

# CHARTER

## OF THE MUNICIPALITY OF CANFIELD, OHIO

EDITOR'S NOTE: The Canfield Charter was approved by the voters on November 5, 1968. Dates appearing in parentheses following section headings indicate those sections were subsequently amended, added or repealed on the date given.

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# **CHARTER OF THE MUNICIPALITY OF CANFIELD, OHIO PREAMBLE**

We, the people of the Municipality of Canfield, in the County of Mahoning and the State of Ohio, in order that we may have the benefits of municipal home rule and exercise all powers of local self-government conferred by the Ohio Constitution, do frame and adopt this Charter for the government of the Municipality of Canfield.

## **Article I**

### **NAME, BOUNDARIES AND FORM OF GOVERNMENT**

#### **SECTION 1.01 NAME.**

The present Municipality, shall continue to be a body politic and corporate, under the name of the "City of Canfield," Ohio.

#### **SECTION 1.02 BOUNDARIES.**

The Municipality shall retain the same boundaries as the present Municipality with powers and authority to change its boundaries in the same manner authorized by the general laws of the State of Ohio.

#### **SECTION 1.03 FORM OF GOVERNMENT.**

The form of government provided in this Charter shall be known as the "Council-Manager Plan." The powers and functions of the municipal government shall be distributed among the Municipality, its citizens, and the various officers, bodies, boards and commissions as provided under the provisions of this Charter.

## **Article II**

### **CORPORATE POWERS**

#### **SECTION 2.01 POWERS GRANTED.**

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

#### **SECTION 2.02 MANNER OF EXERCISE OF POWERS.**

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as shall be provided by ordinance of the Council, and when not prescribed in this Charter or provided by ordinance of Council, then such powers shall be exercised in the manner provided by the general laws of the State of Ohio until the Council shall provide a different manner of exercising such powers.

#### **SECTION 2.03 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.

## **Article III**

### **COUNCIL - MAYOR**

#### **SECTION 3.01 NUMBER AND TERM.**

The legislative powers of the Municipality except as otherwise provided by this Charter and the Constitution of the State of Ohio, shall be vested in a council of five (5) members consisting of the Mayor and four (4) persons elected from the Municipality at large.

In the general election of November, 2019, all council members will be elected to a term of four (4) years up to a maximum of four (4) consecutive terms including previous completed terms. Subsequently, all councilmembers shall be elected to serve four (4) year terms. A Councilperson will be eligible for election to any office after an intervening term. The mayor shall be elected in a manner provided by Section 3.05 of this Charter.

Members of Council shall take office January 1 of the year following their election and shall serve until the expiration of their term of office and until their successors are elected and qualified. If for any reason a member of Council shall fail to qualify for office within forty-five (45) days and after January 1 of the year following his election, a vacancy shall be deemed to exist and such vacancy shall be filled in the manner provided in Section 3.14 of this Charter.

(Amended 11-6-18.)

#### **SECTION 3.02 QUALIFICATIONS.**

All members of Council shall have been electors of the Municipality for at least one (1) continuous year immediately prior to the time of filing for office, and shall continue to be qualified electors of the Municipality during their respective terms of office. No member of Council shall hold any other office or employment with the Municipality, except as otherwise allowed by this Charter or by ordinance of the Council, nor shall any member of Council hold any other public office, except the following: Notary Public; member of National Guard or state militia; member of the reserves of the Armed Forces of the United States; national, state, ward or precinct committeeperson of a political party or any other office of a political party; and delegate to a municipal, County, state or national convention of a political party.

Any member of Council who shall cease to possess or who violates any of the qualifications of office herein provided or who is finally convicted of a felony involving moral turpitude shall forthwith forfeit his office. Forfeiture of office as provided herein shall not render void or invalidate any action of the Council in which such member participated.

#### **SECTION 3.03 REMOVAL.**

Any councilmember may, after absence from his official duties for three (3) consecutive months, be removed by a majority vote of the remaining members of the Council; and any councilmember shall, after absence from his official duties for five (5) consecutive months, be removed by a majority vote of the remaining members of Council and their office declared vacant. An accused member shall be notified of the charge against them and given an opportunity to be heard in person or by counsel.

The Council shall be the judge of the election, qualifications, and removal of its members and for such purpose shall have powers to subpoena witnesses and require the production of records, but the decision of the Council in any case shall be subject to review by the courts.

A member of Council shall not vote upon the question regarding their removal. Failure to maintain qualifications or removal from office shall not invalidate any action of the Council in which such member participated.

#### **SECTION 3.04 ORGANIZATION OF COUNCIL.**

On or before the 5th day of January next, following each regular municipal election, the members of Council shall meet at the Council chambers for the purpose of organization. At such meeting, the Council shall elect one (1) of its members thereof as President of the Council to serve until a successor shall have been elected. In the event the President of the Council ceases to be a member thereof or succeeds to the office of Mayor, the Council shall elect another member to serve as President until another President of Council is elected in the manner hereinbefore provided.

#### **SECTION 3.05 MAYOR, ELECTION, TERM, QUALIFICATIONS AND POWERS.**

The Mayor shall be elected from the Municipality at large. Beginning with the general election of November, 2013, the Mayor will be elected to a term of 4 years and a maximum of 2 consecutive terms commencing on the 2nd day of January next following such election and shall serve until a successor is elected and qualified. Any person having currently held any elected office for more than 6.5 years is not eligible for reelection for any elected office in the 2013 or 2015 General Election. The mayor will be eligible for election to any office after an intervening term. If for any reason the Mayor shall fail to qualify for office within forty-five (45) days, after January 1 of the year following the election, a vacancy shall be deemed to exist and such vacancy shall be filled in the manner provided in Section 3.14 of this Charter. Subsequent to the November, 2013 general election, election of the Mayor shall occur on the first Tuesday after the first Monday in November in each odd-numbered years beginning with the 2017 regular municipal election. The Mayor elected in 2013 and thereafter shall serve terms of four (4) years.

The Mayor shall be a member of the Council with the right to vote on all matters, except on the question of the removal of the Mayor or whether the Mayor's absence from his official duties shall be excused. The Mayor shall have every and all other rights, privileges, duties and obligations provided in this Charter for members of the Council in addition to the rights, privileges, duties and obligations provided hereinafter to the office of Mayor. The Mayor shall not serve as President of the Council and shall not have any veto power over the actions of the Council. The Mayor shall also be the ceremonial head of the Municipality; shall be recognized as head of the Municipality by the Governor for military purposes and by the Courts for the purpose of serving civil processes. The Mayor shall administer oaths, exercise all the judicial powers which are conferred upon Mayors by the laws of Ohio, and perform such other powers and duties as are elsewhere provided in this Charter or as provided by the Council. The Mayor shall not interfere with the powers and duties of the Manager in the supervision and conduct of the affairs of the administrative departments and divisions of the Municipality.

The Mayor shall have those qualifications set forth in Section 3.02 of this Charter and shall be subject to removal from office as provided in Section 3.03 of this Charter.

(Amended 11-8-88; 11-6-12; Case No. 15 CV 1322)

### **SECTION 3.06 ABSENCE OR DISABILITY OF THE MAYOR.**

During any period when the Mayor shall be absent, inaccessible, disabled or unable for any cause to perform the duties of the office, the President of the Council shall be acting Mayor and shall exercise all powers, duties, and functions granted to the Mayor by this Charter, the laws of Ohio, and the ordinances and resolutions of the Municipality.

### **SECTION 3.07 CLERK OF COUNCIL.**

The Clerk of Council shall be appointed by the Manager with the approval of the Council and shall serve at the pleasure of Council. The Clerk of Council shall attend all meetings of the Council and shall keep an accurate and complete journal of the proceedings of Council and perform such other duties as this Charter, the laws of Ohio, or the Council may require. In addition, the Clerk of Council shall maintain, or cause to be maintained, a complete file of all official blueprints, maps and other records at the municipal hall, or other designated place. The failure to maintain such blueprints, maps and other records shall not invalidate or otherwise affect any action taken by the Council or any other officer, employee, agent or independent contractor of the Municipality. All such blueprints, maps or other records shall be available for public inspection at all reasonable times, provided that the unavailability of such blueprints, maps or other records shall not invalidate or otherwise affect any action taken by the Council or any other officer, employee, agent or independent contractor of the Municipality, nor shall the unavailability of such records limit or impair the rights of any citizen of the Municipality.

The Clerk of Council may be a person having other office, employment or appointment with the Municipality.

### **SECTION 3.08 POWERS OF COUNCIL.**

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 to:

- (a) Levy taxes and incur debts subject to the limitations imposed thereon by this Charter and the Constitution of the State of Ohio.
- (b) Adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with general laws.

- (c) 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.
- (d) Fix the number of employees in the various offices, departments, divisions, bureaus, boards, and commissions of the Municipality and to fix the rate of their compensation, hours of work, mandatory retirement ages and to provide such fringe benefits as deemed proper by the Council.
- (e) 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.
- (f) Create other offices, departments, divisions, bureaus, boards, and commissions; and the power to combine, change and abolish any office, department, division, bureau, board, or commission. The power hereinabove expressed in this subsection shall be exercised by ordinance. The Council shall not abolish the offices of Manager, Mayor, Clerk of Council, Council members, Civil Service Commission members and Municipal Attorney, The Manager may hold such other offices and positions with the Municipality as provided by this Charter or as the Council may authorize by a vote of a majority of its members. The Council may authorize the Finance Director to hold the position of Clerk of Council by a vote of a majority of its members.
- (g) Adopt and provide for the enforcement of zoning classifications, districts, uses and regulations by ordinance; to adopt and provide for the enforcement of ordinances regulating the subdivision and platting of land within the Municipality; to regulate the subdivision and platting of land outside of the boundaries of the Municipality as provided by general law; to adopt and provide for the enforcement of ordinances requiring actual construction or assurance of construction of streets, utility lines and facilities, sidewalks, curbs and gutters and other improvements or facilities as a condition precedent to the approval of a plat of a subdivision; to adopt and provide for the enforcement of ordinances regulating the construction, reconstruction, alteration, enlargement, repair or demolition of buildings and other structures within the Municipality; to adopt and to provide for the enforcement of housing codes or ordinances, regulating the use and occupancy of any land, building or structure within the Municipality.
- (h) Establish, by ordinance, the rates of charges made of consumers of all municipal utilities and services.
- (i) Provide, without competitive bidding, for an annual or special independent audit of any or all municipal funds. Such audit may be in addition to an audit by representatives of the State Auditor or other state official or agency as may be determined to be required under the Constitution of the State of Ohio.
- (j) Acquire title to or interests in real property shall be vested in the Council, whether such property is acquired by: the exercise of the power of eminent domain, purchase, gift, lease, lease with option to purchase, devise, bequest, in trust, or otherwise. The power to sell or otherwise convey, lease with option to purchase, or grant interests in real property shall be vested in the Council. Such sale, conveyance, lease or grant shall be in the manner as provided by the ordinance authorizing the sale, conveyance, lease, or grant. Title to all real property shall be taken in the name of the Municipality.
- (k) Adopt the annual budget and appropriation measures of the Municipality.
- (l) Appoint the members of all boards and commissions created by the Charter or by enactments of the Council, except as may be otherwise provided in this Charter.
- (m) Accept gifts and grants to and on behalf of the Municipality.
- (n) Inquire into the conduct of any officer, employee, agent, or independent contractor in the exercise of their powers, duties or functions, or in their performance of work or service or supplying of equipment, materials or supplies to or on the behalf of the Municipality; and to inquire into and investigate any and all municipal affairs. In the exercise of this power the Council shall have the power to subpoena witnesses and require the production of records and other evidence in the manner provided in the rules, regulations or bylaws of the Council, and in the absence of such provisions, the Mayor or President of the Council shall have the power to issue subpoenas for witnesses and the production of records and other evidence.
- (o) Exercise all other powers granted to legislative authorities of municipalities by the Constitution and laws of the State of Ohio, and to exercise all other powers granted to the Council by and under this

### Charter.

(p) Employ such other persons and consultants as it deems necessary for the proper discharge of its duties.

