees

Every employee of the Municipality on the effective date of this Charter 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.