The Council, in addition to all other rights and powers granted to it under the general law, may by ordinance, grant permission to any person, firm, or corporation to construct and operate a public utility on, across, under or above any public street or ground within the Municipality. It may prescribe in the ordinance the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, and any other terms conducive to the public interest, provided that such grant of permission shall not extend beyond twenty-five (25) years; however such grant may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. No consent of the owners of property abutting on any public street or ground shall be necessary to the effectiveness of any such grant, amendment or renewal. All such grants, amendments or renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for adequacy of service and maintenance and the operation of such utilities with reference to such streets and public grounds, including the right to require reconstruction, relocation or discontinuance of appliances, plant or equipment used in such streets or public grounds as shall, in the opinion of Council, be necessary in the public interest.

### **SECTION 3.09 REGULAR COUNCIL MEETINGS.**

The Council shall meet at such times and places as may be prescribed by its ordinances, resolutions, rules or by motion. Regular meetings shall be held at least twice in each calendar month, except that during the months of July and August, the Council may dispense with one of its regular meetings.

In addition to the Council Members, President of Council, the Mayor and the City Manager, the following persons shall attend each city council meeting and report on their area(s) of responsibility at each meeting:

Finance Director

Chief of Police

Zoning Inspector

Public Works Foreman

These reports shall be open to questions by any resident or their representative(s) in attendance. Council may limit any person or their representative to a maximum of 3 minutes on any single question. (Enacted 11-4-14)

### **SECTION 3.10 SPECIAL COUNCIL MEETINGS.**

Special meetings of the Council may be called in accordance with and as provided for by its rules. In the absence of such provisions, special meetings may be called by motion of the Council taken at any regular or special meeting thereof, or shall be called by the Clerk upon the written request of the Mayor, or the President of Council, or of three (3) members of Council. Any such request shall state the time, place and date thereof and the subject or subjects to be considered at the meeting. Unless four (4) members in attendance concur, no other subject or subjects shall be considered. Notice in writing of each such special meeting called at the request of the Mayor, President of Council, or three (3) members of Council shall be given to each member of the Council and the Mayor by serving the same on each of them personally or by leaving a copy thereof at their usual place of residence not less than twenty-four (24) hours preceding the date and hour of such meeting. Service of such notice may be waived in writing, either prior or subsequent to such meeting, and shall be deemed conclusively to have been waived by any member of Council or the Mayor who is present at such special meeting.

### **SECTION 3.11 MEETINGS TO BE OPEN TO PUBLIC.**

All meetings of Council shall be public, however, Council may recess for the purpose of discussion in a closed Executive Session any matter as provided by Section 121.22 of the O.R.C. or any successor statute. Formal action or a vote of Council shall be taken in a public meeting.

(Amended 11-7-78.)

Prior to any final vote by Council on any ordinance or resolution in regular, special, manager's, community or emergency meetings, or any other meeting held by Council, the session must be opened for comments by any resident or their representative in attendance. Comments must pertain to the issue on the floor. Council may limit any individual to 3 minutes or a maximum of 30 minutes on any single issue. (Enacted 11-4-14)

### **SECTION 3.12 QUORUM.**

A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting of the Council, but a number less than a quorum may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by this Charter,

ordinance, resolution or by rules of the Council. At any meeting at which a quorum is present, any action may be taken by the affirmative vote of a majority of the members of the Council present, unless a larger number be required by the provisions of this Charter.

### **SECTION 3.13 RULES OF COUNCIL.**

The Council may adopt, amend, and repeal rules, regulations and by-laws by a majority vote of the members thereof without the necessity of complying with the provisions required in this Charter for the adoption of ordinances or resolutions. Such rules may be waived or suspended upon a motion concurred in by a majority vote of the members of Council.

### **SECTION 3.14 VACANCIES IN OFFICE OF COUNCIL OR MAYOR.**

1. A vacancy shall be deemed to occur in the Council upon the presentation of a written resignation to the Mayor or the President of Council, which resignation shall be effective immediately unless a later time is specified therein; the death of a councilmember; the determination by the Council that a member of Council has failed to qualify within the period of time allowed by Section 3.01 of this Charter, or has ceased to possess or has violated any of the qualifications of the office of Council member; or the removal of such councilmember as provided in Section 3.03 or Section 11.04, of this Charter.

2. A vacancy shall be deemed to occur in the office of Mayor upon: the presentation of a written resignation to the Clerk or the President of Council, which resignation shall be effective immediately unless a later time is specified therein; the death of the Mayor; the determination by the Council that the Mayor has failed to qualify within the period of time allowed by Section 3.05 of this Charter, or has ceased to possess or has violated any of the qualifications of the office of Mayor; or the removal of the Mayor as provided in Section 3.03 or Section 11.04, of this Charter.

3. Any vacancy in the Council shall be filled by a majority vote of the remaining members of the Council, and the person chosen to fill a vacancy shall serve the term of the person whose resignation, death, failure to qualify or to maintain qualifications, or removal created the vacancy until a successor is elected and qualified at the next general municipal election. In the event the office of Mayor shall become vacant, the President of Council shall become Mayor and shall serve in such office until a successor is elected and qualified as hereinafter provided.

(Amended 11-3-98.)

### **SECTION 3.15 SALARIES - CHANGES THEREIN.**

On and after the effective date of this Charter the compensation of members of Council, the Mayor, and members of all boards and commissions established by or under this Charter may be increased at any time; however, if such increase occurs during the term of persons holding such positions, the increase shall not be effective as to such persons until the expiration of two (2) years after the effective date of the ordinance increasing such salaries, or the end of the term of the persons holding such positions, whichever shall occur first. The compensation of members of Council, the Mayor and members of all boards and commissions shall not be decreased during the term for which they were elected or appointed except that in the event the Mayor no longer exercises judicial functions, the salary of the Mayor shall be reduced to that of a Councilperson plus an honorarium of one hundred dollars (\$100.00) per year. The compensation of all other officers and employees of the Municipality may be increased or decreased at any time by ordinance. The payment of allowances for expenses or the reimbursement of expenses and the granting of fringe benefits, as may be provided by the Council, shall not be considered an increase in compensation that is prohibited by this section.

## **Article IV**

### **LEGISLATIVE PROCEDURE; ORDINANCES AND RESOLUTIONS**

#### **SECTION 4.01 ACTION TO BE TAKEN BY ORDINANCE OR RESOLUTION.**

Action of Council shall be by ordinance, resolution, or motion. Every action of a general and permanent nature, or granting a franchise; or levying a tax; or appropriating money; or contracting an indebtedness, to be evidenced by the issuance of bonds or notes; or for the purchase, lease or transfer of public property; or establishing an offense and fixing the penalty therefor shall be taken by ordinance, in the manner hereinafter provided. All other action may be resolution or motion.

#### **SECTION 4.02 INTRODUCTION OF ORDINANCES AND RESOLUTIONS.**



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

#### **SECTION 4.03 STYLE OF ORDINANCES AND RESOLUTIONS.**

Each ordinance shall contain an enacting clause as follows: "Be It Ordained By The Council Of The Municipality of Canfield, State of Ohio," and each resolution shall contain an enacting clause as follows: "Be It Resolved By The Council of the Municipality of Canfield, State of Ohio."

#### **SECTION 4.04 SUBJECT OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution shall contain only one subject which shall be expressed in its title, provided, however, that appropriation ordinances may contain the various subjects, accounts, and amounts for which moneys are appropriated, and that ordinances and resolutions which are codified or recodified are not subject to the limitation of containing one subject.

#### **SECTION 4.05 READING OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution shall be read fully and distinctly on two (2) separate days. The Council may, by vote of four (4) members, dispense with the requirement that an ordinance or resolution be read on two (2) separate days, and authorize the adoption of an ordinance or resolution upon its first reading; and the Council may, by a majority vote of all members, dispense with the requirement that an ordinance or resolution be read fully and distinctly for its first or second reading or for both its first and second reading, and authorize such reading or readings to be by title only. Motions to dispense with the requirement that an ordinance or resolution be read on two (2) separate days and motions to dispense with the requirement that an ordinance or resolution shall be read fully and distinctly shall be separately stated and a separate vote shall be taken on each such motion.

#### **SECTION 4.06 VOTE REQUIRED FOR PASSAGE OF ORDINANCES AND RESOLUTIONS.**

The vote on the question of passage of each ordinance, resolution, and motion shall be taken by "yeas" and "nays" and entered on the Journal, and no ordinance, resolution, or motion shall be passed without concurrence of a majority of all members of the Council, except that each emergency ordinance or resolution shall require the affirmative vote of at least four (4) members of the Council for its enactment; provided, however, that if such emergency ordinance or resolution shall fail to receive the required affirmative vote of four (4) members, but receives the necessary majority for passage as a nonemergency ordinance or resolution, it shall be considered passed as a nonemergency ordinance or resolution and shall become effective as hereinafter provided by this Charter. A majority of the members present at any regular or special Council meeting may compel the attendance of absent members as provided in Section 3.12 of this Charter.

#### **SECTION 4.07 CONTENT OF EMERGENCY ORDINANCES AND RESOLUTIONS.**

Each emergency ordinance or resolution shall determine that said ordinance or resolution is necessary for the immediate preservation of the public peace, health, safety, or welfare, and shall contain a statement of the necessity for such emergency.

#### **SECTION 4.08 EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution providing for the appropriation of money, an annual tax levy for current expenses, improvements petitioned for by the owners of the requisite majority of the front footage or of the area of the property benefitted and to be especially assessed therefor, submission of any question to the electorate or the determination to proceed with an election, providing for the approval of a revision, codification, recodification, rearrangement of ordinances and resolutions, or publication thereof in book form, a preliminary or final resolution of removal of the manager, and any emergency ordinance or resolution shall take effect, unless a later time be specified therein, immediately upon its passage. No other ordinance or resolution shall go into effect until thirty (30) days following its passage by the Council.

#### **SECTION 4.09 AUTHENTICATION OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution shall be authenticated by the signature of the President of Council and the Clerk of Council; however, the failure or refusal of such officers to sign such ordinances or resolutions shall not invalidate an otherwise properly enacted ordinance or resolution.

#### **SECTION 4.10 RECORDING OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution shall be recorded in a book, or other record prescribed by the Council, established and maintained for that purpose. The Clerk of Council, or a duly authorized deputy to said Clerk, shall, upon the request of any person and upon the payment of a fee, as established by the Council, certify true copies of any ordinance or resolution, which certified copies shall be admissible as evidence in any court.

#### **SECTION 4.11 AMENDMENT OF ORDINANCES AND RESOLUTIONS.**

No ordinance or resolution or any section thereof, shall be revised or amended unless the new ordinance or resolution contains the entire ordinance, resolution or section or subsection as revised or amended, and the ordinance, resolution or section or subsection so amended shall be repealed. This requirement shall not prevent the amendment of an ordinance or resolution by the addition of a new section, sections, subsection or subsections and in such case the full text of the former ordinance or resolution need not be set forth. This requirement shall not prevent repeals by implication by the subsequent enactment of an inconsistent provision.

Except in the case of a codification or recodification of ordinances and resolutions, a separate vote shall be taken on each ordinance or resolution proposed to be amended.

Ordinances and resolutions that have been introduced and have received their first reading or their first and second reading, but have not been voted on as to passage, may be amended or revised upon approval by a majority vote of the members of the Council, and such amended or revised ordinance or resolution need not receive readings in addition to the readings required by this Article because of such amendment or revision.

#### **SECTION 4.12 REFERRAL OF ZONING ORDINANCES TO PLANNING AND ZONING COMMISSION.**

Each ordinance or resolution establishing, amending, revising, changing or repealing zoning classifications, districts, uses, or regulations shall be referred to the Planning and Zoning Commission immediately after its first reading. Within thirty (30) days of such referral the Planning and Zoning Commission shall cause such ordinance or resolution to be returned to the Clerk of Council together with the written recommendations of the majority of the members of such commission.

No such ordinance or resolution which violates, differs from or departs from the written recommendation of the Planning and Zoning Commission shall take effect unless passed and approved by a vote of not less than three (3) of the members of Council. This provision shall not be construed to mean that an ordinance or resolution recommended for passage by the Planning and Zoning Commission shall be passed by less than the votes required by Section 4.06 of this Charter. (Amended 11-2-93.)

#### **SECTION 4.13 PUBLIC HEARING ON ZONING ORDINANCE OR RESOLUTION.**

The President of Council or other presiding officer of the Council shall set a date for a public hearing on each ordinance or resolution establishing, amending, revising, changing or repealing zoning classifications, districts, uses, or regulations, which hearing shall be after the thirty (30) day period provided in Section 4.12 within which the Planning Commission is required to return its written recommendations to the Clerk of Council. The Clerk of Council shall cause a notice of such public hearing to be published one time in a newspaper determined by the Council to be of circulation within the Municipality at least fifteen (15) days prior to the date of such public hearing, and when such 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 fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other lists as may be required by the Council. The failure of delivery of such notice for any reason shall not invalidate any such ordinance or resolution.

#### **SECTION 4.14 ADOPTION OF TECHNICAL CODES BY REFERENCE.**

Council may, by ordinance, adopt standard ordinances and codes prepared by the Federal government or any agency thereof, the State or any department, board or other agency or political subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing code, electrical code, building code, refrigeration machinery code, piping code, boiler code, heating code, air conditioning code, housing code, and such other matters as the Council may determine to be appropriate for adoption by reference, by incorporation by reference. The ordinance adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the

ordinance. In such cases, publication of the standard ordinance or code shall not be required, but at least one copy 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, after its adoption by reference by the Council, is amended, the Council may adopt the amendment or change by incorporation by reference in an ordinance under the same procedure as is established herein for the adoption of the original standard ordinance or code without the necessity of setting forth in full in the ordinance the provisions either of the amendment or change to the original ordinance or the standard ordinance or code.

**SECTION 4.15 CODIFICATION OF ORDINANCES AND RESOLUTIONS.**

By a majority vote of the members of the Council, the Council may cause the ordinances and resolutions of the Municipality to be revised, codified, recodified, rearranged, or published in book form. Such revisions, codification, recodification, rearrangement or publication of ordinances and resolutions in book form shall be immediately effective upon approval of a majority vote of the members of the Council, and may contain new matter therein. The Clerk of Council shall cause a notice of such proposed revision, codification, recodification, rearrangement or publication of ordinances in book form to be published one (1) time in a newspaper determined by the Council to be of circulation within the Municipality at least seven (7) days prior to the final approval thereof by the Council, and no further publication shall be necessary. A current service supplementing such revision, codification, recodification, rearrangement or publication of ordinances and resolutions shall be maintained in the manner prescribed by the Council.

**SECTION 4.16 PUBLICATION OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution passed by the Council shall be published, unless otherwise provided or excepted from the requirement of publication by this Charter:

- (a) By publication in full once in a newspaper determined by Council to be of circulation within the Municipality, or
- (b) By publication of its title once in a newspaper determined by Council to be of circulation within the Municipality, and such publication shall contain a statement that a copy of the full text of such ordinance or resolution is available for inspection at the office of the Clerk of Council, Canfield, Ohio, or
- (c) By posting for seven (7) continuous days in a prominent place at the Municipal Building, Canfield, Ohio.

The method of publication, in accordance with this section, shall be determined by motion of the Council and the Clerk of Council shall cause such publication to be made immediately following passage.

A failure to post or to publish, omission, delay or error in said publication on the part of a newspaper, its officers, employees or agents, shall not cause such ordinance or resolution to be declared invalid, or otherwise affect the validity of such ordinance or resolution, and in such events the Clerk of Council may post or authorize publication at a later date. After the posting or publication of each ordinance or resolution as hereinabove provided, the Clerk of Council shall affix the appropriate following certification to the copy of the ordinance or resolution maintained in the official journal or record provided for in Section 4.10 of this Charter, and such certification shall be prima-facie evidence of such publication.

- 1. The following Certificate of Publication shall be used when the full text of an ordinance or resolution is published as provided by subparagraph (a) of this section:

Certificate of Publication

I, the undersigned Clerk of Council of the Municipality of Canfield, Ohio, hereby certify that the full text of the foregoing (ordinance or resolution) was published in the (name of newspaper in which publication took place) on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, and that at such date said newspaper was determined by the Council to be of circulation within the Municipality of Canfield, Ohio. Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk of Council  
Municipality of Canfield, Ohio

- 2. The following Certificate of Publication shall be used when the title to an ordinance or resolution is published as provided by subparagraph (b) of this section:

Certificate of Publication

I, the undersigned Clerk of Council of the Municipality of Canfield, Ohio, hereby certify that the title to the foregoing (ordinance or resolution) was published in the (name of newspaper in which

publication took place) on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that at such date said newspaper was determined by the Council to be of circulation within the Municipality of Canfield, Ohio; and that said publication contained in addition to the title to the foregoing (ordinance or resolution) a statement that a copy of the full text of such (ordinance or resolution) was available for inspection at the office of the Clerk of Council, Municipal Building, Canfield, Ohio. Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of Council  
Municipality of Canfield, Ohio

- 3. The following Certificate of Publication shall be used when an ordinance or resolution is posted as provided by subparagraph (c) of this section:

Certificate of Publication

I, the undersigned Clerk of Council of the Municipality of Canfield, Ohio, hereby certify that the foregoing (ordinance or resolution) was posted in a prominent place at the Municipal Building, Canfield, Ohio, for seven (7) continuous days, to wit:

(insert dates of posting).

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of Council  
Municipality of Canfield, Ohio

The failure of the Clerk of Council to affix the appropriate "Certificate of Publication" provided hereinabove shall not affect the validity of an otherwise duly and properly enacted ordinance or resolution.

**Article V**

**MANAGER**

**SECTION 5.01 APPOINTMENT.**

A Manager shall be appointed by the Council. An affirmative vote of at least four (4) members of Council shall be required for appointment of the Manager.

The Council shall fix the compensation of the Manager.  
(Amended 11-6-73; 11-2-93.)

**SECTION 5.02 QUALIFICATIONS.**

The Manager shall be appointed solely on the basis of executive and administrative qualifications, and need not be a resident of the Municipality at the time of his appointment, but shall become a resident of the Municipality within six (6) months after appointment unless residence outside the Municipality is approved by a majority vote of the members of Council. No one elected or appointed as a member of Council may be appointed as manager until two (2) years after such member has terminated his membership on the Council. The Manager shall abide by the Code of Ethics of the International City Managers Association, or any successor entity, and shall refrain from participation in the election of the members of Council and from all partisan political activities which would impair the professional administration of the duties of the Manager.

(Amended 11-7-78.)

**SECTION 5.03 POWERS AND DUTIES OF THE MANAGER.**

The Manager shall be the chief executive, administrative, and law enforcement officer of the Municipality and shall be responsible to the Council for the administration of all municipal affairs placed in the charge of the Manager by or under this Charter, the ordinances of the Municipality and state laws. The Manager shall have the following powers and duties including the powers to:

- (a) Appoint and, when deemed necessary for the good of the service, suspend or remove or otherwise discipline all municipal employees and appointive administrative officers, except as provided for, by, or under this Charter, in the manner provided by the rules adopted by the Civil Service Commission pursuant to this Charter. The Manager may authorize any administrative officer who is subject to the direction and supervision of the Manager to exercise these powers with respect to subordinates in that officer's department, office or agency. The Manager shall not have the power or authority to appoint or remove, suspend, or discipline the Municipal Attorney and/or assistants or any member of any board or commission established under this Charter.

- (b) Direct and supervise the administration of all departments, offices and agencies of the Municipality, except as otherwise provided by this Charter.
- (c) Attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (d) Insure that all laws, provisions of this Charter and ordinances and resolutions of the Council, subject to enforcement by the Manager or by officers subject to the direction and supervision of the Manager, are faithfully executed.
- (e) Prepare and submit the annual budget and capital program to the Council.
- (f) Submit to 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.
- (g) Make such other reports as the Council may require concerning the operations of municipal departments, offices, boards, commissions and agencies subject to the direction and supervision of the Manager.
- (h) Keep the Council fully advised as to the financial condition and future operating and capital needs of the Municipality and make such recommendations to the Council concerning the affairs of the Municipality as deemed desirable by the Manager.
- (i) Require reports and information of subordinate officers and employees of the Municipality as deemed necessary by the Manager in the orderly operation of the Municipality, or when requested to do so by the Council or any board or commission of the Municipality.
- (j) Act as the contracting officer of the Municipality and award and execute contracts and agreements on behalf of the Municipality in the manner and under the procedures required by Section 10.04 of this Charter.
- (k) Execute, on behalf of the Municipality, all contracts and agreements, except as otherwise hereinafter provided by Section 10.04 of this Charter regarding the designation of a purchasing agent, conveyances, evidences of indebtedness and other instruments to which the Municipality is a party.
- (l) Affix to official documents and instruments of the Municipality the Manager's Seal which shall be the seal of the Municipality, but the absence of the seal shall not affect the validity of any such document or instrument.
- (m) Perform such other duties and have such other powers as are conferred or required by this Charter, by any ordinance or resolution of the Council, or by the laws of the State of Ohio. (Amended 11-6-73.)

#### **SECTION 5.04 COUNCIL-MANAGER RELATIONS.**

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any administrative officers or employees whom the Manager or any of the subordinates of the Manager are empowered to appoint, unless otherwise provided by this Charter, 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. Except for the purpose of inquiries and investigations, the Council or its members shall deal with officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately, except that the Council may require of the Municipal Attorney and Director of Finance such reports, information, and opinions as Council shall determine. This section shall not be construed as limiting the power of Council to remove or suspend the Manager in connection with the appointment, promotion, disciplining or removal of officers and employees of the Municipality by the Manager.

#### **SECTION 5.05 ACTING MANAGER.**

The Manager may designate, by letter filed with the Clerk of Council, any qualified administrative officer of the Municipality to perform the powers, duties and functions of the office of Manager during temporary absence from the Municipality or during disability. Such designation shall not be effective until the Council has approved it by a majority vote of the members of the Council, and the Council may revoke such designation by a majority vote of the members thereto. If such designation has not been made and the Manager is absent from the Municipality or unable to perform the duties or the office of Manager or to make such designation, the Council may, by motion, appoint any qualified administrative officer of the Municipality to perform the powers, duties and functions of the Manager until the Manager shall return to the Municipality or the disability ceases. The Acting Manager so designated shall exercise all powers, duties and functions of the Manager during the temporary absence from the Municipality or disability of the Manager.

In the event of a vacancy in the office of Manager, the Council may designate a person as Acting Manager, who shall exercise all powers, duties and functions of the Manager until a Manager is appointed.

#### **SECTION 5.06 MANAGER MAY ACT AS DEPARTMENT HEAD.**

The Manager shall serve as the Director of Finance and the head of the Departments of Public Service and Public Safety until separate positions are created as provided by Section 6.04, Section 6.06 and Section 6.07 and the Manager may act as head of any other department or division of the government, except that the Manager shall not act as Municipal Attorney, nor shall the Manager act as the Chief of the Division of Police, or Chief of the Division of Fire. The Manager may designate one person to serve as head of one or more departments or divisions; except that the Municipal Attorney shall not serve or act as head of any other department or division.

#### **SECTION 5.07 REMOVAL OF MANAGER.**

(a) If the Manager has served less than six (6) months, the Manager may be removed by a majority vote of the members of Council without any right to a public hearing and without the benefit of the provisions of subsections (b), (c) and (d), of this section.

(b) If the Manager has served six (6) months or more the Council shall adopt by a majority vote of its members a preliminary resolution which must state the reasons 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, and said resolution may go into immediate effect and need not be published.

(c) Within five (5) days after a copy of the resolution is delivered to the Manager, the Manager may file with the Clerk of Council a written request for a public hearing. This hearing shall be held at a regular or special Council meeting not earlier than fifteen (15) days or later than thirty (30) days after the request is filed. The date of the public hearing shall be set by the President of Council. The Manager may file with the Clerk of Council a written reply to the reasons for removal contained in the preliminary resolutions, not later than five (5) days before the hearing.

(d) The Council may adopt a final resolution of removal which may be made effective immediately, by a majority vote of its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if the Manager has not requested a public hearing, or at any time after the public hearing if the Manager requested one.

(e) The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The decision of the Council to suspend or remove the Manager shall be in the sole discretion of the Council and shall not be subject to review by any court.

(f) If the Manager is suspended from duty under subsections (a) or (b), the Council shall appoint by vote of a majority of the members thereof, an administrative officer who shall serve as acting manager until the Manager is restored to duty, or until Council shall appoint another person as acting manager or until another person is appointed Manager in accordance with this Charter. The acting manager so appointed shall exercise all powers, duties and functions of the Manager under this Charter.

(Amended 11-6-73; 11-2-93.)

### **Article VI**

#### **ADMINISTRATIVE DEPARTMENTS**

##### **SECTION 6.01 CREATION OF DEPARTMENTS.**

For the purpose of carrying on the administrative functions of the Municipality, the following departments are hereby established: Department of Law, Department of Finance, Department of Public Service and Department of Safety. The work of the departments of the Municipality shall be distributed among such divisions as provided in this Charter and as provided by ordinance. The Council may create new departments and divisions and combine, change and abolish any department or division in the manner and subject to the limitations as provided in Section 3.08(f) of this Charter.

##### **SECTION 6.02 DEPARTMENT OF LAW - MUNICIPAL ATTORNEY.**

The Municipal Attorney shall be the head of the Department of Law, shall be appointed by a majority vote of the Council, and shall serve at the pleasure of the Council and may be removed by a majority vote of the Council. The Municipal Attorney must be admitted to the practice of law in the State of Ohio and shall be a resident of the Municipality unless residence outside the Municipality is approved by a majority vote of the members of the Council.

### **SECTION 6.03 POWERS AND DUTIES OF THE MUNICIPAL ATTORNEY.**

The Municipal Attorney shall be the legal adviser, attorney, and counsel for the Municipality, and for all offices, departments, divisions, bureaus, boards, commissions and bodies of the Municipality in connection with municipal affairs; and subject to the direction of the Council, shall represent the Municipality in all proceedings in Court or before any administrative board or body. The Municipal attorney shall:

- (a) Perform such other duties consistent with the office, as may be required by this Charter, by ordinance or resolution of the Council, or by the laws of the State of Ohio.
- (b) Act as the prosecuting attorney on behalf of the Municipality and shall prosecute cases brought before Courts of competent jurisdiction.
- (c) Be responsible for the preparation of all contracts and other writings in which the Municipality is concerned and shall endorse on each an approval as to the form thereof.
- (d) Defend all actions against the City, and officials and employees of the Municipality arising out of the performance of their duties.
- (e) When requested by a member of Council, including the Mayor, the Manager, the Chairman of any Board or Commission, or the head of any department or division, give a written opinion on the question or request made concerning the affairs of the Municipality, or advice on any matter contained in such request.

The Council may provide for such assistants and special counsel to the Municipal Attorney as shall be deemed advisable. All assistants shall be responsible to the Municipal Attorney, and when authorized by the Municipal Attorney, may exercise all or any part of the powers and duties granted to the Municipal Attorney under this section. Special counsel may be selected by the Council and such special counsel may perform those powers and functions as authorized by and in the manner provided by the Council.

### **SECTION 6.04 DEPARTMENT OF FINANCE - FINANCE DIRECTOR.**

The Manager shall serve as the Director of Finance, unless the Council shall, by a majority vote of its members, create the separate office of Director of Finance. If such separate office is created by the Council, the Director of Finance shall be appointed by the Manager, with the approval of Council and shall serve at the pleasure of Council.

The Director of Finance may hold any other administrative office or position of employment with the Municipality, except that of Municipal Attorney.

The Finance Director shall be the head of the Department of Finance, and shall be qualified by training or experience to discharge the duties as the head of the Department of Finance in a capable manner.

The Manager may designate an officer or employee of the Municipality, who, during the absence or disability of, or during a vacancy in the office of the Director of Finance, shall exercise the powers and discharge the duties and functions of the Director of Finance under the title of Acting Finance Director. Such designation may be revoked by the Manager at any time.

(Amended 11-8-83.)

### **SECTION 6.05 POWERS AND DUTIES OF THE DIRECTOR OF FINANCE.**

The Director of Finance shall be the fiscal officer of the Municipality. The Director of Finance shall:

- (a) Keep the financial records of the Municipality, exhibiting accurate statements of all moneys received and expended, of all property owned by the Municipality, and of all taxes and assessments,
- (b) Advise the Manager and the Council concerning the financial condition of the Municipality,
- (c) Examine all payrolls, bills and other claims against the Municipality and shall issue no warrants unless the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefor,
- (d) Collect all money due and payable to the Municipality and shall be the custodian of all public money of the Municipality and shall disburse the same as may be required by law or ordinance,
- (e) Render statements to and receive payments from the customers of the utilities operated by the Municipality,
- (f) Administer and collect all taxes levied by the Municipality, except those taxes where the laws of the State of Ohio require a County or State official to administer and collect the tax. However, this section shall not be construed to prevent the Council from entering into or authorizing contracts with other Municipal corporations, the State of Ohio or its political subdivisions, or private persons,

firms or corporations, for the rendering of statements to and receipt of payments from customers of utilities operated by the Municipality or for the administration and collection of taxes,

- (g) Examine and audit the accounts of all other officers, employers, departments, boards and commissions,
- (h) Assist the Manager in the preparation and submission of appropriation measures, estimates, budgets and other financial matters.
- (i) Perform all other duties now or hereafter imposed on City Auditors and Treasurers under the laws of the State of Ohio and perform such other duties, consistent with the office of Finance Director, as may be required by this Charter by ordinance or resolution of Council, or as directed by the Manager.

The Director of Finance shall have sole authority to invest any moneys of the City in investments authorized by Section 731.56 of the Ohio Revised Code.

The Director of Finance shall prepare annual financial and other reports required by law and shall make periodic reports concerning appropriations, encumbrances and expenditures of the departments, divisions, boards and commissions as may be required by the Council or the Manager, and shall submit to the Council and the Manager, and make available to the public, a complete report on the finances of the Municipality as of the end of each fiscal year.

(Amended 11-7-78.)

### **SECTION 6.06 DEPARTMENT OF PUBLIC SERVICE.**

The Manager shall serve as the head of the Department of Public Service, unless the Council shall, by a majority vote of its members, create the position of Service Director. If such position is created the Service Director shall be appointed by and serve at the pleasure of the Manager. The Service Director may hold any other administrative office or position of employment with the Municipality, except that of Municipal Attorney. If a separate position of Service Director is created by the Council, such separate position may be abolished by a majority vote of the members of the Council, in which event the Manager shall become the Service Director until such time as the Council shall again create such a separate position in the manner hereinbefore provided. The Service Director, or the Manager, if the separate position of Service Director has not been created, shall direct and supervise the work, administration and services provided by all divisions, offices, bureaus or agencies within the Department of Public Service.

The following divisions are established under the Department of Public Service:

- (a) Division of Water and Sewer to be headed by a superintendent.
- (b) Division of Streets, Cemeteries and Parks to be headed by a superintendent.
- (c) Such other divisions or bureaus as may be authorized by the Council by ordinance.

One person may serve as the head of any number of divisions.

### **SECTION 6.07 DEPARTMENT OF PUBLIC SAFETY.**

The Manager shall serve as the head of the Department of Public Safety, unless the Council shall, by a majority vote of its members, create the position of Safety Director. If such position is created, the Safety Director shall be appointed by and serve at the pleasure of the Manager. The Safety Director may hold any other administrative office or position of employment with the Municipality, except that of Municipal Attorney. If a separate position of Safety Director is created by the Council, such separate position may be abolished by a majority vote of the members of the Council, in which event the Manager shall become the Safety Director until such time as the Council shall again create such a separate position in the manner hereinbefore provided. The Safety Director, or the Manager, if the separate position of Safety Director has not been created, shall direct and supervise the work, administration and services provided for all divisions, offices, bureaus or agencies with the Department of Public Safety.

### **SECTION 6.08 ORGANIZATION FOR DEPARTMENTS AND DIVISIONS.**

Subject to the provisions of this Charter, the Council shall provide by ordinance for the organization of the departments and divisions of the Municipality, and define the powers and functions of each organizational unit, but all departments and divisions shall be under the general supervision of the Manager.

## **Article VII**

### **BOARDS AND COMMISSIONS**

#### **SECTION 7.01 BOARDS AND COMMISSIONS - ORGANIZATION.**



Members of the Boards and Commissions hereinafter referred to shall be electors of the Municipality at the time of their appointment and during their respective terms of office, and shall not hold other office or employment with the Municipality except authorized by this Charter.

At the first meeting in each year of each of the Planning Commission, Board of Zoning Appeals, Civil Service Commission, Park, Recreation and Cemetery Board, Charter Review Commission, Design Review Historical Preservation Committee, and any other board or commission created by ordinances, the members of such Boards and Commissions shall each elect a Chairperson and a Secretary by a majority vote of the members appointed to such Board or Commission. The Chairperson and Secretary of each Board or Commission hereinabove referred to shall serve at the pleasure of such Board or Commission and until successors are elected by such Board or Commission. The Chairperson of each such Board or Commission shall be a member of such Board or Commission, but in no event shall the Chairperson of any such Board or Commission, in the dual capacity as a member and residing officer, cast more than one vote on any action. The Secretary of each such Board or Commission may be elected from within or without the membership of such Board or Commission, and may hold other office or employment with the Municipality. The Secretary of each such Board or Commission shall keep an accurate record of the proceedings of such Board or Commission.

A majority of the members of each of the Boards and Commissions hereinabove referred to shall constitute a quorum for meetings of such Board or Commission; and a majority vote of the members appointed to each such Board or Commission shall be necessary to take any action and for the passage of motions by such Board or Commission. Rules providing for the number and manner of calling regular and special meetings, and to provide for the conduct and government of meetings of each such Board or Commission, may be adopted by a majority vote of the members of each such Board or Commission; however, such rules shall not conflict with the provisions of this Charter or any ordinance passed by the Council.

After any Board's, Commission's or Committee's discussion period for any new or old business (or any other item on the agenda) or petition by a resident or their representative(s), in any public Board, Commission or Committee meeting, the session must be opened to comments and questions from any resident or their representative(s) in attendance prior to any final vote. The Board, Commission or Committee may limit the discussion only to the issue on the floor any may impose an appropriate time limit per person based on the number of persons desiring to respond, but not less than 3 minutes per person and up to a maximum of 30 minutes per issue. No person shall be required to sign-up in advance to address the Board, Commission or Committee during this resident's discussion period. (Amended 11-5-13)

## **SECTION 7.02 PLANNING AND ZONING.**

There is hereby created and established a Planning and Zoning Commission which shall consist of five members as hereinafter provided. One (1) member of Council, selected by a majority vote of Council members, shall serve for the remainder of their term in office as a member of the Planning and Zoning Commission; the remaining Commission members shall include four (4) citizens of the Municipality; none of whom shall be current members of Council, to be appointed by a majority vote of Council for a term of three (3) years each, and shall continue in office until a successor is appointed.

Members shall be appointed by a majority vote of Council for a term of three (3) years with a maximum of two (2) consecutive terms and shall continue in office until a successor is appointed. Persons currently on Boards, Commissions or Committees having served either 2 consecutive terms or a total of 6 consecutive years at the end of their current term are not eligible for reappointment, but may reapply after sitting out one term. Persons currently in office may serve out their existing appointment. Each Board, Commission or Committee may designate one person with exceptional professional qualifications to be exempt from term limits with Council's approval. That exception is non-transferable and will remain with only that person until that person is no longer on that Board or Commission.  
(Amended 11-3-98; 11-5-13)

## **SECTION 7.03 PLANNING AND ZONING COMMISSION - POWERS AND DUTIES.**

The Planning and Zoning Commission shall conduct studies, surveys and prepare plans, reports and maps relative to the overall planning of the growth, development, redevelopment, rehabilitation, and renewal of the Municipality, and may make such recommendations relative thereto to the Council as it feels are in the best interest of the Municipality. The Planning and Zoning Commission shall continuously review and report to the Council its recommendations concerning the Municipality's capital improvement programs, subdivision, platting and zoning ordinances and regulations. The Planning and Zoning Commission shall cooperate with other

governmental or private planning agencies to secure the maximum benefit to the Municipality of the work, studies, surveys and reports of such other planning agencies. Other powers and duties of the Planning and Zoning Commission shall include those established by this Charter and by the Council by ordinance, but until such ordinances shall be passed, it shall possess such other powers and duties as are provided by the general laws of Ohio, to the extent that such general laws do not conflict with the provisions of this Charter. (Amended 11-8-88.)

The continuing Comprehensive Plan, a compilation of studies, surveys, plans, reports and maps relative to planning the growth, development, redevelopment, rehabilitation, and renewal of the Municipality shall be used by the Planning and Zoning Commission as the operative growth management policy for the Municipality, and as such shall guide the Commission and Council in taking action with respect to the physical development of the Municipality and expenditures for capital improvement.

The Planning and Zoning Commission shall review and make any needed recommendations for the timely modification of the continuing Comprehensive Plan to Council at least once every three (3) years. Recommendations for modification or amendment to the Comprehensive Plan may be made to Council at any time.

(Amended 11-3-98.)

#### **SECTION 7.04 CIVIL SERVICE COMMISSION - MEMBERSHIP.**

There is hereby created and established a Civil Service Commission which shall consist of three (3) members appointed by a majority vote of the Council for terms of six (6) years, who shall serve until their successors are appointed.

Members shall be appointed by a majority vote of Council for a term of three (3) years with a maximum of two (2) consecutive terms and shall continue in office until a successor is appointed. Persons currently on Boards, Commissions or Committees having served either 2 consecutive terms or a total of 6 consecutive years at the end of their current term are not eligible for reappointment, but may reapply after sitting out one term. Persons currently in office may serve out their existing appointment. Each Board, Commission or Committee may designate one person with exceptional professional qualifications to be exempt from term limits with Council's approval. That exception is non-transferable and will remain with only that person until that person is no longer on that Board or Commission. (Amended 11-5-13)

#### **SECTION 7.05 CIVIL SERVICE - CLASSIFIED AND UNCLASSIFIED SERVICE.**

All compensated positions in the service of the Municipality shall be in the classified service and shall be appointed pursuant to competitive examinations, except the following, which shall comprise the unclassified service of the Municipality:

- (a) Members of the Council, including the Mayor,
- (b) The Clerk of Council and other employees of the Council,
- (c) The Manager, Assistant or Deputy Manager,
- (d) The Director of Finance,
- (e) The Municipal Attorney and his assistants and special legal counsel,
- (f) The Safety and Service Directors and any Assistant Safety and Service Directors,
- (g) All heads of other departments and heads of divisions within departments, including the Divisions of Police and Fire,
- (h) Professional engineers employed by the Municipality,
- (i) Members of boards and commissions established by this Charter or by ordinance of Council,
- (j) Volunteer members of the Division of Fire, members of the auxiliary police unit within the Division of Police, and part-time employees of the Divisions of Police and Fire,
- (k) The secretary of each board and commission established by this Charter or by ordinance, provided that if such secretary holds other employment within the classified service of the Municipality, this section shall not exempt such person from the requirement of competitive examination to hold such other employment,
- (l) Persons of exceptional professional or scientific qualifications engaged as consultants,
- (m) Unskilled laborers as defined and authorized by the Civil Service Commission,
- (n) Temporary employees who are not employed for more than ninety continuous days or for more than ninety days in one year, and,

- (o) One personal secretary to the Manager, one personal secretary to the Municipal Attorney, and one deputy or clerk to the Director of Finance, the Safety Director, and the Service Director; provided, however, that it shall be necessary for such positions to have been created by the Council.

The Civil Service Commission shall appoint and remove, subject to the Civil Service provisions of this Charter, all employees of the Commission.

(Amended 11-3-98.)

#### **SECTION 7.06 CIVIL SERVICE COMMISSION - POWERS AND DUTIES.**

The provisions of the laws of the State of Ohio regarding selection, promotion, demotion, discipline, and removal of employees within the classified service of the Municipality as provided by Section 7.05 of this Charter, shall be applicable under this Charter unless such provisions conflict with the provisions of this Charter; and provided that the Civil Service Commission shall have the power to adopt rules and regulations concerning the selection, promotion, demotion, discipline, and removal of employees within the classified service of the Municipality, which rules and regulations may modify, supplement, or supersede the laws of the State of Ohio, and in the case of conflict shall prevail over the laws of the State of Ohio.

The Civil Service Commission shall appoint and remove, subject to the Civil Service provisions of this Charter, all employees of the Commission.

An employee holding a municipal position at the time this Charter takes effect shall not be subject to any tests as a condition of continuance in the same position, but in all other respects shall be subject to the personnel system provided for by this chapter.

#### **SECTION 7.07 PARK, RECREATION AND CEMETERY BOARD - MEMBERSHIP.**

There is hereby created and established a Park, Recreation and Cemetery Board which shall consist of six (6) members as hereinafter provided. Two (2) members, neither of whom shall be members of Council, shall be appointed by the Manager and four (4) citizens of the Municipality, one (1) of whom may be a member of Council, shall be appointed by a majority vote of the Council. Members of the Park, Recreation and Cemetery Board shall be appointed for a term of five (5) years each and shall continue in office until their successor is appointed. However, the term of a member of Council serving on the Board shall coincide with their term on Council unless removed by a majority vote of Council.

Members shall be appointed by a majority vote of Council for a term of three (3) years with a maximum of two (2) consecutive terms and shall continue in office until a successor is appointed. Persons currently on Boards, Commissions or Committees having served either 2 consecutive terms or a total of 6 consecutive years at the end of their current term are not eligible for reappointment, but may reapply after sitting out one term. Persons currently in office may serve out their existing appointment. Each Board, Commission or Committee may designate one person with exceptional professional qualifications to be exempt from term limits with Council's approval. That exception is non-transferable and will remain with only that person until that person is no longer on that Board or Commission.

(Amended 11-2-99; 11-5-13)

#### **SECTION 7.08 PARK, RECREATION AND CEMETERY BOARD - POWERS AND DUTIES.**

The Park, Recreation and Cemetery Board shall make such recommendations and reports to the Manager, Council, Planning Commission and other officers, departments, divisions and boards and commissions as it deems advisable regarding the acquisition, development, maintenance, repair, and operation of parks, playgrounds, recreational and cemetery facilities and programs of the Municipality. The Board may cooperate with organized groups concerned with recreation programs and may stimulate citizen interest in the care and preservation of parks and historical and scenic sites. The Board may act as trustee for any property, asset, or funds donated to the Municipality for park, recreational or cemetery purposes, provided the donor designates or provides for the designation of the Board as such trustee. In such an event the Board shall have all those powers and duties necessary to carry out the purposes of the trust. The Board may recommend the amount of any fees or charges for the use of park, recreational and cemetery facilities, however, the Council shall fix all such fees or charges. Subject to the provisions of ordinances passed by the Council, the Board shall exercise supervision and control over the planting and care of trees, plants and shrubs in the parks, parkways, recreation grounds, streets, boulevards, sidewalks and cemeteries of the Municipality. The Board shall exercise such additional powers and duties as provided by Council by ordinance. In the exercise of its powers and duties the Board shall request of the Manager such personnel, work, supplies and equipment as it deems necessary, and the Manager, subject to

the provisions of this Charter concerning purchasing and personnel, shall provide such personnel, work, supplies and equipment as has been authorized by the Council through appropriation to such Board, and to the extent that such personnel, supplies and equipment shall be available for such purposes, considering the overall needs of the Municipality.

#### **SECTION 7.09 DESIGN REVIEW/HISTORICAL PRESERVATION REVIEW COMMITTEE.**

There is hereby created and established a Design Review/Historical Preservation Review Committee, which shall be composed of five (5) members: a member of Council, a resident member of the local Historical Society; and three (3) members representing the public at large. The term of each Council member shall coincide with his or her term of office. Terms of the appointment of other members of the Committee shall be for three (3) years. Council shall also appoint alternates of the same qualifications as the principals to act in the place of the principals in the event any project with which any of the principals are personally or professionally interested comes before the Committee. The Committee shall be authorized to request professional advice whenever deemed necessary by the Committee.

Members shall be appointed by a majority vote of Council for a term of three (3) years with a maximum of two (2) consecutive terms and shall continue in office until a successor is appointed. Persons currently on Boards, Commissions or Committees having served either 2 consecutive terms or a total of 6 consecutive years at the end of their current term are not eligible for reappointment, but may reapply after sitting out one term. Persons currently in office may serve out their existing appointment. Each Board, Commission or Committee may designate one person with exceptional professional qualifications to be exempt from term limits with Council's approval. That exception is non-transferable and will remain with only that person until that person is no longer on that Board or Commission. (Added 11-2-93; 11-5-13)

#### **SECTION 7.10 POWERS AND DUTIES.**

All meetings of Design Review/Historical Preservation Review Committee shall be public except as may be provided by the laws of the State of Ohio. The Committee shall have the power and the duty to review and approve, disapprove, or approve with conditions, all applications to construct, erect, alter, remove, relocate or demolish any and all structures, buildings, or landmarks within the boundaries of the Design Review/Historical Preservation Review District as established and defined by Council.

In the exercise and fulfillment of these specified powers and duties, the Committee shall protect and preserve the value, appearance and use of property on which buildings are constructed or altered, to maintain a high character of community development, to protect the public health, safety, convenience and welfare and to protect real estate within the Municipality from impairment or destruction of value. Guidelines for the fulfillment of such duties shall be specified with respect to architectural values in architectural criteria as adopted, and as may be amended, by Council. Any provisions of the Codified Ordinances of Canfield relating to the Design Review/Historical Review Committee existing pursuant to such ordinances at the time of adoption of this section shall continue in effect and shall be applicable to the Committee established by this section unless and until modified or repealed by Council. The Committee shall also have such other powers and duties as are now or may hereafter be conferred upon it by the laws of Ohio or by ordinance of Council.

#### **SECTION 7.11 CHARTER REVIEW COMMISSION.**

During the month of January in 1993, or as soon thereafter as possible, and each five (5) years thereafter, each member of Council shall appoint one (1) elector of the Municipality as a member of the Charter Review Commission. Such appointments shall be subject to confirmation by majority vote of the Council. If the Council fails to vote upon the confirmation of any person appointed to such Commission within thirty (30) days after the name of any such person is filed with the Clerk of Council by the Mayor, such person shall be deemed confirmed by operation of law. No member of the Charter Review Commission may hold office or employment with the Municipality, and all members of such Commission shall serve without compensation; however, such Commission may hire such temporary employees and retain special counsel and other consultants as it may deem necessary. The Council shall appropriate all money necessary to pay the expenses of the Commission, including the compensation of such employees, counsel, and consultants. All meetings of the Commission shall be open to the public. The Commission shall review the Charter of the Municipality and shall recommend, within six (6) months after the confirmation of the last of the members thereof to be confirmed, such alterations, revisions and amendments, if any, to the Charter, as in its judgment are desirable. Such recommendations shall be directed to the Council. After consideration of the recommendations of the Charter Review Commission, the

Council may submit all, any, or none of such proposed alterations, revisions or amendments to the electors of the Municipality in the manner provided by Article XVIII, Section 9, of the Constitution of Ohio. The terms of the members of the Commission shall terminate at the end of such six (6) month period by which the Commission is required to report its recommendations to the Council.

(Amended 11-8-88)

#### **SECTION 7.12 VACANCY IN BOARD OR COMMISSION.**

Unless otherwise provided by this Charter, a vacancy during the term of any member of a Board or Commission created by this Charter or by ordinance of the Council shall be filled for the unexpired term in the manner authorized for an original appointment.

#### **SECTION 7.13 REMOVAL OF MEMBERS OF BOARDS AND COMMISSIONS.**

The Council may remove members of any board or commission established by this Charter or by ordinance, if such member is absent for three (3) consecutive regular meetings, for gross misconduct, malfeasance, misfeasance or nonfeasance in office, final conviction of a felony involving moral turpitude, judicial declaration of incompetency, persistent and willful failure to abide by the rules adopted by the board or commission of which they are a member, or willful violation of this Charter; provided that such removal shall not take place without the affirmative vote of four (4) members of Council, nor until the accused official shall have been notified in writing of the charge, and given an opportunity, to be heard in person or by legal counsel. The Council and the accused official shall have the power to subpoena witnesses and the production of evidence. The President of Council and the Mayor shall have the power to issue subpoenas for witnesses and the production of evidence on behalf of the Council or the accused official, and each shall have the power to administer oaths.

Upon the required vote to remove a member of a board or commission as provided by this section or this Charter, such member shall forfeit his office and such office shall become vacant and shall be filled in the manner provided by this Charter. Any person removed from office under this section of this Charter shall not be eligible to become a candidate for or hold any elective office or to serve as a member of a board or commission of the Municipality for a period of five (5) years after their removal. (Amended 11-8-88)

### **Article VIII**

#### **NOMINATIONS, ELECTIONS AND RECALL**

##### **SECTION 8.01 NOMINATIONS.**

Candidates for Mayor and members of Council shall be elected on a non-partisan basis on the first Tuesday after the first Monday in November, or at such other time as may hereinafter be provided by the Ohio election laws pertaining to the conduct of municipal elections. Each person desiring to become a candidate for Mayor or member of Council shall file a statement of candidacy and nominating petitions with the Mahoning County Board of Elections containing signatures of electors, as required by the election laws of the State of Ohio, not later than 4:00 p.m. of the ninetieth (90th) day before the date of such election or at such other time as may hereinafter be provided by the Ohio election laws. The procedure established by the Ohio election laws, for filing and voting shall be followed except as modified by this Charter. An elector may sign only as many petitions for Mayor or Council members as there are places to be filled at the regular Municipal election. (Amended 11-7-78.)

##### **SECTION 8.02 REGULAR MUNICIPAL ELECTIONS.**

The regular municipal election for Mayor and members of Council shall be held on the first Tuesday after the first Monday in November in the odd numbered years in which they are to be elected, or at such other time as may hereinafter be provided by the Ohio election laws pertaining to the conduct of municipal elections, commencing in the year 1969. The procedure established by the Ohio election laws for the conduct of municipal elections shall be followed, except as modified by this Charter.

##### **SECTION 8.03 SPECIAL ELECTIONS.**

The Council may, at any time, by ordinance or resolution, order a special election, the purpose of which shall be set forth in the ordinance or resolution.

##### **SECTION 8.04 CONDUCT OF ELECTIONS.**

All regular, primary and special municipal elections shall be conducted by the Board of Elections of the county in which the Municipality is located under the provisions of this Charter, so far as they are applicable. Where the

Charter is silent, the provisions of the Ohio election laws shall be followed.

### **SECTION 8.05 RECALL ELECTIONS.**

The electors shall have the power to remove from office by a recall election any elected officer of the Municipality who has served at least six (6) months of the term to which they were elected or appointed, by filing a petition demanding their removal with the Clerk of Council, who shall note thereon the name and address of the person filing the petition, the date the petition is filed, and the Clerk of Council shall issue a receipt to the person filing the petition and shall attach a copy of such receipt to the petition. The petition may be circulated in separate parts, but such separate parts shall be bound together and filed as one instrument. Each part shall contain the name of and office held by the person whose removal is sought and a statement, in not more than two hundred words, of the alleged grounds or reasons for the removal. Such petition shall be signed by at least that number of electors which equals twenty-five percent (25%) of the total votes cast for the office of Mayor at the last preceding regular municipal election at which a Mayor was elected. Within ten (10) days after the day such petition is filed, the Clerk of Council shall determine whether or not the petition 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 defective and deliver a copy of such certificate to the person who filed the petition and make a record of such delivery. Such person shall be allowed a period of twenty (20) days after the day of such delivery in which to make the petition sufficient by amendment. If the Clerk of Council shall find the petition or the amended petition sufficient, the Clerk shall promptly certify such finding to the Council, shall deliver a copy of such certificate to the person whose removal is sought, and shall make a record of such delivery. If such person sought to be removed shall not resign within five (5) days after such delivery to him, the Council shall thereafter fix a day for holding a recall election, not less than sixty (60) days or more than seventy-five (75) days after the date of such delivery. Such recall election may be at a regular municipal election, a municipal primary election, or a special election, and such special election may be on the same day fixed by law for a general election or primary election, or on any other day as established by the Council. The Clerk of Council shall certify to the appropriate Board of Elections that an election is to be held on the question of the removal of the accused official on the date fixed by Council as hereinbefore provided, and the Clerk of Council shall cause notice of such election to be published on the same day of each week for two (2) consecutive weeks in a newspaper determined by said Clerk to be of circulation in the Municipality if such election is to be held on a day which is not the day of a regular municipal or primary election or of a general or primary election held in even

numbered years. At such election this question shall be placed on the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (name the office held by such person)?", with provision being made on the ballot for voting "yes" or "no" on such question. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, his office shall be vacant, and such vacancy shall be filled in the manner provided in this Charter. The person removed by such recall election shall not be eligible for appointment to fill the vacancy created thereby, however, said removal shall not bar such person from becoming a candidate for office of the Municipality at any subsequent election. If the accused person is not removed at such recall election, then additional recall petitions shall not be filed seeking his removal for a period of one (1) year following such election. The removal of any officer under the provisions of this section shall not affect the validity of any ordinance, resolution or any other action in which such officer shall have participated.

## Article IX

### INITIATIVE AND REFERENDUM

#### SECTION 9.01 GENERAL AUTHORITY - INITIATIVE AND REFERENDUM.

(a) Initiative. The qualified voters of the Municipality shall have the power to propose ordinances and resolutions to the Council and, if the Council fails to adopt an ordinance or resolution so proposed without any change in substance, to adopt or reject it at an election, provided that such power shall not extend to the budget or capital program or any ordinance or resolution relating to the appropriation of money or salaries of municipal officers or employees, or to the removal of any officer of the Municipality.

(b) Referendum. The qualified electors of the Municipality shall have power to require reconsideration by the Council of any adopted ordinance or resolution and, if the Council fails to repeal an ordinance or resolution so reconsidered, to approve or reject it at an election, provided that such power shall not extend to the budget or capital program or ordinance or resolution relating to the appropriation of money or the levy of taxes, or any other ordinance or resolution which takes effect immediately under the provisions of Section 4.08 of this Charter, or to the removal of any officer of the Municipality.

#### SECTION 9.02 COMMENCEMENT OF PROCEEDINGS; PETITIONERS' COMMITTEE; AFFIDAVIT.

Any five (5) electors may commence initiative or referendum proceedings by filing with the Clerk of Council an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or resolution or citing the ordinance or resolution sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the clerk shall specify the appropriate petition forms that are to be used to the petitioners' committee.

#### SECTION 9.03 PETITIONS - INITIATIVE AND REFERENDUM.

(a) Number of Signatures. Initiative and referendum petitions must be signed by qualified electors of the Municipality equal in number to at least ten percent (10%) of the total number of qualified electors voting for the office of Governor at the last general election at which a Governor was elected.

(b) Form and Content. All papers of a petition shall be uniform in size and style and each petition shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing, their ward and precinct, and the date of signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or sought to be reconsidered.

(c) Affidavit of Circulator. Each petition shall have attached to it when filed, an affidavit executed by the circulatory thereof stating that the affiant personally (i) circulated the petition; (ii) verified the number of signatures thereon; (iii) that all the signatures were affixed in the affiant's presence; (iv) that the affiant believes them to be the genuine signatures of the persons whose names they purport to be; and (v) that each signer had an opportunity before signing to read the full text of the ordinance or resolution proposed or sought to be reconsidered.

(d) Time for Filing Referendum Petitions. Referendum petitions shall be filed with the Clerk of Council within thirty (30) days after the effective date of the ordinance or resolution sought to be reconsidered.

#### SECTION 9.04 PROCEDURE AFTER FILING - INITIATIVE AND REFERENDUM.

(a) Certificate of Clerk; Amendment. Within twenty (20) days after the petition is filed, the Clerk of Council shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk of Council within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of Section 9.03, and within five (5) days after it is filed with the Clerk of Council, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk of Council shall promptly present a certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request with the Clerk of Council that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

#### **SECTION 9.05 REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE OR RESOLUTION.**

When a referendum petition is filed with the Clerk of Council, the ordinance or resolution sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioners' committee withdraws the petition, or
- (c) The Council repeals the ordinance, or
- (d) Five (5) days have elapsed after the Board of Elections certifies the official vote on the question.

#### **SECTION 9.06 ACTION ON PETITIONS - INITIATIVE AND REFERENDUM.**

(a) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or resolution in the manner provided in Article IV of this Charter or may reconsider the referred ordinance or resolution by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within sixty (60) days or fails to repeal the referred ordinance or resolution within thirty (30) days after the date the petition was finally determined sufficient, the Council shall submit the proposed or referred ordinance to the electors of the Municipality.

(b) Submission to Electors. The vote of the electors on a proposed or referred ordinance or resolution shall be held not less than sixty days and not later than one year from the date of the final Council vote thereon. If no regular municipal election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular municipal election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period, which special election may be held on the same day and at the same time as a State general or primary election, or a municipal primary election.

(c) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the sixtieth (60th) day preceding the day scheduled for the election by filing with the Clerk of Council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect, all proceedings thereon shall be terminated, the Clerk of Council shall certify such withdrawal of the petitions and the termination of the proceedings under such petitions to the appropriate Board of Elections.

#### **SECTION 9.07 RESULTS OF ELECTION - INITIATIVE AND REFERENDUM.**

(a) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance or resolution vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances and resolutions of the same kind adopted by the Council, however, no



publication of such ordinance or resolution shall be required. If conflicting ordinances or resolutions are approved at the same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) **Referendum.** If a majority of the qualified electors voting on a referred ordinance or resolution vote against it, it shall not take effect. If a majority of the qualified electors voting on a referred ordinance or resolution vote for it, it shall become effective five (5) days after the Board of Elections certifies the official vote on the question, and no publication of such ordinance or resolution shall be required.

#### **SECTION 9.08 CONDUCT OF ELECTIONS - INITIATIVE AND REFERENDUM.**

Elections on ordinances or resolutions referred to the electors under the initiative and referendum procedures set forth in the Charter shall be conducted by the Boards of Elections of the County in which the Municipality is located under the provisions of this Charter as far as they are applicable. Where the Charter is silent concerning the conduct of the election, the provisions of the Ohio election laws shall be followed.

#### **SECTION 9.09 REFERRAL OF ORDINANCE OR RESOLUTION TO THE ELECTORS BY COUNCIL.**

By the affirmative vote of four (4) members of the Council any pending ordinance or resolution may be referred to the electors of the Municipality at a general, primary or special election. The action of referral provided for in this section shall be taken by motion and shall go into immediate effect without publication. Such motion shall be passed not less than sixty (60) days prior to the date of the primary or general election at which such referred ordinance or resolution is to be submitted. In the event that such ordinance or resolution is to be referred for approval or rejection at a special election, the Council shall, by motion, fix a date for such special election at a date not less than sixty (60) days after the date of the passage of the motion to refer, and the Clerk of Council shall cause notice of the special election to be published on the same day of each week for two (2) consecutive weeks in a newspaper determined by Council to be of circulation in the Municipality.

The Clerk of Council shall certify to the appropriate Board of Election that an election is to be held referring such ordinance or resolution to a vote of the electors at the date fixed by Council as hereinbefore provided. The Clerk of Council shall also certify a copy of the ordinance or resolution to be voted upon to the appropriate Board of Elections.

At any primary, general or special election this question shall be placed upon the ballot: "Shall an (ordinance or resolution) providing: (the wording contained in the title of the proposed ordinance or resolution shall be inserted here) be adopted?"; with the provision on the ballot for voting affirmatively or negatively. In the event a majority of those voting on the issue shall be in the affirmative, the ordinance or resolution shall be adopted without the need of further action by the Council and it shall go into immediate effect, without the need for further publication.

### **Article X**

#### **FINANCES, TAXATION AND DEBT**

##### **SECTION 10.01 GENERAL.**

The laws of the State of Ohio relating generally to budgets, appropriations, 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 ordinances of Council enacted pursuant thereto and except when provision therefor is made in the Constitution of the State of Ohio.

##### **SECTION 10.02 LIMITATION ON TAX RATE.**

The power of Council to levy taxes shall be subject to the limitations now or hereafter provided by the Constitution and the general laws of the State of Ohio and nothing contained in this Charter shall be construed as authorizing the levy of any taxes in excess of such limitations without a vote of the people; provided that this Charter shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of the State of Ohio, nor shall the authority of Council to submit additional levies to a vote of the people under the authority of the Constitution or laws of the State of Ohio be deemed impaired or abridged by reason of any provision of this Charter.

##### **SECTION 10.03 LIMITATION OF DEBT.**

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

#### **SECTION 10.04 CONTRACTING POWER.**

The Manager shall be the contracting officer of the Municipality and shall award and execute contracts and agreements on behalf of the Municipality in the manner and under the procedures required by this Charter, provided that:

- (a) When the expenditure of funds for the purchase of supplies, equipment or materials, or to provide labor for any work to be performed under a contract exceeds the amount specified by the laws of the State of Ohio for which such purchases or work may be accomplished without advertisement and competitive bidding, such expenditure shall first be authorized and directed by ordinance passed by the Council. The Manager shall award a written contract to the lowest and best bidder after advertisement on the same day of each week for not less than two (2) nor more than four (4) consecutive weeks in a newspaper determined by the Council to be of circulation within the Municipality.
- (b) Compensation of persons and employees; contracts with persons, firms or corporations for services requiring specialized skill, knowledge, or training; and expenditures required because of a real and present emergency arising in connection with the construction, maintenance, operation or repair of municipal buildings, equipment and facilities, and provision for municipal services, when authorized by ordinance adopted by an affirmative vote of four (4) members of the Council, need not be advertised and notices need not be published as provided hereinabove.
- (c) Modifications and changes to contracts awarded under competitive bidding, and in excess of the amount specified by the laws of the State of Ohio for which competitive bidding is required shall first be authorized by ordinance, however, competitive bidding shall not be required.
- (d) The Manager may designate an administrative officer or employee of the Municipality to act as purchasing agent to award and execute contracts, orders or agreements on behalf of the Municipality, when such contracts, orders or agreements do not authorize an expenditure of money in excess of the amount specified by the laws of the State of Ohio for which competitive bidding is required.
- (e) The Manager or any other person designated by the Manager as purchasing agent, shall not willfully cause or allow any contract or order to be split or divided into separate orders or contracts in order to avoid the requirements of competitive bidding as provided by this Charter.

#### **SECTION 10.05 IMPROVEMENTS AND ASSESSMENTS.**

Council may by ordinance adopt a different method for the making of improvements and the levying of assessments than the method prescribed by the general law of the State of Ohio.

### **Article XI**

#### **GENERAL PROVISIONS**

##### **SECTION 11.01 SUCCESSION.**

The Municipality of Canfield, under this Charter, is hereby declared to be the legal successor of the Municipality of Canfield, under the laws of the State of Ohio, and as such it has title to all property, real and personal, owned by its predecessor, including all moneys on deposit and all taxes in process of collection together with all accounts receivable and rights of action. The Municipality is liable for all outstanding orders, contracts and debts of its predecessor, and for any other obligations for which it may be held liable, as such successor, by any court of competent jurisdiction.

##### **SECTION 11.02 EFFECT OF CHARTER ON EXISTING LAWS AND RIGHTS.**

The adoption of this Charter shall not affect any pre-existing rights of the Municipality, nor any right or liability or 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 herein, all acts of the Council of the Municipality, including ordinances and resolutions in effect at the date this Charter becomes effective, shall continue in effect until lawfully amended or repealed.

No action or proceeding pending against the Municipality or an officer thereof shall be abated or affected by the adoption of this Charter, but all such actions or proceedings shall be prosecuted or defended under the laws in effect at the time of the filing thereof.

### **SECTION 11.03 AMENDMENTS TO CHARTER.**

This Charter may be amended as provided by Article XVIII, Section 9, of the Constitution of Ohio.

### **SECTION 11.04 CONFLICT OF INTEREST.**

No officer or employee of the Municipality shall have any substantial financial interest, direct or indirect, in any contract with or sale to the Municipality of any material, supplies or services, or any lands or interest in lands. Any such person violating the provisions hereof shall forfeit their office or position and any such sale or contract shall be voidable at the option of the Council.

This provision shall not apply where a Court shall order the purchase or sale of property, whether real or personal, owned by or in which such an officer or employee has an interest therein, to the Municipality.

No ordinance, resolution or other action taken by Council, nor any action taken by any other officer or employee of the Municipality, shall be invalidated or made ineffective because any officer or employee has such a financial interest in any such contract or sale, except that such sale or contract may be voided at the option of Council as hereinabove provided.

### **SECTION 11.05 EFFECT OF PARTIAL INVALIDITY.**

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

### **SECTION 11.06 CONSTRUCTION OF CHARTER.**

The article and section headings herein have been inserted for convenience for purposes of reference and are not intended to define or limit the scope of, or otherwise effect, any provision of this charter.

In order that a ready means may be at hand for reconciling any conflicts, resolving any inconsistencies and clarifying any obscurities which may be discovered in the language of this Charter, the power is hereby vested in the Council to interpret the various sections and parts of this Charter, in harmony with the spirit thereof, by ordinance, resolution or other measures of said Council adopted by the affirmative vote of three (3) or more of its members.

Singular numbers shall be construed to include the plural number whenever the context shall require.

### **SECTION 11.07 FISCAL YEAR.**

The fiscal year of the Municipality shall be that as fixed by the general law for municipalities within the State of Ohio. If such general law shall fail to provide for such a fiscal year, then it shall begin with the 1st day of January and shall end with the next succeeding 31st day of December.

### **SECTION 11.08 PUBLIC HEALTH.**

Until the Municipality shall become a city as provided under the general law, the Municipality shall remain a part of such health district as shall be established by general law for villages.

When the Municipality shall be a city the board of health of the city health district shall be established as provided by general law, except that the members of such city health district shall be appointed by a majority vote of the Council and a member of Council may be appointed as a member of such board. Such board shall have the same powers and duties as provided by general law.

Nothing in this Charter or in the laws of Ohio shall be construed to impair or to derogate from the power of the Council to make, by ordinance, any local sanitary and similar regulations not in conflict with general laws. The Council may, by ordinance, confide the enforcement of such regulations to any board of health established pursuant to this Charter or the general law, and having jurisdiction within the municipality, or may provide for their enforcement by or under the direction of the Manager.

## **Article XII**

### **TRANSITIONAL PROVISIONS**

#### **SECTION 12.01 EFFECTIVE DATE OF CHARTER.**

The Charter shall be submitted to the electors of the Municipality at the general election to be held November 5, 1968, and if approved by the electors shall for the purpose of nominating and electing officers of the Municipality and conducting municipal elections, take effect from the time of its approval by the electors of the Municipality; and for all other purposes it shall take effect on the first (1st) day of January in the year nineteen hundred seventy (January 1, 1970).

## **SECTION 12.02 CONTINUANCE OF PRESENT OFFICIALS - ABOLISHMENT OF OFFICES.**

As of January 1, 1970, the following offices established under the general law of Ohio applicable to statutory villages shall be abolished: Mayor, members of Council, Treasurer, and the Clerk of and the members of the Board of Trustees of Public Affairs. Any unexpired term of any person holding any of such offices shall expire, terminate and end.

The office of village clerk, established under the general law of Ohio applicable to statutory villages, shall continue until such time as a person is appointed as Manager or the Council shall designate an Acting Manager under this Charter, and during such time of continuance after January 1, 1970, said village clerk shall perform those duties as prescribed by and under this Charter to the Director of Finance. When the Council shall appoint a Manager or designate an Acting Manager the office of village clerk, established under the general laws, shall be abolished and the unexpired term of said village clerk shall expire, terminate, and end.

The office of village solicitor, established under the general law of Ohio applicable to statutory villages, shall continue until such time as a person is appointed as Municipal Attorney under this Charter, and during such time of continuance after January 1, 1970, said solicitor shall perform those duties as prescribed by and under this Charter to the Municipal Attorney. When the Council shall appoint a Municipal Attorney, the office of village solicitor, established under the general laws, shall be abolished and the unexpired term of said village solicitor shall expire, terminate, and end.

Except as otherwise provided by this Charter, all other persons holding office at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been otherwise made in accordance with this Charter for the performance of discontinuance of the duties of any such office. When such provision shall have been made, the term of any officer shall expire and the office shall be abolished. The powers which are conferred and the duties which are imposed upon any officer, body, commission, board, department, or division of the Municipality under the laws of the State, or under any municipal ordinance or contract in force at the time of the taking effect of this Charter shall, if such office, body, commission, board, department, or division is abolished by this Charter, be thereafter exercised and discharged by the officer, body, commission, board, department, or division upon whom are imposed corresponding functions, powers, and duties by this Charter or by any ordinance or resolution of the Council thereafter enacted.

## **SECTION 12.03 CONTINUANCE OF PRESENT EMPLOYEES.**

Every employee of the municipal government on January 1, 1970, shall continue in such employment and thereafter be subject in all respects to the provisions of this Charter and ordinances, resolutions, rules, or regulations enacted or promulgated thereunder.

## **SECTION 12.04 MISCELLANEOUS TRANSITIONAL PROVISIONS.**

The following transitional provisions of this Charter are provided for historical reference:

- (a) Council Election. At the election to be held in November, 1985, and each four (4) years thereafter, two (2) members shall be elected for terms of four (4) years of office. At the election to be held in November, 1987, and each four (4) years thereafter, two (2) members shall be elected for terms of four (4) years of office.
- (b) Councilmember salaries. On the effective date of this Charter, the salaries of members of Council, excluding Mayor, shall be Three Hundred Dollars (\$300.00) per year; the salary of the Mayor shall be One Thousand Five Hundred Dollars (\$1,500.00); and the members of all Boards and Commissions shall serve without compensation.
- (c) Mayoral Election. At the election to be held in November, 1969, and each four (4) years thereafter, the Mayor shall be elected to a term of four (4) years.
- (d) Park, Recreation and Cemetery Board Membership. The first persons appointed pursuant to Section 7.07 of the Charter shall be appointed as follows: the two (2) members to be appointed by the Manager shall be appointed for two (2) year terms; the two (2) members to be appointed by the Board of Education shall be appointed for three (3) year terms; and the two (2) members to be appointed by the Council shall be appointed for four (4) year terms.
- (e) Civil Service Commission - Membership. The members of the Commission first appointed under this Charter shall be as follows: One (1) member shall be appointed for a term of two (2) years; one (1) member shall be appointed for a term of four (4) years; and one (1) member shall be

appointed for a term of six (6) years. Thereafter, each member shall be appointed for a six (6) year term and shall continue in office until a successor is appointed.

- (f) Contracts. All contracts entered into by the Municipality or for its benefit prior to January 1, 1970, shall continue in full force and effect.

**CODIFIED ORDINANCES OF CANFIELD**